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***I
REPORT

on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EU) No 575/2013 as regards requirements for credit risk, credit valuation adjustment risk, operational risk, market risk and the output floor
(COM(2021)0664 – C9-0397/2021 – 2021/0342(COD))

Committee on Economic and Monetary Affairs

Rapporteur: Jonás Fernández

Symbols for procedures

*	Consultation procedure
***	Consent procedure
***I	Ordinary legislative procedure (first reading)
***II	Ordinary legislative procedure (second reading)
***III	Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

Amendments by Parliament set out in two columns

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

Amendments by Parliament in the form of a consolidated text

New text is highlighted in ***bold italics***. Deletions are indicated using either the ▌ symbol or strikeout. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.
By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EU) No 575/2013 as regards requirements for credit risk, credit valuation adjustment risk, operational risk, market risk and the output floor (COM(2021)0664 – C9-0397/2021 – 2021/0342(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

– having regard to the Commission proposal to Parliament and the Council (COM(2021)0664),

– having regard to Article 294(2) and Article 114 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C9-0397/2021),

– having regard to Article 294(3) of the Treaty on the Functioning of the European Union,

– having regard to the opinion of the European Central Bank of 24 March 2022,[1]

– having regard to the opinion of the European Economic and Social Committee of 23 March 2022,[2]

– having regard to Rule 59 of its Rules of Procedure,

– having regard to the report of the Committee on Economic and Monetary Affairs (A9-0030/2023),

1. Adopts its position at first reading hereinafter set out;

2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;

3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

[1] OJ C 233, 16.6.2022, p.14.
[2] OJ C 290, 29.7.2022, p. 40.

Amendment 1

AMENDMENTS BY THE EUROPEAN PARLIAMENT*

to the Commission proposal

2021/0342 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Regulation (EU) No 575/2013 as regards requirements for credit risk, credit valuation adjustment risk, operational risk, market risk and the output floor

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee[3],

Acting in accordance with the ordinary legislative procedure,

Whereas:(1) In response to the global financial crisis, the Union embarked on a wide-ranging reform of the prudential framework for institutions aimed at increasing the resilience of the EU banking sector. One of the main elements of the reform consisted in implementing international standards agreed by the Basel Committee for Banking Supervision (BCBS), specifically the so-called "Basel III reform". Thanks to this reform, the EU banking sector entered the COVID-19 crisis on a resilient footing. However, while the overall level of capital in EU institutions is now satisfactory on average, some of the problems that were identified in the wake of global financial crisis have not yet been addressed.

(2) To address those problems, provide legal certainty and signal our commitment to our international partners in the G20, it is of utmost importance to implement the outstanding elements of the Basel III reform faithfully. At the same time, the implementation should avoid a significant increase in overall capital requirements for the EU banking system on the whole and take into account specificities of the EU

* Amendments: new or replacement text is highlighted in ***bold italics,*** and deletions are indicated by the symbol ▌.

3 OJ C , , p. .

economy ***where there is sufficient and robust evidence that the international framework does not capture these specificities, as stressed in the European Parliament resolution[4] of 23 November 2016 on the finalisation of Basel III***. Where possible, adjustments to the international standards should be applied on a transitional basis. The implementation should ▌avoid competitive disadvantages for EU institutions, in particular in the area of trading activities, where EU institutions directly compete with their international peers. Furthermore, the proposed approach should be coherent with the logic of the banking union and ***harmonise*** the Single Market for banking. Finally, it should ensure proportionality of the rules and aim at further reducing compliance ***and reporting*** costs, in particular for ***small and non-complex*** institutions, without loosening the prudential standards, ***in line with the "Study of the Cost of Compliance with Supervisory Reporting Requirements" that the European Supervisory Authority (European Banking Authority) (EBA) published in 2021 which targeted a reduction of reporting costs of 10% to 20%.***

(3) Regulation (EU) No 575/2013 enables institutions to calculate their capital requirements either by using standardised approaches, or by using internal model approaches. Internal model approaches***, approved by national competent authorities***, allow institutions to estimate most or all the parameters required to calculate capital requirements on their own, whereas standardised approaches require institutions to calculate capital requirements using fixed parameters, which are based on relatively conservative assumptions and laid down in Regulation (EU) No 575/2013. The Basel Committee decided in December 2017 to introduce an aggregate output floor. That decision was based on an analysis carried out in the wake of the financial crisis of 2008-2009, which revealed that internal models tend to underestimate the risks that institutions are exposed to, especially for certain types of exposures and risks, and hence, tend to result in insufficient capital requirements. Compared to capital requirements calculated using the standardised approaches, internal models produce, on average, lower capital requirements for the same exposures.

(4) The output floor represents one of the key measures of the Basel III reforms. It aims at limiting the unwarranted variability in the regulatory capital requirements produced by internal models and the excessive reduction in capital that an institution using internal models can derive relative to an institution using the revised standardised approaches. Those institutions can do so by setting a lower limit to the capital requirements that are produced by institutions' internal models to 72.5% of the capital requirements that would apply if standardised approaches were used by those institutions. Implementing the output floor faithfully should increase the comparability of the institutions' capital ratios, restore the credibility of internal models and ensure that there is a level playing field between institutions that use different approaches to calculate capital requirements.

(5) In order to ***harmonize*** the internal market for banking, the approach for the output floor should be coherent with the principle of risk aggregation across different entities within the same banking group and the logic of consolidated supervision. At the same time, the output floor should address risks stemming from internal models in both home and host Member States. The output floor should therefore be calculated at the highest level of consolidation in the Union***. However, to avoid unintended impacts and ensure a fair distribution of capital, a competent authority may submit a capital redistribution proposal to the consolidating supervisor if it deems that this would lead to an***

[4] P8_TA(2016)0439

inappropriate distribution of capital among the group entities. The notifying competent authority and the consolidating supervisor should then endeavour to make a joint decision on the application of the output floor, and if they do not reach a decision within three months, EBA should have a legally binding mediation role. EBA should assess the level of application of the output floor by 31 December 2027 in light of potential financial stability concerns and the progress in the banking union.

(6) The Basel Committee has found the current standardised approach for credit risk (SA-CR) to be insufficiently risk sensitive in a number of areas, leading to inaccurate or inappropriate – either too high or too low – measurement of credit risk and hence, of capital requirements. The provisions regarding the SA-CR should therefore be revised to increase the risk sensitivity of that approach in relation to several key aspects.

(7) For rated exposures to other institutions, some of the risk weights should be recalibrated in accordance with the Basel III standards. In addition, the risk weight treatment for unrated exposures to institutions should be rendered more granular and decoupled from the risk weight applicable to the central government of the Member State in which the bank is established, as no implicit government support for institutions is assumed.

(8) For subordinated debt and equity exposures, a more granular and stringent risk weight treatment is necessary to reflect the higher loss risk of subordinated debt and equity exposures when compared to debt exposures, and to prevent regulatory arbitrage between the banking book and the trading book. Union institutions have long-standing, strategic equity investments in financial and non-financial corporates. As the standard risk weight for equity exposures increases over a 5-year transition period, existing strategic equity holdings in corporates and insurance undertakings under significant influence of the institution should be grandfathered to avoid disruptive effects and to preserve the role of Union institutions as long-standing, strategic equity investors. Given the prudential safeguards and supervisory oversight to foster financial integration of the financial sector, however, for equity holdings in other institutions within the same group or covered by the same institutional protection scheme, the current regime should be maintained. In addition, to reinforce private and public initiatives to provide long-term equity to EU corporates, be they listed or unlisted, investments should not be considered as speculative where they are made with the firm intention of the institution's senior management to hold it for three or more years.

(9) To promote certain sectors of the economy, the Basel III standards provide for a supervisory discretion to enable institutions to assign, within certain limits, a preferential treatment to equity holdings made pursuant to 'legislative programmes' that entail significant subsidies for the investment and involve government oversight and restrictions on the equity investments. Implementing that discretion in the Union should also help fostering long-term equity investments.

(10) Corporate lending in the Union is predominantly provided by institutions which use the internal ratings based (IRB) approaches for credit risk to calculate their capital requirements. With the implementation of the output floor, those institutions will also need to apply the SA-CR, which relies on credit assessments by external credit assessment institutions ('ECAI') to determine the credit quality of the corporate borrower. The mapping between external ratings and risk weights applicable to rated corporates should be more granular, to bring such mapping in line with the international standards on that matter.

(11) Most EU corporates, however, do not seek external credit ratings, in particular due to cost considerations. To avoid disruptive impacts on bank lending to unrated corporates and to provide enough time to establish public or private initiatives aimed at increasing the coverage of external credit ratings, it is necessary to provide for a transitional period for such increase in the coverage. During that transitional period, institutions using IRB approaches should be able to apply a favourable treatment when calculating their output floor for investment grade exposures to unrated corporates.

(11a) After the transition period, institutions should be able to refer to credit assessments by ECAIs to calculate the capital requirements for ***a significant part*** of their corporate exposures. ***EBA, European Supervisory Authority (European Insurance and Occupational Pensions Authority) (EIOPA) and European Supervisory Authority (European Securities and Markets Authority) (ESMA), should monitor the use of the transitional arrangement and should have regard to relevant developments and trends in the ECAI market. The transition period should be used to significantly expand the availability of ratings for European corporates. To this end, rating solutions beyond the currently existing rating ecosystem should be developed to incentivise especially larger corporates to become rated. Next to the positive externality the rating process generates, a wider rating coverage will foster, inter alia, the capital markets union. Avenues to attain this goal should consider the requirements related to external credit assessments, or the establishment of additional institutions providing such assessments, and might therefore entail substantial implementation efforts. Member States, in close cooperation with their central bank, should assess whether a request for the recognition of their central bank as ECAI in accordance with Article 2 of Regulation (EC) No 1060/2009 of the European Parliament and the Council[5] and the provision of corporate ratings by the central bank for the purposes of this Regulation may be desirable in order to increase the coverage of external ratings.***

(11b) To inform any ***such*** future initiative on the set-up of public or private rating schemes, the European Supervisory Authorities (ESAs) should be requested to prepare a report on the impediments to the availability of external credit ratings by ECAIs, in particular for corporates, and on possible measures to address those impediments. In the meanwhile, the European Commission stands ready to provide technical support to Member States via its Technical Support Instrument in this area, e.g. to formulate strategies on increasing the rating-penetration of their unlisted corporates or to explore best practices on setting up entities capable of providing ratings or providing related guidance to corporates. ***The transition period should be extended only if necessary and justified and for four years at the most.***

(12) For both residential and commercial real estate exposures, more risk-sensitive approaches have been developed by the Basel Committee to better reflect different funding models and stages in the construction process.

(13) The financial crisis of 2008-2009 revealed a number of shortcomings of the current standardised treatment of real estate exposures. Those shortcomings have been addressed in the Basel III standards. In fact, the Basel III standards introduced income producing real estate ('IPRE') exposures as a new sub-category of the corporate

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5 Regulation (EC) No 1060/2009 of the European Parliament and of the Council of 16 September 2009 on credit rating agencies (OJ L 302, 17.11.2009, p. 1).

exposure class which is subject to a dedicated risk weight treatment to reflect more accurately the risk associated with those exposures, but also to improve consistency with the treatment of IPRE under the Internal Rating Based Approach ('IRBA') referred to in Part III, Title II, Chapter 3 of Regulation (EU) No 575/2013.

(14) For general residential and commercial real estate exposures, the loan splitting approach in Articles 124-126 of the Regulation should be kept, as that approach is sensitive to the type of borrower and reflects the risk mitigating effects of the real estate collateral in the applicable risk weights, even in case of high 'loan-to-value' (LTV) ratios. Its calibration, however, should be adjusted in accordance with the Basel III standards as it has been found to be too conservative for mortgages with very low LTV ratios.

(15) To ensure that the impacts of the output floor on low-risk residential mortgage lending by institutions using IRB approaches are spread over a sufficiently long period and thus avoid disruptions to that type of lending that could be caused by sudden increases in own funds requirements, it is necessary to provide for a specific transitional arrangement. For the duration of the arrangement, when calculating the output floor, IRB institutions should be able to apply a lower risk weight to the part of their residential mortgage exposures that is considered secured by residential property under the revised SA-CR. To ensure that the transitional arrangement is available only to low-risk mortgage exposures, appropriate eligibility criteria, based on established concepts used under the SA-CR, should be set. The compliance with those criteria should be verified by competent authorities. Because residential real estate markets may differ from one Member States to another, the decision on whether to activate the transitional arrangement should be left to individual Member States. The use of the transitional arrangement should be monitored by EBA. ***The transition period should be extended only if necessary and justified and for four years at the most.***

(16) As a result of the lack of clarity and risk-sensitivity of the current treatment of speculative immovable property financing, capital requirements for those exposures are currently often deemed to be too high or too low. That treatment therefore should be replaced by a dedicated treatment for ADC exposures, comprising loans to companies or special purpose vehicles financing any of the land acquisition for development and construction purposes, or development and construction of any residential or commercial immovable property.

(17) It is important to reduce the impact of cyclical effects on the valuation of property securing a loan and to keep capital requirements for mortgages more stable. ***In the case of a revaluation beyond the value at the time of the loan was granted, the*** property's value recognised for prudential purposes should therefore not exceed the average value of a comparable property measured over a sufficiently long monitoring period, unless modifications to that property unequivocally increase its value. To avoid unintended consequences for the functioning of the covered bond markets, competent authorities may allow institutions to revalue immovable property on a regular basis without applying those limits to value increases. Modifications that improve the energy efficiency***, and performance on improvements to the resilience, protection and adaptation to physical risks*** of buildings and housing units should be considered as value increasing.

(18) The specialised lending business is conducted with special purpose vehicles that typically serve as borrowing entities, for which the return on investment is the primary source of repayment of the financing obtained. The contractual arrangements of the

specialised lending model provide the lender with a substantial degree of control over the assets and the primary source of repayment of the obligation is the income generated by the assets being financed. To reflect the associated risk more accurately, those contractual arrangements should therefore be subject to specific capital requirements for credit risk. In line with the internationally agreed Basel III standards on assigning risk weights to specialised lending exposures, a dedicated specialised exposures class should be introduced under the SA-CR, thereby improving consistency with the already existing specific treatment of specialised lending under the IRB approaches. A specific treatment for specialised lending exposures should be introduced, whereby a distinction should be made between 'project finance', 'object finance' and 'commodities finance' to better reflect the inherent risks of those sub-classes of the specialised exposures class. Like for exposures to corporates, two approaches to assign risk weights should be implemented, one for jurisdictions allowing the use of external ratings for regulatory purposes and one for jurisdictions that do not allow it.

(19) While the new standardised treatment for unrated specialised lending exposures laid down in Basel III standards is more granular than the current standardised treatment of exposures to corporates under this Regulation, the former is not sufficiently risk-sensitive to reflect the effects of comprehensive security packages and pledges usually associated with these exposures in the Union, which enable lenders to control the future cash flows to be generated over the life of the project or asset. Due to the lack of external rating coverage of specialised lending exposures in the Union, the treatment for unrated specialised lending exposures laid down in Basel III standards may also create incentives for institutions to stop financing certain projects or take on higher risks in otherwise similarly treated exposures which have different risk profiles. Whereas the specialised lending exposures are mostly financed by institutions using the IRB approach that have in place internal models for these exposures, the impact may be particularly significant in the case of 'object finance' exposures, which could be at risk for discontinuation of the activities, in the particular context of the application of the output floor. To avoid unintended consequences of the lack of risk-sensitivity of the Basel treatment for unrated object finance exposures, object finance exposures that comply with a set of criteria capable to lower their risk profile to 'high quality' standards compatible with prudent and conservative management of financial risks, should benefit from a reduced risk weight. EBA shall be entrusted to develop draft regulatory technical standards specifying the conditions for institutions to assign an object finance specialised lending exposure to the 'high quality' category with a risk weight similar to 'high quality' project finance exposures under the SA-CR. Institutions established in jurisdictions that allow the use of external ratings should assign to their specialised lending exposures the risk weights determined only by the issue-specific external ratings, as provided by the Basel III framework.

(20) The classification of retail exposures under the SA-CR and the IRB approaches should be further aligned to ensure a consistent application of the correspondent risk weights to the same set of exposures. In line with the Basel III standards, rules should be laid down for a differentiated treatment of revolving retail exposures that meet a set of conditions of repayment or usage capable to lower their risk profile. Those exposures shall be defined as exposures to 'transactors'. Exposures to one or more natural persons that do not meet all the conditions to be considered retail exposures should be risk weighted at 100% under the SA-CR.

(21) Basel III standards introduce a credit conversion factor of 10% for unconditionally cancellable commitments ('UCC') in the SA-CR. This is likely to result in a significant impact on obligors that rely on the flexible nature of the UCC to finance their activities when dealing with seasonal fluctuations in their businesses or when managing unexpected short-term changes in working capital needs, especially during the recovery from the COVID-19 pandemic. It is thus appropriate to provide for a transitional period during which institutions will continue to apply a null credit conversion factor to their UCC, and, afterwards, to assess whether a potential gradual increase of the applicable credit conversion factors is warranted to allow institutions to adjust their operational practices and products without hampering credit availability to institutions' obligors. That transitional arrangement should be coupled with a report prepared by EBA.

(22) The financial crisis of 2008-2009 has revealed that, in some cases, credit institutions have also used IRB approaches on portfolios unsuitable for modelling due to insufficient data, which had detrimental consequences for the robustness of the results and thus, for the financial stability. It is therefore appropriate not to oblige institutions to use the IRB approaches for all of their exposures and to apply the roll-out requirement at the level of exposure classes. It is also appropriate to restrict the use of IRB Approaches for exposure classes where robust modelling is more difficult to increase the comparability and robustness of capital requirements for credit risk under the IRB approaches.

(23) Institutions' exposures to other institutions, other financial sector entities and large corporates typically exhibit low levels of default. For such low-default portfolios, it has been shown that it is difficult for institutions to obtain reliable estimates of a key risk parameter of the IRB approach, the loss given default ('LGD'), due to an insufficient number of observed defaults in those portfolios. This difficulty has resulted in an undesirable level of dispersion across credit institutions in the level of estimated risk. Institutions should therefore use regulatory LGD values rather than internal LGD estimates for those low-default portfolios.

(24) Institutions that use internal models to estimate the own funds requirements for credit risk for equity exposures typically base their risk assessment on publically available data, to which all institutions can be assumed to have identical access. Under those circumstances, differences in own funds requirements cannot be justified. In addition, equity exposures held in the banking book form a very small component of institutions' balance sheets. Therefore, to increase the comparability of institutions' own funds requirements and to simplify the regulatory framework, institutions should calculate their own funds requirements for credit risk for equity exposures using the SA-CR, and the IRB approach should be disallowed for that purpose.

(25) It should be ensured that the estimates of the probability of default ('PD'), the LGD and the credit conversion factors ('CCF') of individual exposures of institutions that are allowed to use internal models to calculate capital requirements for credit risk do not reach unsuitably low levels. It is therefore appropriate to introduce minimum values for own estimates and to oblige institutions to use the higher of their own estimates of risk parameters and those minimum values. Such risk parameters' 'input floors' should constitute a safeguard to ensure that capital requirements do not fall below prudent levels. In addition, they should mitigate model risk due to such factors as incorrect model specification, measurement error and data limitations. They would also improve the comparability of capital ratios across institutions. In order to achieve those results, input floors should be calibrated in a sufficiently conservative manner.

(26) Risk parameter floors that are calibrated too conservatively may indeed discourage institutions from adopting the IRB approaches and the associated risk management standards. Institutions may also be incentivised to shift their portfolios to higher risk exposures to avoid the constraint imposed by the risk parameter floors. To avoid such unintended consequences, risk parameter floors should appropriately reflect certain risk characteristics of the underlying exposures, in particular by taking on different values for different types of exposure where appropriate.

(27) Specialised lending exposures have risk characteristics that differ from general corporate exposures. It is thus appropriate to provide for a transitional period during which the LGD input floor applicable to specialised lending exposures is reduced. ***The transition period should be extended only if necessary and justified and for four years at the most.***

(28) In accordance with the Basel III standards, the IRB treatment for the sovereign exposure class should remain largely untouched, due to the special nature and risks related to the underlying obligors. In particular sovereign exposures should not be subject to the risk parameters input floors.

(29) To ensure a consistent approach for all RGLA-PSE exposures, a new RGLA-PSA exposure class should be created, independent from both sovereign and institutions exposure classes .

(30) It should be clarified how the effect of a guarantee could be recognised for a guaranteed exposure where the underlying exposure is treated under the IRB approach under which modelling for PD and LGD is allowed but where the guarantor belongs to a type of exposures for which modelling the LGD, or the IRB approach is not allowed. In particular, the use of the substitution approach, whereby the risk parameters of the underlying exposures are substituted with the ones of the guarantor, or of a method whereby the PD or LGD of the underlying obligor are adjusted using a specific modelling approach to take into account the effect of the guarantee, should not lead to an adjusted risk weight that is lower than the risk weight applicable to a direct comparable exposure to the guarantor. Consequently, where the guarantor is treated under the SA-CR, recognition of the guarantee under the IRB approach should lead to assigning the SA-CR risk weight of the guarantor to the guaranteed exposure.

(30a) In the context of removing unwarranted variability in capital requirements, existing discounting rules applied to artificial cash flows should be clarified in order to remove any unintended consequences. A mandate should be given to EBA to update its guidelines by 31 December 2025.

(30b) The introduction of the output floor could have a significant impact on own funds requirements for securitisation positions held by institutions using the Securitisation Internal Ratings Based Approach(SEC-IRBA). Although such positions are generally small relative to other exposures, the introduction of the output floor could affect the economic viability of the securitisation operation because of an insufficient prudential benefit of the transfer of risk. This would come at a juncture where the development of the securitisation market is part of the action plan on capital markets union and also where originating banks might need to use securitisation more extensively in order to manage more actively their portfolios if they become bound by the output floor. A mandate should be given to EBA to report to the Commission on the need to eventually provide for a specific arrangement increasing the risk-

sensitivity of the standardised approach of the purpose of the calculation of the output floor.

(31) Regulation (EU) 2019/876 of the European Parliament and of the Council[6] amended Regulation (EU) No 575/2013 to implement the final FRTB standards only for reporting purposes. The introduction of binding capital requirements based on those standards was left to a separate ordinary legislative initiative, upon the assessment of their impacts for Union banks.

(32) In order to complete the reform agenda introduced after the financial crisis of 2008-2009 and to address the deficiencies in the current market risk framework, binding capital requirements for market risk based on the final FRTB standards should be implemented in Union law. Recent estimates of the impact of the final FRTB standards on Union banks have shown that the implementation of those standards in the Union will lead to a large increase in the own funds requirements for market risk for certain trading and market making activities which are important to the EU economy. To mitigate that impact and to preserve the good functioning of financial markets in the Union, targeted adjustments should be introduced to the transposition of the final FRTB standards in Union law.

(33) As requested under Regulation (EU) 2019/876, the Commission should take into account the principle of proportionality in the calculation of the capital requirements for market risk for institutions with medium-sized trading book businesses, and calibrate those requirements accordingly. Therefore, institutions with medium-sized trading books should be allowed to use a simplified standardised approach to calculate own funds requirements for market risk, in line with the internationally agreed standards. In addition, the eligibility criteria to identify institutions with medium-sized trading books should remain consistent with the criteria set out in Regulation (EU) 2019/876 for exempting such institutions from the FRTB reporting requirements set out in that Regulation. ***A derogation is included to allow the banks to classify several types of instruments usually held in the trading book (including listed equities) as banking book positions, subject to the approval of the competent authority and when that position is not held with trading intent or does not hedge positions held with trading intent.***

(34) Institutions' trading activities in wholesale markets can easily be carried out across borders, including between Member States and third countries. The implementation of the final FRTB standards should therefore converge as much as possible across jurisdictions, both in terms of substance and timing. If that would not be the case, it would be impossible to ensure an international level playing field for those activities. The Commission should therefore monitor the implementation of those standards in other BCBS member jurisdictions and, where necessary, should take steps to address potential distortions of those rules.

(35) The BCBS has revised the international standard on operational risk to address weaknesses that emerged in the wake of the 2008-2009 financial crisis. Besides a lack

[6] Regulation (EU) 2019/876 of the European Parliament and of the Council of 20 May 2019 amending Regulation (EU) No 575/2013 as regards the leverage ratio, the net stable funding ratio, requirements for own funds and eligible liabilities, counterparty credit risk, market risk, exposures to central counterparties, exposures to collective investment undertakings, large exposures, reporting and disclosure requirements, and Regulation (EU) No 648/2012 (OJ L 150, 7.6.2019, p. 1).

of risk-sensitivity in the standardised approaches, a lack of comparability arising from a wide range of internal modelling practices under the Advanced Measurement Approach were identified. Therefore, and in order to simplify the operational risk framework, all existing approaches for estimating the operational risk capital requirements were replaced by a single non-model-based method. Regulation (EU) No 575/2013 should be aligned with the revised Basel standards to ensure a level playing field internationally for institutions established inside the Union but also operating outside the Union, and to ensure that the operational risk framework at Union level remains effective.

(36) The new standardised approach for operational risk introduced by the BCBS combines an indicator that relies on the size of the business of an institution with an indicator that takes into account the loss history of that institution. The revised Basel standards envisage a number of discretions on how the indicator that takes into account the loss history of an institution may be implemented. Jurisdictions may disregard historical losses for the calculation of operational risk capital for all relevant institutions, or may take historical loss data into account even for institutions below a certain business size. To ensure a level playing field within the Union and to simplify the calculation of operational risk capital, those discretions should be exercised in a harmonised manner for the minimum own funds requirements by disregarding historical operational loss data for all institutions.

(36a) When measuring capital requirements for operational risk, insurance policies should be allowed to be used as effective risk mitigation techniques. To that end, within 24 months after the entry into force of the Regulation EBA shall report to the Commission on a standardised formula, based on specific criteria, to be used for the calculation of operational risk capital requirements. The Commission should be empowered to submit a legislative proposal within the following 36 months, to the European Parliament and Council of the EU taking into account insurance policies for the calculation of capital requirements on operational risk. EBA should identify eligible insurance contracts.

(36b) The severe, double economic shock caused by the COVID-19 pandemic and the Russian-Ukrainian war might have far-reaching impacts on the European economy and disrupt businesses. Institutions will have a key role in contributing to the recovery by extending concessions towards worthy debtors facing or about to face difficulties in meeting their financial commitments. In that respect, EBA should adopt guidelines to specify what constitutes a material diminished financial obligation in the case of distressed restructuring, providing adequate flexibility to institutions. In particular, due consideration should be given to the kind of concession granted, the residual maturity of the exposure and the length of the postponement.

(37) Information on the amount and on the quality of performing, non-performing and forborne exposures, as well as an ageing analysis of accounting past due exposures should also be disclosed by small and non-complex institutions and by other non-listed credit institutions. This disclosure obligation does not create an additional burden on these credit institutions, as the disclosure of such limited set of information has already been implemented by EBA based on the 2017 Council Action Plan on Non-Performing

Loans (NPLs)[7], which invited EBA to enhance disclosure requirements on asset quality and non-performing loans for all credit institutions. This is also fully consistent with the Communication on tackling non-performing loans in the aftermath of the COVID-19 pandemic[8].

(38) It is necessary to reduce the compliance burden for disclosure purposes and to enhance the comparability of disclosures. EBA should therefore establish a centralised web-based platform that enables the disclosure of information and data submitted by institutions. That centralised web-platform should serve as a single access point on institutions' disclosures, while ownership of the information and data and the responsibility for their accuracy should remain with the institutions that produce it. The centralisation of the publication of disclosed information should be fully consistent with the Capital Market Union Action Plan and represents further step towards the development of an EU-wide single access point for companies' financial and sustainable investment-related information.

(39) To allow for a greater integration of supervisory reporting and disclosures, EBA should publish institutions' disclosures in a centralised manner, while respecting the right of all institutions to publish data and information themselves. Such centralised disclosures should allow EBA to publish the disclosures of small and non-complex institutions, based on the information reported by those institutions to competent authorities and should thus significantly reduce the administrative burden to which those small and non-complex institutions are subject. At the same time, the centralisation of disclosures should have no cost impact for other institutions, and increase transparency and reduce the cost for market participants to access prudential information. Such increased transparency should facilitate comparability of data across institutions and promote market discipline.

(40) To ensure convergence across the Union and a uniform understanding of the environmental, social and governance (ESG) factors and risks, general definitions should be laid down. ***Assets or activities subject to impacts from environmental and/or social factors should be defined by reference to the ambition of the Union to become climate-neutral by 2050 as set out in the EU Climate Law, the EU Nature Restoration Law, and the relevant sustainability goals of the Union. The technical screening criteria for 'do no significant harm' adopted in accordance with Article 17 of Regulation (EU) 2020/852 of the European Parliament and of the Council[9], as well as specific Union legislation to avert climate change, environmental degradation and biodiversity loss should be used to identify assets or exposures for the purpose of assessing dedicated prudential treatments and risk differentials.*** The exposure to ESG risks is not necessarily proportional to an institution's size and complexity. Level of exposures across the Union are also quite heterogeneous, with some countries showing potential mild transitional impacts and others showing potential high transitional

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7 ECOFIN Council "Action Plan to Tackle Non-Performing Loans in Europe", July 2017. Council conclusions on Action plan to tackle non-performing loans in Europe - Consilium (europa.eu)

8 Communication from the Commission to the European Parliament, the Council and the European Central Bank on "Tackling non-performing loans in the aftermath of the COVID-19 pandemic" COM/2020/822 final.

9 Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088 (OJ L 198, 22.6.2020, p. 13).

impacts on exposures related to activities that have a significant negative impact on the environment. The transparency requirements that institutions are subject and the sustainability reporting requirements laid down in other pieces of existing legislation in the Union will provide more granular data in a few years. However, to properly assess the ESG risks that institutions may face, it is imperative that markets and supervisors obtain adequate data from all entities exposed to those risks, independently of their size***, including on the pool of loans underlying covered bonds issued by institutions***. In order to ensure that competent authorities have at their disposal data that are granular, comprehensive and comparable for an effective supervision, information on exposures to ESG risks should be included in the supervisory reporting of institutions. The scope and granularity of that information should be consistent with the principle of proportionality, having regard to the size and complexity of the institutions.

(40a) Level of exposures across the Union are also quite heterogeneous, with some countries showing potential mild transitional impacts and others showing potential high transitional impacts on exposures related to activities that have a significant negative impact on the environment. The transparency requirements that institutions are subject to and the sustainability reporting requirements laid down in other pieces of Union legislation will provide more granular data in a few years. However, to properly assess the ESG risks that institutions might face, it is essential that markets and supervisors obtain adequate data from all entities exposed to those risks, irrespective of their size. In order to ensure that competent authorities have at their disposal data that are granular, comprehensive and comparable for an effective supervision, information on exposures to ESG risks should be included in the supervisory reporting of institutions. The scope and granularity of that information should be consistent with the principle of proportionality, and should have regard to the size and complexity of the institutions.

(41) As the transition of the Union economy towards a sustainable economic model is gaining momentum, sustainability risks become more prominent and will potentially require further consideration. ***According to the International Energy Agency, to reach the carbon neutrality objective by 2050, no new fossil fuel exploration and expansion can take place. This means that fossil fuel exposures represent a higher risk both at micro level, as the value of such assets is set to decrease over time, and at macro level as financing fossil fuel activities jeopardises the objective of maintaining the global rise of temperature below 1,5°C and therefore threatens the financial stability.*** It is therefore necessary to bring forward by 2 years EBA's mandate to assess and report on whether a dedicated prudential treatment of exposures related to assets or activities substantially associated with environmental or social objectives would be justified ***from a risk-based perspective. However, only after the completion of this accelerated report and the ongoing climate stress tests would it be justified to potentially propose a dedicated prudential treatment for these exposures***.

(41a) To ensure that any adjustments for exposures for infrastructure do not undermine the climate ambitions of the Union, departure from the risk-based approach of the banking framework should only take place when such exposures have shown a positive impact on the climate ambitions as set out in Regulation (EU) 2020/852.

(42) It is essential for supervisors to have the necessary empowerments to assess and measure in a comprehensive manner the risks to which a banking group is exposed at a consolidated level and to have the flexibility to adapt their supervisory approach to new

sources of risks. It is important to avoid loopholes between prudential and accounting consolidation which may give rise to transactions aimed at moving assets out of the scope of prudential consolidation, even though risks remain in the banking group. The lack of coherence in the definition of "parent undertaking", "subsidiary" and "control" concepts, and the lack of clarity in the definition of "ancillary services undertaking", "financial holding company" and "financial institution" make it more difficult for supervisors to apply the applicable rules consistently in the Union and to detect and appropriately address risks at a consolidated level. Those definitions should therefore be amended and further clarified. In addition, it is deemed appropriate for EBA to investigate further whether these empowerments of the supervisors might be unintendedly constrained by any remaining discrepancies or loopholes in the regulatory provisions or in their interaction with the applicable accounting framework.

(42a) The rapid increase in the financial markets' activity on crypto-assets and the potentially increasing involvement of institutions in crypto-assets related activities should be thoroughly reflected in the Union prudential framework, in order to adequately mitigate the risks of these instruments for the institutions' financial stability. This is even more urgent in light of the recent adverse developments in the crypto-assets markets. The existing prudential rules are not designed to adequately capture the risks inherent to crypto-assets. The recently published BCBS standards on the prudential treatment of crypto-asset exposures, to be implemented by 1 January 2025, provide a dedicated prudential treatment that should be implemented in Union law in a timely manner. The Commission should follow up on these developments and, if appropriate, adopt a legislative proposal by 31 December 2024, to transpose the different elements of the BCBS standards into Union law. Until the legislative proposal is adopted, institutions' exposure to crypto-assets should apply prudent own funds requirements.

(43) The lack of clarity of certain aspects of the minimum haircut floors framework for securities financing transactions (SFTs), developed by the BCBS in 2017 as part of the final Basel III reforms, as well as reservations about the economic justification of applying it to certain types of SFTs have raised the question of whether the prudential objectives of this framework could be attained without creating undesirable consequences. The Commission should therefore reassess the implementation of the minimum haircut floors framework for SFTs in Union law by [OP please insert date = 24 months after entry into force of this Regulation]. In order to provide the Commission with sufficient evidence, EBA, in close cooperation with ESMA, should report to the Commission on the impact of that framework, and on the most appropriate approach for its implementation in Union law.

(44) The Commission should transpose into Union law the revised standards for the capital requirements for CVA risks, published by the BCBS in July 2020, as these standards overall improve the calculation of own funds requirement for CVA risk by addressing several previously observed issues, in particular that the existing CVA capital requirements framework fails to appropriately capture CVA risk.

(45) When implementing the initial Basel III reforms in Union law through the CRR, certain transactions were exempted from the calculation of capital requirements for CVA risk. These exemptions were agreed to prevent a potential excessive increase in the cost of some derivative transactions triggered by the introduction of the capital requirement for CVA risk, particularly when banks could not mitigate the CVA risk of certain clients

that were not able to exchange collateral. According to estimated impacts calculated by EBA, the capital requirements for CVA risk under the revised Basel standards would remain unduly high for the exempted transactions with these clients. To ensure that banks' clients continue hedging their financial risks via derivative transactions, the exemptions should be maintained when implementing the revised Basel standards.

(46) However, the actual CVA risk of the exempted transactions may be a source of significant risk for banks applying those exemptions; if those risks materialise, the banks concerned could suffer significant losses. As EBA highlighted in their report on CVA from February 2015, the CVA risks of the exempted transactions raise prudential concerns that are not being addressed under CRR. To help supervisors monitor the CVA risk arising from the exempted transactions, institutions should report the calculation of capital requirements for CVA risks of the exempted transactions that would be required if those transactions were not exempted. In addition, EBA should develop guidelines to help supervisors identify excessive CVA risk and to improve the harmonisation of supervisory actions in this area across the EU.

(47) Regulation (EU) No 575/2013 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

Amendments to Regulation (EU) No 575/2013

Regulation (EU) No 575/2013 is amended as follows:

(1) in Article 4, paragraph 1 is amended as follows:

(-a) point (12) is deleted

(a) points (15) and (16) are replaced by the following:

'(15) 'parent undertaking' means an undertaking that controls, in the meaning of point (37), one or more undertakings;

(16) 'subsidiary' means an undertaking that is controlled, in the meaning of point (37), by another undertaking;';

(b) point (18) is replaced by the following:

'(18) 'ancillary services undertaking' means an undertaking the principal activity of which, whether provided to undertakings inside the group or to clients outside the group, the competent authority ***is*** any of the following:

(a) a direct extension of banking;

(b) operational leasing, factoring, the management of unit trusts, the ownership or management of property, the provision of data processing services or any other activity that is ancillary to banking;

(c) any other activity considered similar by EBA to those mentioned in points (a) and (b);';

(c) point (20) is replaced by the following:

‘(20) ‘financial holding company’ means an undertaking fulfilling all of the following conditions:

(a) the undertaking is a financial institution;

(b) the undertaking is not a mixed financial holding company;

(c) at least one subsidiary of that undertaking is an institution;

(d) more than 50 % of any of the following indicators are associated, on a steady basis, with subsidiaries that are institutions or financial institutions, and with activities performed by the undertaking itself that are not related to the acquisition or owning of holdings in subsidiaries when those activities are of the same nature as the ones performed by institutions or financial institutions:

(i) the undertaking’s equity based on its consolidated situation;

(ii) the undertaking’s assets based on its consolidated situation;

(iii) the undertaking’s revenues based on its consolidated situation;

(iv) the undertaking’s personnel based on its consolidated situation;

(v) other indicator considered relevant by the competent authority;’;

(d) the following point (20a) is inserted:

‘(20a) ‘investment holding company’ means an investment holding company as defined in Article 4(1), point (23), of Regulation (EU) 2019/2033 of the European Parliament and of the Council[10];

(e) point (26) is replaced by the following:

‘(26) ‘financial institution’ means an undertaking that meets both of the following conditions:

(a) the undertaking is not an institution, a pure industrial holding company, an insurance holding company or a mixed-activity insurance holding company as defined in Article 212(1), points (f) and (g), of Directive 2009/138/EC;

(b) the undertaking fulfils any of the following conditions:

(i) the principal activity of the undertaking is to acquire or own holdings or to pursue one or more of the activities listed Annex I, points 2 to 12 and point 15, to Directive 2013/36/EU, or to pursue one or more of the services or activities listed in Annex I, Section 1 or B, to Directive 2014/65/EU of the European Parliament and of the Council[11] in relation to financial instruments listed in Section C of that Annex to that Directive;

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[10] Regulation (EU) 2019/2033 of the European Parliament and of the Council of 27 November 2019 on the prudential requirements of investment firms and amending Regulations (EU) No 1093/2010, (EU) No 575/2013, (EU) No 600/2014 and (EU) No 806/2014 (OJ L 314, 5.12.2019, p. 1).

[11] Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (OJ L 173, 12.6.2014, p. 349).

(ii) the undertaking is an investment firm, a mixed financial holding company, an investment holding company, a payment services provider within the meaning of Directive (EU) 2015/2366 of the European Parliament and of the Council[12], an asset management company or an ancillary services undertaking;';

(f) the following point (26a) is inserted:

'(26a) 'pure industrial holding company' means an undertaking that fulfils all of the following conditions:

(a) the principal activity of the undertaking is to acquire or own holdings;

(b) neither the undertaking nor any of the undertakings in which it owns participations are referred to in point (27), points (a), (d), (e), (f), (g), (h), (k) and (l);

(c) neither the undertaking nor any of the undertakings in which it own participations perform as a principal activity any of the activities listed in Annex I to Directive 2013/36/EU, any of the activities listed in Annex I, Sections A or B, to Directive 2014/65/EU in relation to financial instruments listed in Section C of that Annex to that Directive, or are investment firms, payment services providers within the meaning of Directive (EU) 2015/2366, asset management companies, or ancillary services undertakings;';

(g) in point (27), point (c) is deleted;

(h) point (28) is replaced by the following:

'(28) 'parent institution in a Member State' means an institution in a Member State which has an institution or a financial institution as a subsidiary, or which holds a participation in an institution ***or*** financial institution , and which is not itself a subsidiary of another institution authorised in the same Member State, or of a financial holding company or mixed financial holding company set up in the same Member State;';

(i) the following points (33a) and (33b) are inserted:

'(33a) 'stand-alone institution in the EU' means an institution that is not subject to prudential consolidation pursuant to Part One, Title II, Chapter 2 in the EU, and that has no EU parent undertaking subject to such prudential consolidation;

(33b) 'stand-alone subsidiary institution in a Member State' means an institution that meets all of the following criteria:

(a) the institution is the subsidiary of an EU parent institution, an EU parent financial holding company or an EU parent mixed financial holding company;

[12] Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC (OJ L 337, 23.12.2015, p. 35).

(b) the institution is located in another Member State than its parent institution, parent financial holding company or parent mixed financial holding company;

(c) the institution has no subsidiary itself and does not hold any participation in an institution or financial institution;';

(j) in point (37) the reference to 'Article 1 of Directive 83/349/EEC' is replaced by a reference to 'Article 22 of Directive 2013/34/EU';

(k) point (52) is replaced by the following:

'(52) 'operational risk' means the risk of loss resulting from inadequate or failed internal processes, people and systems or from external events, including***, but not limited to,*** legal risk, model risk and ICT risk, but ***excluding*** strategic and reputational risk;';

(l) the following points (52a) to (52i) are inserted:

'(52a) 'legal risk' means ***the risk of*** losses, including***, but not limited to,*** expenses, fines, penalties or punitive damages, ***which an institution may incur as a consequence of*** events that result in legal proceedings, including the following:

(a) supervisory actions and private settlements;

(b) failure to act where action is necessary to comply with a legal obligation;

(c) action taken to avoid compliance with a legal obligation;

(d) misconduct events, which are events that arise from wilful or negligent misconduct, including inappropriate supply of financial services ***or where the institution does not follow the obligation to provide fair, clear and not misleading information to its retail clients in accordance with Article 24(3) of Directive 2014/65/EU***;

(e) non-compliance with any requirement derived from national or international statutory or legislative provisions;

(f) non-compliance with any requirement derived from contractual arrangements, or with internal rules and codes of conduct established in accordance with national or international norms and practices;

(g) non-compliance with ethical rules.

Legal risk does not comprise refunds to third parties or employees and goodwill payments due to business opportunities, where no breach of any rules or ethical conduct has occurred and where the institution has fulfilled its obligations on a timely basis; and external legal costs where the event giving rise to those external costs is not an operational risk event.

(52b) 'model risk' means the ***risk of loss*** an institution may incur as a consequence of decisions that could be principally based on the output of internal models, due to errors in the ***design,*** development, implementation , use ***or monitoring*** of such models, including the following:

(a) the improper set-up of a selected internal model and its characteristics;

(b) the inadequate verification of a selected internal model's suitability for the financial instrument to be evaluated or for the product to be priced, or of the selected internal model's suitability for the applicable market conditions;

(c) errors in the implementation of a selected internal model;

(d) incorrect mark-to-market valuations and risk measurement as a result of a mistake when booking a trade into the trading system;

(e) the use of a selected internal model or of its outputs for a purpose for which that model was not intended or designed, including manipulation of the modelling parameters;

(f) the untimely and ineffective monitoring of model performance to assess whether the selected internal model remains fit for purpose;

(52c) 'ICT risk' means the risk of losses or potential losses related to ***any reasonable identifiable circumstances in relation to*** the use of network ***and*** information systems ***which, if materialised, may compromise the security of the network and information systems, of any technology dependent tool or process, of operations and processes, or of the provision of services by producing adverse effects in the digital or physical environment***;

(52d) 'environmental, social or governance ▌risk' ***or 'ESG risk'*** means the risk of ▌any negative financial impact on the institution stemming from the current or prospective impacts of environmental, social or governance (ESG) factors on the institution's counterparties or invested assets; ***ESG risks materialise through the traditional categories of financial risks, including credit risk, market risk, operational and reputation risks, liquidity and funding risks;***

(52e) 'environmental risk' means the risk of ▌any negative financial impact on the institution stemming from the current or prospective impacts of environmental factors on the institution's counterparties or invested assets, including factors related to the transition towards the following environmental objectives:

(a) climate change mitigation ;

(b) climate change adaptation;

(c) the sustainable use and protection of water and marine resources;

(d) the transition to a circular economy;

(e) pollution prevention and control;

(f) the protection and restoration of biodiversity and ecosystems;

Environmental risk includes both physical risk and transition risk.

(52f) 'physical risk', as part of the overall environmental risk, means the risk of ▌any negative financial impact on the institution stemming from the current or prospective impacts of the physical effects of environmental factors on the institution's counterparties or invested assets;

(52g) ‘transition risk’, as part of the overall environmental risk, means the risk of ▌ any negative financial impact on the institution stemming from the current or prospective impacts of the transition ▌ to an environmentally sustainable economy on the institution’s counterparties or invested assets;

(52h) ‘social risk’ means the risk of ▌ any negative financial impact on the institution stemming from the current or prospective impacts of social factors on its counterparties or invested assets;

(52i) ‘governance risk’ means the risk of ▌ any negative financial impact on the institution stemming from the current or prospective impacts of governance factors on the institution’s counterparties or invested assets;’;

(m) points (54), (55) and (56) are replaced by the following:

‘(54) ‘probability of default’ or ‘PD’ means the probability of default of an obligor over a one-year period, and, in the context of dilution risk, the probability of dilution over ***a*** one-year period;

(55) ‘loss given default’ or ‘LGD’ means the ▌ ratio of the loss on an exposure related to a single facility due to the default of an obligor or facility to the amount outstanding at default, and, in the context of dilution risk, the loss given dilution meaning the ▌ ratio of the loss on an exposure ***related to a purchased receivable*** due to dilution, to the amount outstanding ***of the*** purchased receivable;

(56) ‘conversion factor’ or ‘credit conversion factor’ or ‘CCF’ means the ▌ ratio of the currently undrawn amount of a commitment from a single facility that could be drawn from a single facility before default and that would therefore be outstanding at default to the currently undrawn amount of the commitment from that facility, the extent of the commitment being determined by the advised limit, unless the unadvised limit is higher;’;

(n) the following point (56a) is inserted:

‘(56a) ‘realised CCF’ means the ratio of the drawn amount of a commitment from a single facility, that was undrawn at a given reference date prior to default, and that is therefore outstanding at default, to the undrawn amount of the commitment from that facility at that reference date;’;

(o) points (58), (59) and 60 are replaced by the following:

‘(58) ‘funded credit protection’ or ‘FCP’ means a technique of credit risk mitigation where the reduction of the credit risk on the exposure of an institution is derived from the right of that institution, in the event of the default of the obligor or on the occurrence of other specified credit events relating to the obligor, to liquidate, or to obtain transfer or appropriation of, or to retain certain assets or amounts, or to reduce the amount of the exposure to, or to replace it with, the amount of the difference between the amount of the exposure and the amount of a claim on the institution;

(59) ‘unfunded credit protection’ or ‘UFCP’ means a technique of credit risk mitigation where the reduction of the credit risk on the exposure of an institution is derived from the obligation of a third party to pay an amount in the event of the default of the obligor or the occurrence of other specified credit events;

(60) ‘cash assimilated instrument’ means a certificate of deposit, a bond, including a covered bond, or any other non-subordinated instrument, which has been issued by the lending institution, for which the lending institution has already received full payment and which shall be unconditionally reimbursed by the lending institution at its nominal value;’;

(p) the following point (60a) is inserted:

‘(60a) ‘gold bullion’ means gold in the form of a commodity, including gold bars, ingots and coins, commonly accepted by the bullion market, where liquid markets for bullion exist, and the value of which is determined by the value of the gold content, defined by purity and mass, rather than by its interest to numismatists;’;

(q) the following point (74a) is inserted :

‘(74a) ‘property value’ means the value of an immovable property determined in accordance with Article 229(1);’;

(r) point (75) is replaced by the following:

‘(75) ‘residential property’ means any of the following:

(a) an immovable property which has the nature of a dwelling and satisfies all applicable laws and regulations enabling the property to be occupied for housing purposes;

(b) an immovable property which has the nature of a dwelling and is still under construction, provided that there is the expectation that the property will satisfy all applicable laws and regulations enabling the property to be occupied for housing purposes;

(c) the right to inhabit an apartment in housing cooperatives located in Sweden

(d) land accessory to a property referred to in points (a), (b) or (c);’;

(s) the following points (75a) to (75g) are inserted:

‘(75a) ‘commercial immovable property’ means any immovable property that is not residential property ;

(75b) ‘income producing real estate exposure’ ***or*** IPRE exposure means an exposure secured by one or more residential or commercial immovable properties where the fulfilment of the credit obligations related to the exposure materially depends on the cash flows generated by those immovable properties securing that exposure, rather than on the capacity of the obligor to fulfil the credit obligations from other sources***; the primary source of such cash flows would be lease or rental payments, or proceeds from the sale of the residential property or commercial immovable property***;

(75c) ‘non-income producing real estate exposure’ (non-IPRE exposure) means any exposure secured by one or more residential or commercial immovable properties that is not an IPRE exposure;

(75d) ‘non-ADC exposure’ means any exposure secured by one or more residential or commercial immovable properties that is not an ADC exposure;

(75e) ‘exposure secured by residential property’, or ‘exposure secured by a mortgage on residential property’, or ‘exposure secured by residential property collateral’, or ‘exposure secured by residential immovable property’, means an exposure secured by ▌ residential property ***or an exposure regarded as such in accordance with Article 108(3)***;

(75f) ‘exposure secured by commercial immovable property’, or ‘exposure secured by a mortgage on commercial immovable property’, or ‘exposure secured by commercial immovable property collateral’ means an exposure secured by a ▌ commercial immovable property▌ ;

(75g) ‘exposure secured by immovable property’, or ‘exposure secured by a mortgage on immovable property’, or ‘exposure secured by immovable property collateral’ means an exposure secured by a ▌ residential or commercial immovable property ***or an exposure regarded as such in accordance with Article 108(3)***;’;

(t) points (78) and (79) are replaced by the following:

‘(78) ‘one-year default rate’ means the ratio between the number of ***obligors or where the classification as defaulted is applied at facility level pursuant to the second subparagraph of Article 178(1), facilities in respect of which a default is considered to have occurred*** during a period that starts from one year prior to a date of observation T, and the number of obligors, or ▌ where the classification as defaulted is applied at facility level pursuant to ***the second subparagraph of*** Article 178***(1)***, ***facilities*** assigned to this grade or pool one year prior to that date of observation T;

(79) ‘ADC exposures’ or ‘land acquisition, development and construction exposures’ means ***loans*** to corporates or special purpose entities financing any land acquisition for development and construction purposes, or financing development and construction of any residential or commercial immovable property;’;

(u) point (114) is replaced by the following:

‘(114) ‘indirect holding’ means any exposure to an intermediate entity that has an exposure to capital instruments issued by a financial sector entity or to liabilities issued by an institution where, in the event the capital instruments issued by the financial sector entity or the liabilities issued by the institution were permanently written off, the loss that the institution would incur as a result would not be materially different from the loss the institution would incur from a direct holding of those capital instruments issued by the financial sector entity or of those liabilities issued by the institution;’

(v) point (126) is replaced by the following:

‘(126) ‘synthetic holding’ means an investment by an institution in a financial instrument the value of which is directly linked to the value of the capital instruments issued by a financial sector entity or to the value of the liabilities issued by an institution;’;

(w) point (144) is replaced by the following:

‘(144) ‘trading desk’ means a well-identified group of dealers set up by the institution to jointly manage a portfolio of trading book positions, or the non-trading book positions referred to in Article 104b, paragraphs 5 and 6, in accordance with a well-defined and consistent business strategy and operating under the same risk management structure;’

(x) ▌ point (145) ***is amended as follows:***

(a) point (f) is replaced by the following:

‘(f) the institution's consolidated assets or liabilities relating to activities with counterparties located in the European Economic Area, excluding intragroup exposures in the European Economic Area, exceed 75% of both the institution’s consolidated total assets and liabilities, excluding in both cases the intragroup exposures,’;

(b) the following subparagraph is inserted:

‘For the purposes of point (e), an institution may exclude derivative positions it entered with its non-financial clients and the derivatives positions it uses to hedge those positions, provided that the combined value of the excluded positions calculated in accordance with Article 273a(3) does not exceed 10% of the institution’s total on- and off-balance sheet assets.’;

(y) the following points are added:

‘(151) ‘revolving exposure’ means any exposure whereby the borrower’s outstanding balance is permitted to fluctuate based on its decisions to borrow and repay, up to ***a*** limit ***established by the lending institution***;

(152) ‘transactor exposure’ means any revolving exposure that has at least 12 months of repayment history and that is one of the following:

(a) an exposure for which, on a regular basis of at least every 12 months, the ***amount*** to be repaid at the next scheduled repayment date is determined as the drawn amount ***or an instalment*** at a predefined reference date ***or upon contractual repayment modalities, with all*** scheduled repayment ***dates*** not later than after 12 months, provided that the ***amount or instalment owed to the lending institution*** has been repaid in full at each scheduled repayment date for the previous 12 months;

(b) an overdraft facility where there have been no drawdowns over the previous 12 months;

(152a) ‘fossil fuel sector entity’ means a company, enterprise or undertaking primarily active in deriving any revenues from exploration, mining, extraction, production, processing, storage, refining or distribution, including transportation, storage, and trade, of fossil fuels as defined in Article 2, point (62), of Regulation (EU) 2018/1999 of the European Parliament and of the Council*.

EBA shall issue guidelines, in accordance with Article 16 of Regulation (EU) No 1093/2010, to specify the conditions under which the company, enterprise or undertaking is to be considered primarily active in deriving any revenues

from exploration, mining, extraction, production, processing, storage, refining or distribution, including transportation, storage and trade, of fossil fuels.

(152b) 'assets or activities subject to impacts from environmental and/or social factors' means assets or activities impacting the ambition of the Union to achieve climate neutrality as specified in Article 3, point (69a) of Directive 2013/36/EU.

(152c) 'shadow-banking-entity' means an entity that offers banking services or performs banking activities and that it is not subject to prudential requirements similar to those imposed by this Regulation.

**** Regulation (EU) 2018/1999 of the European Parliament and of the Council of 11 December 2018 on the Governance of the Energy Union and Climate Action, amending Regulations (EC) No 663/2009 and (EC) No 715/2009 of the European Parliament and of the Council, Directives 94/22/EC, 98/70/EC, 2009/31/EC, 2009/73/EC, 2010/31/EU, 2012/27/EU and 2013/30/EU of the European Parliament and of the Council, Council Directives 2009/119/EC and (EU) 2015/652 and repealing Regulation (EU) No 525/2013 of the European Parliament and of the Council (OJ L 328, 21.12.2018, p. 1).';***

(1a) in Article 4, the following paragraph is added:

'4a. For the purposes of point (18), point (c), of paragraph 1, EBA shall issue guidelines specifying the criteria for the identification of activities by ... [OP please insert date = 1 year after entry into force of this Regulation].

Those guidelines shall be adopted in accordance with Article 16 of Regulation (EU) No 1093/2010.'

(2) Article 5 is amended as follows:

(a) point (3) is replaced by the following:

'(3) 'expected loss' or 'EL' means the ratio, related to a single facility, of the amount expected to be lost on an exposure from any of the following:

(i) a potential default of an obligor over a one-year period to the amount outstanding at default;

(ii) a potential dilution event over a one-year period to the amount outstanding at the date of occurrence of the dilution event;';

(b) the following points (4) to (10) are added:

'(4) 'credit obligation' means any obligation arising from a credit contract, including principal, accrued interest and fees, owed by an obligor to an institution or, where the institution serves as a guarantor, owed by an obligor to a third party;

(5) ‘credit exposure’ means any on-balance sheet item, including any amount of principal, accrued interest and fees owed by the obligor to the institution, ***or*** any off-balance sheet item that results, or may result, in a credit obligation;

(6) ‘facility’ means a credit exposure arising from ***a*** contract ▌between an obligor and an institution;

(7) ‘margin of conservatism’ means an ▌add-on incorporated in risk estimates, ***adequate*** to account for the expected range of estimation errors stemming from identified deficiencies in data, methods, models, and changes to underwriting standards, risk appetite, collection and recovery policies and any other source of additional uncertainty, as well as from general estimation error;

(8) ‘small and medium-sized enterprise’ or ‘SME’ means a company, enterprise or undertaking which, according to the last consolidated accounts, has an annual turnover not exceeding EUR 50 000 000;’

(9) ‘commitment’ means any contractual arrangement that an institution offers to a client and is accepted by that client, to extend credit, purchase assets or issue credit substitutes. Any arrangement that can be unconditionally cancelled by the institution at any time without prior notice to the obligor or any arrangement that can be cancelled by the institution where the obligor fails to meet conditions set out in the facility documentation, including conditions that must be met by the obligor prior to any initial or subsequent drawdown under the arrangement, is a commitment;

Contractual arrangements that meet all of the following conditions shall not be commitments:

(a) contractual arrangements where the institution receives no fees or commissions to establish or maintain those contractual arrangements;

(b) contractual arrangements where the client is required to apply to the institution for the initial and each subsequent drawdown under those contractual arrangements;

(c) contractual arrangements where the institution has full authority, regardless of the fulfilment by the client of the conditions set out in the contractual arrangement documentation, over the execution of each drawdown;

(d) contractual arrangements where the institution is required to assess the creditworthiness of the client immediately prior to deciding on the execution of each drawdown;

(e) contractual arrangements that are offered to a corporate entity, including an SME, that is closely monitored on an ongoing basis.

(10) ‘unconditionally cancellable commitment’ means any commitment the terms of which permit the institution to cancel that commitment to the full extent allowable under consumer protection and related legislation ***where applicable*** at any time without prior notice to the obligor or that effectively provide for automatic cancellation due to deterioration in a borrower's creditworthiness.’;

(3) in Article 6, paragraph 3 is replaced by the following:

‘3. No institution which is either a parent undertaking or a subsidiary, and no institution included in the consolidation pursuant to Article 18, shall be required to comply on an individual basis with the obligations laid down in Article 92, paragraphs 5 and 6, and Part Eight.’;

(3a) in Article 7, the following paragraph is added:

‘3a. By 31 December 2026, the Commission shall report to the European Parliament and the Council on the possibility of allowing for the application of paragraph 1 also to a subsidiary that is subject to authorisation and supervision by a Member State other than the Member State that authorises and supervises the institution which is the parent undertaking. The Commission shall pay particular attention to progress made on completing the banking union, and more particular to improvements made to the banking crisis management and deposit insurance framework which can address potential financial stability concerns resulting from applying paragraph 1 on a cross-border basis.

The Commission shall also consider whether or not additional prudential safeguards and technical modifications could further address any potential financial stability concerns resulting from the waiver from the application of individual requirements on a cross-border basis.

The report shall address the case of partial waivers from prudential requirements, taking into consideration whether the application of waivers on a cross-border basis, should be accompanied by the requirement for the relevant subsidiaries to still have adequate minimum levels of own funds to ensure their resilience, also in distressed situations. Competent authorities may define an adequate amount, taking into account the efficiency of group risk management and the effectiveness of the group financial support arrangement in resolution.

That report may, where appropriate, be accompanied by a legislative proposal. In the event that the Commission considers that the conditions to make a legislative proposal are not yet met, the Commission shall report on progress made on the banking union every two years until such time it deems it appropriate to make such a legislative proposal.’;

(3b) Article 8 is replaced by the following:

‘Article 8

Derogation from the application of liquidity requirements on an individual basis

1. The competent authorities may waive in full or in part the application of Part Six to an institution and to all or some of its subsidiaries in the Union and supervise them as a single liquidity sub-group so long as they fulfil all of the following conditions:

(a) the parent institution on a consolidated basis or a subsidiary institution on a sub-consolidated basis complies with the obligations laid down in Part Six;

(b) the parent institution on a consolidated basis or the subsidiary institution on a sub-consolidated basis monitors and has oversight at all times over the liquidity positions of all institutions within the group or sub-group, that are subject to the waiver, monitors and has oversight at all times over the funding

positions of all institutions within the group or sub-group where the net stable funding ratio (NSFR) requirement set out in Title IV of Part Six is waived, and ensures a sufficient level of liquidity, and of stable funding where the NSFR requirement set out in Title IV of Part Six is waived, for all of those institutions;

(c) all entities belonging to the single liquidity sub-group have entered into a group financial support agreement as defined in Directive 2014/59/EU, or another group financial support agreement that the competent authorities deem satisfactory, which requires the parent undertaking to provide liquidity support and does not provide for any upper limit to the level of support that can be provided and that would not be revocable at short notice;

(d) the institutions have entered into contracts that, to the satisfaction of the competent authorities, provide for the free movement of funds between them to enable them to meet their individual and joint obligations as they become due;

(e) the institution leading the liquidity sub-group provides an independent legal opinion to the competent authorities on the enforceability of this group financial support agreement that confirms the absence of any legal impediments to the transfer of liquidity across the entities belonging to the single liquidity sub-group;

(f) the single liquidity sub-group is covered by a single group recovery plan that includes recovery plan indicators for each entity of the liquidity sub-group including the parent undertaking that are consistent with the liquidity sub-group's internal liquidity management policy;

(g) the single liquidity sub-group belongs to a banking group which is subject to a group resolution scheme in accordance with Article 92 of Directive 2014/59/EU.

The group financial support agreement may also be used to satisfy the condition under point (d) of this paragraph.

3. Where institutions of the single liquidity sub-group are authorised in several Member States, paragraph 1 shall only be applied after following the procedure laid down in Article 21 and the competent authorities may waive in full or in part the application of the requirements set out in Part 6.

4. Competent authorities may also apply paragraphs 1 and 3 to institutions which are members of the same institutional protection scheme as referred to in Article 113(7) provided that they meet all the conditions laid down therein, and to other institutions linked by a relationship referred to in Article 113(6) provided that they meet all the conditions laid down therein. Competent authorities shall in that case determine one of the institutions subject to the waiver to meet Part Six on the basis of the consolidated situation of all institutions of the single liquidity sub-group.

5. Where a waiver has been granted under paragraph 1 or paragraph 3, the competent authorities may also apply Article 86 of Directive 2013/36/EU, or parts thereof, at the level of the single liquidity sub-group and waive the application of Article 86 of Directive 2013/36/EU, or parts thereof, on an individual basis.

6. Where, in accordance with this Article, a competent authority waives, in part or in full, the application of Part Six for an institution, it may also waive the application of the associated liquidity reporting requirements under point (d) of Article 430(1) for that institution.

6a. Waivers granted under this Article prior to [the date of application of CRR3 (e.g. 1.1.2025)] shall remain in force for [[24 months] after the date of application of CRR3], provided that the conditions specified in the version of this Article applicable prior to [the date of application of CRR3 (e.g. 1.1.2025)] continue to be met. After [date [24 months] after the date of application of CRR3], such waivers shall continue to remain in force, provided that the applicable conditions specified in Article 8 (1) or (2) are met.

6b. By 31 December 2025, the Commission shall report to the European Parliament and the Council on the legal form and specific prudential treatment for group financial support agreements. The report shall be accompanied, where appropriate, by a legislative proposal.

By 31 December 2026, the Commission shall review and report on the functioning of paragraph 1 of this Article and shall submit that report to the European Parliament and the Council. The Commission's review and report shall assess, in particular, whether the elements and conditions specified in this Article provide sufficient flexibility to competent authorities to define institution-specific requirements as necessary for waiving the application of liquidity requirements, where justified by the efficiency of group risk management and the effectiveness of the group financial support arrangement in resolution. The Commission's review and report shall also take into account any financial stability concerns and progress made towards completing the banking union, and more particularly to improvements made to the banking crisis management framework and the Union deposit guarantee framework which can further strengthen the consistency in liquidity management during going concern and crisis times. The report shall be accompanied, where appropriate, by a legislative proposal.

(4) in Article 10a, the single paragraph is amended as follows:

'For the purposes of the application of this Chapter, investment firms and investment holding companies shall be considered to be parent financial holding companies in a Member State or Union parent financial holding companies where such investment firms or investment holding companies are parent undertakings of an institution or of an investment firm subject to this Regulation that is referred to in Article 1(2) or (5) of Regulation (EU) 2019/2033.';

(5) in Article 11(1), the first sentence is replaced by the following:

'Parent institutions in a Member State shall comply, to the extent and in the manner set out in Article 18, with the obligations laid down in Parts Two, Three, Four, Seven and Seven A on the basis of their consolidated situation, with the exception of Article 92(3), point (a), and Article 430(1), point (d).';

(5a) in Article 13(1), subparagraph 2 is replaced by the following:"

'Large subsidiaries of EU parent institutions shall disclose the information specified in Articles 437, 438, 440, 442, 449a, 450, 451, 451a and 453 on an individual basis

or, where applicable, in accordance with this Regulation and Directive 2013/36/EU on a sub-consolidated basis.';

(6) Article 18 is amended as follows:

(a) paragraph 2 is deleted;

(b) in paragraph 7, first sub-paragraph, the first sentence is replaced by the following:

'Where an institution has a subsidiary which is an undertaking other than an institution or a financial institution or holds a participation in such an undertaking, it shall apply to that subsidiary or participation the equity method.';

(c) a new paragraph 10 is inserted:

'10. EBA shall report to the Commission by [OP please insert date = 1 year after the entry into force of this Regulation] on the completeness and appropriateness of the set of definitions and provisions of this Regulation concerning the supervision of all types of risks to which institutions are exposed at a consolidated level. EBA shall assess in particular any possible remaining discrepancies in those definitions and provisions alongside their interaction with the applicable accounting framework, and any remaining aspect that might pose unintended constraints to a consolidated supervision that is comprehensive and adaptable to new sources or types of risks or structures that might lead to regulatory arbitrage. EBA shall periodically update its report on a bi-annual basis.

In the light of EBA'S findings, the Commission may, if appropriate, adopt delegated acts in accordance with Article 462 to adjust the relevant definitions or the scope of prudential consolidation.';

(6a) in Article 19(1), the introductory part is replaced by the following:

'1. An institution or a financial institution which is a subsidiary or an undertaking in which a participation is held, need not to be included in the consolidation where the total amount of assets and off-balance sheet items of the undertaking concerned is less than the smaller of the following two amounts:';

(7) Article 20 is amended as follows:

(a) paragraph 1 is amended as follows:

(i) point (a) is replaced by the following:

'(a) in the case of applications for the permissions referred to in Article 143(1), Article 151, paragraphs 4 and 9, Article 283 and Article 363 submitted by an EU parent institution and its subsidiaries, or jointly by the subsidiaries of an EU parent financial holding company or EU parent mixed financial holding company, to decide whether or not to grant the permission sought and to determine the terms and conditions, if any, to which such permission should be subject;';

(ii) the third subparagraph is deleted;

(b) paragraph 6 is replaced by the following:

‘6. Where an EU parent institution and its subsidiaries, the subsidiaries of an EU parent financial holding company or an EU parent mixed financial holding company use the IRB Approach referred to in Article 143 on a unified basis, the competent authorities shall allow the parent and its subsidiaries, considered together, to meet the qualifying criteria set out in Part Three, Title II, Chapter 3, Section 6 in a way that is consistent with the structure of the group and its risk management systems, processes and methodologies.’;

(7a) Article 21 is amended as follows:

(a) in paragraph 1, the first subparagraph is replaced by the following:

‘1. Upon application of an EU parent institution or an EU parent financial holding company or EU parent mixed financial holding company or a sub-consolidating subsidiary of an EU parent institution or an EU parent financial holding company or EU parent mixed financial holding company, the consolidating supervisor and the competent authorities responsible for the supervision of subsidiaries of an EU parent institution or an EU parent financial holding company or EU parent mixed financial holding company in a Member State shall do everything within their power to reach a joint decision on whether the conditions in points (a) to (g) of Article 8(1) are met and to identify a single liquidity sub-group for the application of Article 8.’;

(b) in paragraph 2, the second subparagraph is replaced by the following:

‘However, any competent authority, including the consolidating supervisor, may during the six-month period refer to EBA the question whether the conditions in Article 8(1), points (a) to (g), are met. In that case, EBA may carry out its non-binding mediation in accordance with Article 31(c) of Regulation (EU) No 1093/2010 and all the competent authorities involved shall defer their decisions pending the conclusion of the non-binding mediation. Where, during the mediation, no agreement has been reached by the competent authorities within three months, each competent authority responsible for supervision on an individual basis shall take its own decision taking into account the proportionality of benefits and risks at the level of the Member State of the parent institution and the proportionality of benefits and risks at the level of the Member State of the subsidiary. The matter shall not be referred to EBA after the end of the six-month period or after a joint decision has been reached.’;

(c) paragraph 3 is replaced by the following:

‘3. Any relevant competent authority may also during the six-month period consult EBA in the event of a disagreement on the conditions listed in Article 8(1), points (a) to (g). In that case, EBA may carry out its non-binding mediation in accordance with Article 31(c) of Regulation (EU) No 1093/2010, and all the competent authorities involved shall defer their decisions pending the conclusion of the non-binding mediation. Where, during the mediation, no agreement has been reached by the competent authorities within three months, each competent authority responsible for supervision on an individual basis shall take its own decision.’;

(8) in Article 27(1), point (a), point (v) is deleted;

(9) in Article 34, the following paragraphs are added:

'By way of derogation from the first paragraph of this Article, in extraordinary circumstances the existence of which will be determined by an opinion provided by EBA, institutions may reduce the total additional value adjustments in the calculation of the total amount to be deducted from Common Equity Tier 1 capital.

For the purposes of providing the opinion referred to in the second subparagraph, EBA shall monitor the market conditions to assess whether extraordinary circumstances have occurred and accordingly, shall notify the Commission immediately.

EBA***, in consultation with ECB and ESMA,*** shall develop draft regulatory technical standards to specify the indicators and conditions that EBA will use to determine the extraordinary circumstances referred to in the second paragraph and to specify the reduction of the total aggregated additional value adjustments referred to in that paragraph.

EBA shall submit those draft regulatory technical standards to the Commission by [OP please insert date = 2 years after the entry into force of this Regulation].

Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the third paragraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.';

(10) Article 36 is amended as follows:

(a) in paragraph 1, point (d) is replaced by the following:

'(d) for institutions calculating risk-weighted exposure amounts using the Internal Ratings Based Approach (the IRB Approach), the IRB shortfall where applicable, calculated in accordance with Article 159;';

(b) in paragraph 1, in point (k), point (***vi***) is ***added:***

'(vi) exposures in the form of units or shares in a CIU that are assigned a risk-weigfht of 1250% in accordance with Article 132(2), second subparagraph.';

(ba) in paragraph 1, point (m) is replaced by the following:

'(m) the applicable amount of insufficient coverage for non-performing exposures other than exposures purchased by a specialised debt restructurer which were non-performing at the time of purchase.';

(11) in Article 46(1), in point (a), point (ii) is replaced by the following:

'(ii) the deductions referred to in Article 36(1), points (a) to (g), points (k)(ii), (iii) and (iv) and points (l), (m) and (n), excluding the amount to be deducted for deferred tax assets that rely on future profitability and arise from temporary differences;';

(11a) in Article 47a, the following paragraphs are added:

'7a. For the purposes of Article 36(1), point (m), "specialised debt restructurer" means an institution that, during the preceding financial year, complies with all of the following conditions :

(i) the main activity of the institution is the purchase of exposures of other institutions and its management body has implemented a clear and effective internal decision process to this end;

(ii) the book value of its own originated loans does not exceed 15% of the aggregate book value, including purchased performing and non-performing exposures, of its loans; and

(iii) its total assets do not exceed EUR 30 billion.

7b. EBA shall, taking into account the criteria set out in points (i) to (iii) of paragraph 7a, develop draft regulatory technical standards specifying the conditions under which an institution may be considered a specialised debt restructurer.

EBA shall submit those draft regulatory technical standards to the Commission by [12 months after the date of entry into force of this amending Regulation].

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.';

(11b) Article 47c is amended as follows:

(a) in paragraph (4), point (b) is replaced by the following:

'(b) 1 for the secured part of the non-performing exposure to be applied as of the first day of the eighth year following its classification as non-performing, unless the guarantee or insurance has been invoked by the institution and the eligible protection provider has assumed and, in line with Article 213(1), fulfils all payment obligations of the obligor towards the institution in full and in accordance with the applicable payment schedule, in which case a factor of 0 for the secured part of the non-performing exposure will apply.';

(b) the following paragraph is inserted:

'4a. By way of derogation from paragraph 3 of this Article, the part of the non-performing exposure guaranteed or insured by an official export credit agency are excluded from the requirements laid down in this Article.';

(12) in Article 48, paragraph 1 is amended as follows:

(a) in point (a), point (ii) is replaced by the following:

'(ii) Article 36(1), points (a) to (h), points (k)(ii), (iii) and (iv) and points (l), (m) and (n), excluding deferred tax assets that rely on future profitability and arise from temporary differences.';

(b) in point (b), point (ii) is replaced by the following:

'(ii) Article 36(1), points (a) to (h), points (k)(ii), (iii) and (iv) and points (l), (m) and (n), excluding deferred tax assets that rely on future profitability and arise from temporary differences.';(13) in Article 49, paragraph 4 is replaced by the following:

'4. ***Holdings*** in respect of which ***deductions are*** not made ***pursuant to*** paragraph 1 shall ***always*** qualify as exposures and shall be risk weighted in accordance with Part Three, Title II, Chapter 2 ***of this Regulation***.

The holdings in respect of which deduction is not made in accordance with paragraphs 2 or 3 shall qualify as exposures and shall be risk weighted at 100 %.';

(14) in Article 60(1), in point (a), point (ii) is replaced by the following:

'(ii) Article 36(1), points (a) to (g), points (k)(ii), (iii) and (iv) and points (l), (m) and (n), excluding deferred tax assets that rely on future profitability and arise from temporary differences;';

(15) in Article 62, first subparagraph, point (d) is replaced by the following:

'(d) for institutions calculating risk-weighted exposure amounts under Chapter 3 of Title II of Part Three, the IRB excess where applicable, gross of tax effects, calculated in accordance with Article 159 up to 0,6 % of risk-weighted exposure amounts calculated under Chapter 3 of Title II of Part Three.';

(16) in Article 70(1), in point (a), point (ii) is replaced by the following:

'(ii) Article 36(1), points (a) to (g), points (k)(ii), (iii) and (iv) and points (l), (m) and (n), excluding the amount to be deducted for deferred tax assets that rely on future profitability and arise from temporary differences;';

(17) in Article 72b(3), first subparagraph, the introductory phrase is replaced by the following:

'In addition to the liabilities referred to in paragraph 2 of this Article, the resolution authority may permit liabilities to qualify as eligible liabilities instruments up to an aggregate amount that does not exceed 3,5 % of the total risk exposure amount calculated in accordance with Article 92(3), provided that:';

(18) in Article 72i(1), in point (a), point (ii) is replaced by the following:

'(ii) Article 36(1), points (a) to (g), points (k)(ii), (iii) and (k)(iv) and points (l), (m) and (n), excluding the amount to be deducted for deferred tax assets that rely on future profitability and arise from temporary differences;';

(19) in Article 84(1), point (a) is replaced by the following:

'(a) the Common Equity Tier 1 capital of the subsidiary minus the lower of the following:

(i) the amount of Common Equity Tier 1 capital of that subsidiary required to meet the following:

– where the subsidiary is an ***undertaking referred to in Article 81(1), points (a)(i) to (a)(iii) and point (a)(v), of this Regulation***, the sum of the requirement laid down in Article 92(1), point (a), the requirements referred to in Articles 458 and 459 , the specific own funds requirements referred to in Article 104 of Directive 2013/36/EU, the combined buffer requirement defined in Article 128, point (6), of that Directive, or any local supervisory regulations in third countries insofar as those requirements are to be met by Common Equity Tier 1 capital, as applicable;

– where the subsidiary is an investment firm ***or an intermediate investment holding company***, the sum of the requirement laid down in Article 11 of Regulation (EU) 2019/2033, the specific own funds requirements referred to in Article 39(2), point (a), of Directive (EU) 2019/2034, or any local supervisory regulations in third countries,

insofar as those requirements are to be met by Common Equity Tier 1 capital, as applicable;

(ii) the amount of consolidated Common Equity Tier 1 capital that relates to that subsidiary that is required on a consolidated basis to meet the sum of the requirement laid down in Article 92(1), point (a), the requirements referred to in Articles 458 and 459, the specific own funds requirements referred to in Article 104 of Directive 2013/36/EU and the combined buffer requirement defined in Article 128, point (6), of that Directive;

By way of derogation from this point (a), the competent authority may allow institutions to subtract either of the amounts referred to in point (i) or (ii) of this point;'

(20) in Article 85(1), point (a) is replaced by the following:

'(a) the Tier 1 capital of the subsidiary minus the lower of the following:

(i) the amount of Tier 1 capital of the subsidiary required to meet the following:

– where the subsidiary is an ***undertaking referred to in Article 81(1), points (a)(i) to (a)(iii) and point (a)(v) of this Regulation***, the sum of the requirement laid down in Article 92(1), point (b), the requirements referred to in Articles 458 and 459, the specific own funds requirements referred to in Article 104 of Directive 2013/36/EU, the combined buffer requirement defined in Article 128, point (6), of that Directive, or any local supervisory regulations in third countries insofar as those requirements are to be met by Tier 1 Capital, as applicable;

– where the subsidiary is an investment firm ***or an intermediate investment holding company***, the sum of the requirement laid down in Article 11 of Regulation (EU) 2019/2033, the specific own funds requirements referred to in Article 39(2), point (a), of Directive (EU) 2019/2034, or any local supervisory regulations in third countries insofar as those requirements are to be met by Tier 1 capital, as applicable;

(ii) the amount of consolidated Tier 1 capital that relates to the subsidiary that is required on a consolidated basis to meet the sum of the requirement laid down in Article 92(1), point (b), the requirements referred to in Articles 458 and 459, the specific own funds requirements referred to in Article 104 of Directive 2013/36/EU and the combined buffer requirement defined in Article 128, point (6), of that Directive;

By way of derogation from this point (a), the competent authority may allow institutions to subtract either of the amounts referred to in point (i) or (ii) of this point;';

(20a) Article 87(1), point (a) is replaced by the following:

'(a) the own funds of the subsidiary minus the lower of the following:

(i) the amount of own funds of the subsidiary required to meet the following:

– ***where the subsidiary is an undertaking referred to in Article 81(1), points (a)(i) to (a)(iii) and point (a)(v) of this Regulation, the sum of the requirement laid down in Article 92(1), point (c) of this Regulation, the requirements referred to in Articles 458 and 459 of this Regulation, the specific own funds requirements referred to in Article 104 of Directive 2013/36/EU, the combined buffer requirement defined in Article 128, point (6) of that Directive, or any local supervisory regulations in third countries insofar as those requirements are to be met by own funds, as applicable;***

– ***where the subsidiary is an investment firm or an intermediate investment company, the sum of the requirement laid down in Article 11 of Regulation (EU) 2019/2033, the specific own funds requirements referred to in Article 39(2), point (a), of Directive (EU) 2019/2034, or any local supervisory regulations in third countries insofar as those requirements are to be met by own funds, as applicable;***

(ii) the amount of own funds that relates to the subsidiary that is required on a consolidated basis to meet the sum of the requirement laid down in Article 92(1), point (c), of this Regulation, the requirements referred to in Articles 458 and 459 of this Regulation, the specific own funds requirements referred to in Article 104 of Directive 2013/36/EU and the combined buffer requirement defined in point (6) of Article 128 of that Directive;

By way of derogation from this point (a), the competent authority may allow institutions to subtract either of the amounts referred to in point (i) or (ii) of this point.';

(21) the following Article 88b is inserted:

'Article 88b
Undertakings in third countries

For the purposes of this Title II, the terms 'investment firm' and 'institution' shall be understood to include also undertakings established in third countries, which, were they established in the Union, would fall under the definitions of those terms in Article 4(1), points (2) and (3).';

(22) in Article 89, paragraph 1 is replaced by the following:

'1. A qualifying holding, the amount of which exceeds 15 % of the eligible capital of the institution, in an undertaking which is not a financial sector entity, shall be subject to the provisions laid down in paragraph 3.';

(23) Article 92 is amended as follows:

(a) paragraph 3 and 4 are replaced by the following:

'3. The total risk exposure amount shall be calculated as follows:

(a) ***For*** the purposes of complying with the obligations of this Regulation***, institutions*** shall calculate the total risk exposure amount as follows:

$$TREA = \max\{U - TREA; x \cdot S - TREA\}$$

where:

TREA = the total risk exposure amount of the entity;

U-TREA= the un-floored total risk exposure amount of the entity calculated in accordance with paragraph 4;

S-TREA = the standardised total risk exposure amount of the entity calculated in accordance with paragraph 5;

x = 72,5 %;

Institutions shall comply with this Article in accordance with the level of application laid down in Article 92-a.

4. The un-floored total risk exposure amount shall be calculated as the sum of points (a) to (f) of this paragraph after having taken into account paragraph 7:

(a) the risk-weighted exposure amounts for credit risk, including counterparty risk, and dilution risk, calculated in accordance with Title II and Article 379, in respect of all the business activities of an institution, excluding risk-weighted exposure amounts for counterparty risk from the trading book business of the institution;

(b) the own funds requirements for the trading-book business of an institution for the following:

(i) market risk, calculated in accordance with Title IV of this Part;

(ii) large exposures exceeding the limits specified in Articles 395 to 401, to the extent that an institution is permitted to exceed those limits, as determined in accordance with Part Four;

(c) the own funds requirements for market risk, calculated in accordance with Title IV of this Part for all business activities that are subject to foreign exchange risk or commodity risk;

(ca) the own funds requirements for settlement risk, calculated in accordance with Title V of this Part, with the exception of Article 379;

(d) the own funds requirements for credit valuation adjustment risk, calculated in accordance with Title VI of this Part;

(e) the own funds requirements for operational risk, calculated in accordance with Title III of this Part;

(f) the risk-weighted exposure amounts for counterparty risk arising from the trading book business of the institution for the following types of transactions and agreements, calculated in accordance with Title II of this Part:

(i) contracts listed in Annex II and credit derivatives;

(ii) repurchase transactions, securities or commodities lending or borrowing transactions based on securities or commodities;

(iii) margin lending transactions based on securities or commodities;

(iv) long settlement transactions.';

(b) the following paragraphs 5 ▌ and 7 are added:

‘5. The standardised total risk exposure amount shall be calculated as the sum of paragraph 4, points (a) to (f), after having taken into account paragraph 7 and the following requirements:

(a) the risk-weighted exposure amounts for credit risk and dilution risk referred to in paragraph 4, point (a), and for counterparty risk arising from the trading book business as referred to in point (f) of that paragraph shall be calculated without using any of the following approaches:

(i) the internal models approach for master netting agreements set out in Article 221;

(ii) the Internal Ratings Based Approach provided for in Chapter 3;

(iii) the Securitisation Internal Ratings-Based Approach (SEC-IRBA) set out in Articles 258 to 260 and the Internal Assessment Approach (IAA) set out in Article 265;

(iv) the approach set out in this Part, Title II, Chapter 6, Section 6;

(b) the own funds requirements for market risk for the trading book business referred to in paragraph 3, point (b)(i), and for all its business activities that are subject to foreign exchange risk or commodity risk referred to in point (c) of that paragraph shall be calculated without using the alternative internal model approach set out in Part Three, Title IV, Chapter 1b.

▌

7. The following provisions shall apply to the calculations of the total un-floored risk exposure amount referred to in paragraph 4 and of the standardised risk exposure amount referred to in paragraph 5:

(a) the own funds requirements referred to in paragraph 4, points (c), (ca), (d) and (e), shall include those arising from all the business activities of an institution;

(b) institutions shall multiply the own funds requirements set out in paragraph 4, points (b) to (e), by 12,5.’;

(23a) the following Article is inserted:

‘Article 92-a

Level of application of the output floor

1. Institutions shall calculate the total risk-weighted exposure amount referred to in Article 92(3) on a consolidated basis in accordance with Part One, Title II, Chapter 2 of this Regulation.

2. Without prejudice to paragraph 1, where the competent authority responsible for the supervision of a subsidiary credit institution of an EU parent institution or an EU parent financial holding company or EU parent mixed financial holding company in a Member State deems that the application of Article 92(3) of this Regulation would lead to an inappropriate distribution of capital among the group entities, that competent authority may submit a capital redistribution proposal to the consolidating supervisor.

Upon the receipt of the notification, the notifying competent authority and the consolidating supervisor shall endeavour to make a joint decision on the application of the output floor at the level of the subsidiary credit institution or a joint decision on any other distribution mechanism that would ensure the appropriate distribution of capital requirements. Where the authorities do not reach a joint decision within three months, the EBA shall have a legally binding mediation role to resolve disputes between competent authorities in accordance with the procedure set out in Article 19 of Regulation (EU) No 1093/2010.';

(24) in Article 92a(1), point (a) is replaced by the following:

'(a) a risk-based ratio of 18 %, representing the own funds and eligible liabilities of the institution expressed as a percentage of the total risk exposure amount calculated in accordance with Article 92(3);';

(25) in Article 102, paragraph 4 is replaced by the following:

'4. For the purposes of calculating the own fund requirements for market risk in accordance with the approach referred to in Article 325(1), point (b), trading book positions shall be assigned to trading desks established in accordance with Article 104b.';

(26) Article 104 is replaced by the following:

'Article 104
Inclusion in the trading book

1. An institution shall have in place clearly defined policies and procedures for determining which positions to include in the trading book to calculate its own fund requirements, in accordance with Article 102 and this Article, taking into account the institution's risk management capabilities and practices. The institution shall fully document its compliance with those policies and procedures, shall subject them to an internal audit on at least a yearly basis and shall make the results of that audit available to the competent authorities.

An institution shall have in place independent risk control which evaluates on a continuous basis the instruments in and outside the trading book and assess whether its instruments are being properly designated as trading or non-trading instruments.

2. Institutions shall assign positions in the following instruments to the trading book:

(a) instruments that meet the criteria, set out in Article 325, paragraphs 6, 7 and 8, for the inclusion in the alternative correlation trading portfolio ('ACTP');

(b) instruments that would give rise to a net short credit or equity position in the non-trading book, with the exception of the own liabilities of the institution, unless such positions meet the criteria referred to in paragraph 2, point (e);

(c) instruments resulting from securities underwriting commitments, where those underwriting commitments relate only to securities that are expected to be actually purchased by the institution on the settlement date;

(d) ***instruments*** classified unambiguously as having a trading purpose under the accounting framework applicable to the institution;

(e) instruments resulting from market-making activities;

(f) collective investment undertakings held with trading intent, provided that those collective investment undertakings meet at least one of the conditions specified in paragraph 7;

(g) listed equities;

(h) trading-related securities financing transactions;

(i) options, or other derivatives, embedded in the own liabilities of the institution in the non-trading book that relate to credit or equity risk.

For the purposes of point (b), an institution shall have a net short equity position where a decrease in the equity's price results in a profit for the institution. An institution shall have a net short credit position where the credit spread increase or deterioration in the creditworthiness of the issuer or group of issuers results in a profit for the institution. Institutions shall continuously monitor where instruments give rise to a net short credit or equity position in the non-trading book.

For the purposes of point (i), an institution shall split the embedded option from its own liability in the non-trading book that relate to credit or equity risk. ***It*** shall assign ***the embedded option to the trading book and shall leave*** the own liability ***in*** the non-trading book .

3. Institutions shall not assign positions in the following instruments to the trading book:

(a) instruments designated for securitisation warehousing;

(b) real estate holdings-related instruments;

(c) unlisted equities;

(d) retail and SME credit-related instruments;

(e) other collective investment undertakings than the ones specified in paragraph 2, point (f);

(f) derivative contracts and collective investment undertakings with one or more of the underlying instruments referred to in points (a) to (d);

(g) instruments held for hedging a particular risk of one or more positions in an instrument referred to in points (a) to (f);

(h) own liabilities of the institution, unless such instruments meet the criteria referred to in paragraph 2, point (e).

4. By way of derogation from paragraph 2, an institution may assign to the non-trading book a position in an instrument referred to in points (d) to (i) of that paragraph, subject to the approval from its competent authority. The competent authority shall give its approval where the institution has proven to the authority's satisfaction that the position is not held with trading intent or does not hedge positions held with trading intent.

5. Where an institution has assigned to the trading book a position in an instrument other than the instruments referred to in paragraph 2, points (a), (b) or (c), the institution's competent authority may ask the institution to provide evidence to justify such assignment. Where the institution fails to provide suitable evidence, its competent authority may require the institution to reallocate that position to the non-trading book.

6. Where an institution has assigned to the non-trading book a position in an instrument other than the instruments referred to in paragraph 3, the institution's competent authority may ask the institution to provide evidence to justify such assignment. Where the institution fails to provide suitable evidence, its competent authority may require the institution to reallocate that position to the trading book.

7. An institution shall assign to the trading book a position in a collective investment undertaking that is ***not referred to in point (f) of paragraph 3 of this Article, that is*** held with trading intent and where the institution meets one of the following conditions:

(a) the institution is able to obtain sufficient information about the individual underlying exposures of the CIU;

(b) the institution is not able to obtain sufficient information about the individual underlying exposures of the CIU, but the institution has knowledge of the content of the mandate of the CIU and is able to obtain daily price quotes for the CIU.

8. EBA shall develop draft regulatory technical standards to further specify the process that institutions shall use to calculate and monitor net short credit or equity positions in the non-trading book referred to in the paragraph 2, point (b).

EBA shall submit those draft regulatory technical standards to the Commission by [OP please insert date = 24 months after the entry into force of this Regulation].

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

(27) Article 104a is amended as follows:

(a) in paragraph 1, the second subparagraph is replaced by the following:

'EBA shall monitor the range of supervisory practices and shall issue by 28 June 2024 guidelines on what exceptional circumstances entail for the purposes of the first subparagraph and of paragraph 5. Those guidelines shall be adopted in accordance with Article 16 of Regulation (EU) No 1093/2010. Until EBA issues those guidelines, competent authorities shall notify EBA of, and shall provide a rationale for, their decisions on whether or not to permit an institution to reclassify a position as referred to in paragraph 2 of this Article.';

(b) paragraph 5 is replaced by the following:

'5. The reclassification of a position in accordance with this Article shall be irrevocable, except in the exceptional circumstances referred to in paragraph 1.';

(c) the following paragraph 6 is added:

'6. By way of derogation from paragraph 1, an institution may reclassify a non-trading book position as a trading book position in accordance with Article 104(2), point (d), without seeking permission from its competent authority. In such case, the requirements laid down in paragraphs 3 and 4 shall continue to apply to the institution. The institution shall immediately notify its competent authority where such reclassification has occurred.';

(28) Article 104b is amended as follows:

(a) paragraph 1 is replaced by the following:

‘1. For the purposes of calculating the own funds requirements for market risk in accordance with the approach referred to in Article 325(1), point (b), institutions shall establish trading desks and shall assign each of their trading book positions and their non-trading book positions referred to in paragraphs 5 and 6 to one of those trading desks. Trading book positions shall be attributed to the same trading desk only where those positions are in compliance with the agreed business strategy for that trading desk and are consistently managed and monitored in accordance with paragraph 2 of this Article.’;

(b) the following paragraphs 5 and 6 are added:

‘5. To calculate their own funds requirements for market risk, institutions shall assign each of their non-trading book positions that are subject to foreign exchange risk or commodity risk to trading desks established in accordance with paragraph 1 that manage risks that are similar to those positions.

6. By way of derogation from paragraph 5, institutions may, when calculating their own funds requirements for market risk, establish one or more trading desks to which they assign exclusively non-trading book positions subject to foreign exchange risk or commodity risk. Those trading desks shall not be subject to the requirements set out in paragraphs 1, 2 and 3.’;

(29) the following Article 104c is inserted:

‘*Article 104c*

Treatment of foreign exchange risk hedges of capital ratios

1. An institution which has deliberately taken a risk position in order to hedge, at least partially, against adverse movements in foreign exchange rates on any of its capital ratios as referred to in Article 92(1), points (a), (b) and (c), may, subject to permission of the competent authorities, exclude that risk position from the own funds requirements for foreign exchange risk set out in Article 325(1), provided that all of the following conditions are met:

(a) the maximum amount of the risk position that is excluded from the own funds requirements for market risk is limited to the amount of the risk position that neutralises the sensitivity of any of the capital ratios to the adverse movements in foreign exchange rates;

(b) the risk position is excluded from the own funds requirements for market risk for at least 6 months;

(c) the institution has established an appropriate risk management framework for hedging the adverse movements in foreign exchange rates on any of its capital ratios, including a clear hedging strategy and governance structure;

(d) the institution has provided to the competent authorities a justification for excluding a risk position from the own funds requirements for market risk, the details of that risk position and the amount to be excluded from the own funds requirements for market risk.

2. Any exclusion of risk positions from the own funds requirements for market risk in accordance with paragraph 1 shall be applied consistently.

3. The competent authorities shall approve any changes by the institution to the risk management framework referred to in paragraph 1, point (c), and to the details of the risk positions referred to in paragraph 1, point (d).

4. EBA shall develop draft regulatory technical standards to specify:

(a) the risk positions that an institution can deliberately take in order to hedge, at least partially, against the adverse movements of foreign exchange rates on any of an institution's capital ratios referred to paragraph 1, first subparagraph;

(b) how to determine the maximum amount referred to in paragraph 1, point (a), and the manner in which an institution shall exclude this amount for each of the approaches set out in Article 325(1);

(c) the criteria that shall be met by an institution's risk management framework referred to in paragraph 1, point(c), in order to be considered appropriate for the purpose of this Article.

EBA shall submit those draft regulatory technical standards to the Commission by [OP please insert the date = 2 years after the entry into force of this Regulation].

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.';

(30) Article 106 is amended as follows:

(a) in paragraph 3, the last subparagraph is replaced by the following:

'Both an internal hedge recognised in accordance with the first subparagraph and the credit derivative entered into with the third party shall be included in the trading book to calculate the own funds requirements for market risk. To calculate the own funds requirements for market risk using the approach set out in Article 325(1), point (b), both positions shall be assigned to the same trading desk established in accordance to Article 104b(1) that manages similar risks.'

(b) in paragraph 4, the last subparagraph is replaced by the following:

'Both an internal hedge recognised in accordance with the first subparagraph and the equity derivative entered into with the eligible third party protection provider shall be included in the trading book for the purposes of calculating the own funds requirements for market risk. For the purposes of calculating the own funds requirements for market risks using the approach set out in Article 325(1), point (b) both positions shall be assigned to the same trading desk established in accordance to Article 104b(1) that manages similar risks.'

(c) paragraph 5 is replaced by the following:

'5. Where an institution hedges non-trading book interest rate risk exposures using an interest rate risk position booked in its trading book, that interest rate risk position shall be considered to be an internal hedge to assess the interest rate risk arising from non-trading positions in accordance with Articles 84 and 98 of Directive 2013/36/EU where the following conditions are met:

(a) to calculate the own funds requirements for market risk using the approaches referred to in Article 325(1), points (a), (b) and (c), the interest rate risk position has been assigned to a separate portfolio from the other

trading book positions, the business strategy of which is solely dedicated to manage and mitigate the market risk of internal hedges of interest rate risk exposure ;

(b) ***to calculate*** the own funds requirements for market risk using the approaches referred to in Article 325(1), point (b), the position has been assigned to a trading desk established in accordance with Article 104b the business strategy of which is solely dedicated to manage and mitigate the market risk of internal hedges of interest rate risk exposure;

(c) the institution has fully documented how the position mitigates the interest rate risk arising from non-trading book positions for the purposes of the requirements laid down in Articles 84 and 98 of Directive 2013/36/EU.';

(d) the following paragraphs 5a and 5b are inserted:

'5a. For the purposes of paragraph 5, point (a), the institution may assign to that portfolio other interest rate risk positions entered into with third parties, or with its own trading book, as long as the institution perfectly offsets the market risk of those interest rate risk positions entered into with its own trading book by entering into opposite interest rate risk positions with third parties.

5b. The following requirements apply to the trading desk referred to in paragraph 5, point (b):

(a) that trading desk may include other interest rate risk positions entered into with third parties or with other trading desks of the institution, as long as those positions meet the requirements for inclusion in the trading book referred to in Article 104 and those other trading desks perfectly offset the market risk of those other interest rate risk positions by entering into opposite interest rate risk positions with third parties;

(b) no trading book positions other than those referred to in point (a) are assigned to that trading desk;

(c) by way of derogation from Article 104b, that trading desk shall not be subject to the requirements set out in paragraphs 1, 2 and 3 of that Article.

(e) paragraphs 6 and 7 are replaced by the following:

'6. The own funds requirements for the market risk of all the positions assigned to the separate portfolio referred to in paragraph 5, point (a), or to the trading desk referred to in point (b) of that paragraph, shall be calculated on a stand-alone basis, in addition to the own funds requirements for the other trading book positions.

7. Where an institution hedges a CVA risk exposure using a derivative instrument entered into with its trading book, the position in that derivative instrument shall be recognised as an internal hedge for the CVA risk exposure for the purpose of calculating the own funds requirements for CVA risks in accordance with the approaches set out in Articles 383 or 384, where the following conditions are met:

(a) the derivative position is recognised as an eligible hedge in accordance with Article 386;

(b) where the derivative position is subject to any of the requirements set out in Article 325c(2), points (b) or (c), or in Article 325e(1), point (c), the institution perfectly offsets the market risk of that derivative position by entering into opposite positions with third parties;

The opposite trading book position of the internal hedge recognised in accordance with the first subparagraph shall be included in the institution's trading book to calculate the own funds requirements for market risk.'

(31) in Article 107, paragraphs 1, 2 and 3 are replaced by the following:

'1. Institutions shall apply either the Standardised Approach provided for in Chapter 2 or, where permitted by the competent authorities in accordance with Article 143, the Internal Ratings Based Approach provided for in Chapter 3 to calculate their risk-weighted exposure amounts for the purposes of Article 92(4), points (a) and (f).

2. For trade exposures and for default fund contributions to a central counterparty, institutions shall apply the treatment set out in Chapter 6, Section 9 to calculate their risk-weighted exposure amounts for the purposes of Article 92(4), points (a) and (f). For all other types of exposures to a central counterparty, institutions shall treat those exposures as follows:

(a) as exposures to an institution for other types of exposures to a qualifying CCP;

(b) as exposures to a corporate for other types of exposures to a non- qualifying CCP.

3. For the purposes of this Regulation, exposures to third country investment firms and exposures to third country credit institutions and exposures to third country clearing houses and exchanges, as well as exposures to third country financial institutions authorised and supervised by third country authorities and subject to prudential requirements comparable to those applied to institutions in terms of robustness, shall be treated as exposures to an institution only if the third country applies prudential and supervisory requirements to that entity that are at least equivalent to those applied in the Union."';

(32) Article 108 is replaced by the following:

'Article 108

Use of credit risk mitigation techniques under the Standardised Approach and the IRB Approach for credit risk and dilution risk

1. For an exposure to which an institution applies the Standardised Approach under Chapter 2 or applies the IRB Approach under Chapter 3 but without using its own estimates of loss given default (LGD) under Article 143, the institution may take into account the effect of FCP in accordance with Chapter 4 in the calculation of risk-weighted exposure amounts for the purposes of Article 92(4), points (a) and (f), or, where relevant, expected loss (EL) amounts for the purposes of the calculation referred to in Article 36(1), point (d), and Article 62, point (***d***).

2. For an exposure to which an institution applies the IRB Approach by using its own estimates of LGD under Article 143, the institution may take into account the effect of FCP in ***accordance with Chapter 3 in the calculation of*** risk-weighted exposure amounts ***for the purposes of Article 92(4), points (a) and (f),*** and expected loss ***(EL)***

amounts ***for the purposes of the calculation referred to in Article 36(1), point (d), and Article 62, point (d)***.

2a. Where an institution applies the IRB Approach by using its own estimates of LGD under Article 143 for both the original exposure and for comparable direct exposures to the protection provider, the institution may take into account the effect of UFCP in ***accordance with Chapter 3 in the calculation of*** risk-weighted exposure amounts ***for the purposes of Article 92(4), points (a) and (f),*** and expected loss ***(EL)*** amounts ***for the purposes of the calculation referred to in Article 36(1), point (d), and Article 62, point (d)***. In all other cases, the institution may take into account the effect of UFCP in risk-weighted exposure amounts and ***EL*** amounts ***for the purposes*** in accordance with Chapter 4.

3. Subject to the conditions set out in paragraph 4, ▌ loans ***to natural persons*** may be regarded as exposures secured by a mortgage on residential property, instead of being treated as guaranteed exposures, for the purposes of Part three, Title II, Chapters 2, 3 and 4 as applicable, where in a Member State the following conditions for those▌ loans ***to natural persons*** have been fulfilled:

(a) the majority of loans to natural persons for the purchase of residential properties in that Member State are not provided as mortgages in legal form;

(b) the majority of loans to ***natural persons*** for the purchase of residential properties in that Member State are guaranteed by a guarantor with a credit assessment by an nominated ECAI corresponding to a credit quality step of 1 or 2, that is required to repay the institution in full where the original borrower defaults;

(c) the institution has the legal right to take a mortgage on the residential property in the event that the guarantor referred to in point (b) ***does not meet its obligations under the guarantee provided***.

Competent authorities shall inform EBA where the conditions referred in points (a), (b) and (c) are met in the national territories of their jurisdictions, and shall provide the names of guarantors eligible to that treatment which fulfil the conditions of this paragraph and paragraph 4.

EBA shall publish the list of all such eligible guarantors on its website and update that list yearly.

4. For the purposes of paragraph 3, loans referred to in that paragraph may be treated as exposures secured by a mortgage on residential property, instead of being treated as guaranteed exposures, where all of the following conditions are met:

(a) for an exposure that is treated under the Standardised Approach the exposure meets all of the requirements to be assigned to the Standardised Approach 'exposures secured by mortgages on immovable property' exposure class pursuant to Articles 124 and 125 with the exception that the institution granting the loan does not hold a mortgage over the residential property;

(b) for an exposure that is treated under the IRB Approach, the exposure meets all of the requirements to be assigned to the IRB exposure class 'retail exposures secured by residential property' referred to in Article 147(2), (d)(ii), with the exception that the institution granting the loan does not hold a mortgage over the property;

(c) there is no mortgage lien on the residential property when the loan is granted and ***for the loans granted from 1 January 2014*** the borrower is contractually committed not to grant any mortgage lien without the consent of the institution that originally granted the loan;

(d) the guarantor is an eligible protection provider as referred to in Article 201, and the guarantor has a credit assessment by an ECAI corresponding to a credit quality step of 1 or 2;

(e) the guarantor is an institution or a financial sector entity subject to capital requirements at least ***comparable*** to those applicable to institutions or insurance undertakings;

(f) the guarantor has established a fully-funded mutual guarantee fund or equivalent protection for insurance undertakings to absorb credit risk losses, the calibration of which is periodically reviewed by its competent authority and is subject to ***periodic*** stress testing***, at least every two years***;

(g) the institution is contractually and legally allowed to take a mortgage on the residential property in the event that the guarantor ***does not meet its obligations under the guarantee provided***;

▌

4a. Institutions that exercise the option provided for in paragraph 3 for a given eligible guarantor under the mechanism referred to in that paragraph, shall do so for all its exposures to natural persons guaranteed by that guarantor under that mechanism.";

(33) the following Article 110a is inserted:

'Article 110a
Monitoring of contractual arrangements that are not commitments

'Institutions shall monitor contractual arrangements that meet all the conditions specified in Article 5, point (9), second subparagraph, points (a) to (e), and shall document to the satisfaction of their competent authorities their compliance with all those conditions.';

(34) Article 111 is replaced by the following:

'Article 111
Exposure value

'1. The exposure value of an asset item shall be its accounting value remaining after specific credit risk adjustments in accordance with Article 110, additional value adjustments in accordance with Article 34 related to the non-trading book business of the institution, amounts deducted in accordance with Article 36(1), point (m), and other own funds reductions related to the asset item have been applied.

2. The exposure value of an off-balance sheet item listed in Annex I shall be the following percentage of the item's nominal value after the deduction of specific credit risk adjustments in accordance with Article 110 and amounts deducted in accordance with Article 36(1), point (m):

(a) 100 % for items in bucket 1;

(b) 50 % for items in bucket 2;

(c) 40 % for items in bucket 3;

(d) 20 % for items in bucket 4;

(e) 10 % for items in bucket 5.

3. The exposure value of a commitment on an off-balance sheet item as referred to in paragraph 2 shall be the lower of the following percentages of the commitment's nominal value after the deduction of specific credit risk adjustments and amounts deducted in accordance with Article 36(1), point (m):

(a) the percentage referred to in paragraph 2 that is applicable to the item on which the commitment is made;

(b) the percentage referred to in paragraph 2 that is applicable to the type of commitment.

4. For contractual arrangements offered by an institution, but not yet accepted by the client, that would become commitments if accepted by the client, ***the percentage applicable shall be the one provided for in accordance with paragraph 2. For*** contractual arrangements that meet the conditions ***specified in Article 5, point (9), second subparagraph, the percentage applicable shall be 0%.***

5. Where an institution is using the Financial Collateral Comprehensive Method referred to in Article 223, the exposure value of securities or commodities sold, posted or lent under a repurchase transaction or under a securities or commodities lending or borrowing transaction, and of margin lending transactions shall be increased by the volatility adjustment appropriate to such securities or commodities in accordance with Articles 223 and 224.

6. The exposure value of a derivative instrument listed in Annex II shall be determined in accordance with Chapter 6, taking into account the effects of contracts of novation and other netting agreements as specified in that Chapter. The exposure value of repurchase transactions, securities or commodities lending or borrowing transactions, long settlement transactions and margin lending transactions may be determined in accordance with either Chapter 4 or Chapter 6.

7. Where the exposure is covered by a funded credit protection, the exposure value may be amended in accordance with Chapter 4.

8. EBA shall develop draft regulatory technical standards to specify:

(a) the criteria that institutions shall use to assign off-balance sheet items, with the exception of items already included in Annex I, to the buckets 1 to 5 referred to in Annex I;

(b) the factors that may constrain the institutions' ability to cancel the unconditionally cancellable commitments referred to in Annex I;

(c) the process for notifying EBA about the institutions' classification of other off-balance sheet items carrying similar risks as those referred to in Annex I.

EBA shall submit those draft regulatory technical standards to the Commission by [OP please insert the date = 1 year after the entry into force of this Regulation].

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

(35) in Article 112, ***points (i) and*** (k) ***are*** replaced by the following:

'***(i) exposures secured by mortgages on immovable property and ADC exposures;***

(k) subordinated debt exposures;';

(36) Article 113 is amended as follows :

(a) paragraph 1 is replaced by the following:

'1. To calculate risk-weighted exposure amounts, risk weights shall be applied to all exposures, unless those exposures have been deducted from own funds, in accordance with Section 2, based on the exposure class to which those exposures are assigned and, to the extent specified in Section 2, based on the credit quality of those exposure. Credit quality may be determined by reference to the credit assessments of ECAIs or the credit assessments of export credit agencies in accordance with Section 3. With the exception of exposures assigned to the exposure classes laid down in Article 112, point (a), (b), (c) and (e), where the assessment in accordance with Article 79, point (b) of Directive 2013/36/EU reflects higher risk characteristics than those implied by the credit assessment of the nominated ECAI or export credit agency, the institution shall assign a risk weight at least one credit quality step higher than the risk weight implied by the credit assessment of the nominated ECAI or export credit agency.';

(b) paragraph 3 is replaced by the following:

'3. Where an exposure is subject to credit protection, the exposure value or the applicable risk weight to that exposure, as appropriate, may be amended in accordance with this Chapter and Chapter 4.';

(36a) Article 115(3) is replaced by the following:

'3. Where an exposure is subject to credit protection, the exposure value or the applicable risk weight to that exposure, as appropriate, may be amended in accordance with this Chapter and Chapter 4.

Exposures to churches or religious communities constituted in the form of a legal person under public law shall, in so far as they raise taxes in accordance with legislation conferring on them the right to do so, be treated as exposures to regional governments and local authorities. In this case, paragraph 2 shall not apply.';

(36b) in Article 116(4), the following subparagraph is added:

'EBA shall maintain a publicly available database of all public-sector entities within the Union which relevant competent authorities consider as having no difference in risk as exposures to the central government, regional government or local authority in whose jurisdiction the public-sector entity is established.';

(37) in Article 119, paragraphs 2 and 3 are deleted;

(38) in Article 120, paragraphs 1 and 2 are replaced by the following:

‘1. Exposures for which a credit assessment by a nominated ECAI is available shall be assigned a risk weight in accordance with Table 3 which corresponds to the credit assessment of the ECAI in accordance with Article 136.

Table 3

Credit quality step	1	2	3	4	5	6
Risk weight	20 %	30 %	50 %	100 %	100 %	150 %

2. Exposures with an original maturity of three months or less for which a credit assessment by a nominated ECAI is available and exposures which arise from the movement of goods across national borders with an original maturity of six months or less and for which a credit assessment by a nominated ECAI is available, shall be assigned a risk weight in accordance with Table 4 which corresponds to the credit assessment of the ECAI in accordance with Article 136.

Table 4

Credit quality step	1	2	3	4	5	6
Risk weight	20 %	20 %	20 %	50 %	50 %	150 %

(39) Article 121 is replaced by the following:

‘Article 121
Exposures to unrated institutions

1. Exposures to institutions for which a credit assessment by a nominated ECAI is not available shall be assigned to one of the following grades:

(a) where all of the following conditions are met, exposures to institutions shall be assigned to Grade A:

(i) the institution has adequate capacity to meet its financial commitments, including repayments of principal and interest, in a timely manner, for the projected life of the assets or exposures and irrespective of the economic cycles and business conditions;

(ii) the institution meets or exceeds the requirement laid down in Article 92(1), the specific own funds requirements referred to in Article 104a of Directive 2013/36/EU, the combined buffer requirement defined in Article 128, point (6), of Directive 2013/36/EU and any equivalent or additional local supervisory or regulatory requirements in third countries, insofar as those requirements are published and are to be met by Common Equity Tier 1 capital, Tier 1 capital or own funds;

(iii) information about the requirements referred to in point (ii) is publicly disclosed or otherwise made available;

(iv) the assessment in accordance with Article 79 of Directive 2013/36/EU has not revealed that the institution does not meet the conditions set out in points (i) and (ii);

(b) where all of the following conditions are met and at least one of the conditions in point (a) is not met, exposures to institutions shall be assigned to Grade B:

(i) the institution is subject to substantial credit risk, including repayment capacities that are dependent on stable or favorable economic or business conditions;

(ii) the institution meets or exceeds the requirement laid down in Article 92(1), the requirements referred to in Articles 458***(2), point (d)(i),*** and ***Article 459, point (a)***, the specific own funds requirements referred to in Article 104a of Directive 2013/36/EU ***or*** any equivalent or additional local supervisory or regulatory requirements ***in third countries*** insofar as those requirements are published and are to be met by Common Equity Tier 1 capital, Tier 1 capital and own funds;

(iii) information about the requirements referred to in point (ii) is publicly disclosed or otherwise made available;

(iv) the assessment performed in accordance with Article 79 of Directive 2013/36/EU has not revealed that the institution does not meet the conditions set out in points (i) and (ii).

For the purposes of point (ii), equivalent or additional local supervisory or regulatory requirements shall not include capital buffers equivalent to those defined in Article 128 of Directive 2013/36/EU.

(c) where the conditions for assignment to Grade A or Grade B are not met, or where any of the following conditions is met, exposures to institutions shall be assigned to Grade C:

(i) the institution has material default risks and limited margins of safety;

(ii) adverse business, financial, or economic conditions are very likely to lead, or have led, to the institution's inability to meet its financial commitments;

(iii) where audited financial statements are required by law for the institution, the external auditor has issued an adverse audit opinion or has expressed substantial doubt in its financial statements or audited reports within the previous 12 months about the institution's ability to continue as a going concern institution.

1a. For exposures to financial institutions treated as exposures to institutions in accordance with Article 119(5), for the purpose of assessing whether the conditions set out in paragraph 1, points (a)(ii) and (b)(ii), of this Article are met by those financial institutions, institutions shall assess whether those financial institutions meet or exceed any comparable prudential requirements.

2. Exposures assigned to Grade A, B or C in accordance with paragraph 1 shall be assigned a risk weight as follows:

(a) exposures assigned to Grade A, B or C which meet any of the following conditions shall be assigned a risk weight for short-term exposures in accordance with Table 5:

(i) the exposure has an original maturity of three months or less;

(ii) the exposure has an original maturity of six months or less and arises from the movement of goods across national borders.

(b) exposures assigned to Grade A which are not short-term shall be assigned a risk weight of 30 % where all of the following conditions are met:

(i) the exposure does not meet any of the conditions laid down in point (a);

(ii) the institution's Common Equity Tier 1 capital ratio is equal to or higher than 14 %;

(iii) the institution's leverage ratio is higher than 5 %.

(c) exposures assigned to Grade A, B or C that do not meet the conditions in point (a) or (b) shall be assigned a risk weight in accordance with the Table 5.

Where an exposure to an institution is not denominated in the domestic currency of the jurisdiction of incorporation of that institution, or where that institution has booked the credit obligation in a branch in a different jurisdiction and the exposure is not in the domestic currency of the jurisdiction in which the branch operates, the risk weight assigned in accordance with points (a), (b) or (c), as applicable, to exposures other than those with a maturity of one year or less stemming from self-liquidating, trade-related contingent items that arise from the movement of goods across national borders shall not be lower than the risk weight of an exposure to the central government of the country where the institution is incorporated.

Table 5

Credit risk assessment	Grade A	Grade B	Grade C
Risk weight for short-term exposures	20 %	50 %	***150*** %
Risk weight	40 %	75 %	150 %

';

(40) Article 122 is amended as follows:

(a) in paragraph 1, Table 6 is replaced by the following:

'*Table 6*

Credit quality step	1	2	3	4	5	6
Risk weight	20 %	50 %	75 %	100 %	150 %	150 %

';

(b) paragraph 2 is replaced by the following:

'Exposures for which such a credit assessment is not available shall be assigned a risk weight of 100 %.';

(41) the following Article 122a is inserted:

'Article 122a

Specialised lending exposures

1. Within the corporate exposure class laid down in Article 112, point (g), institutions shall separately identify as specialised lending exposures, exposures with all the following characteristics:

(a) the exposure is to an entity which was created specifically to finance or operate physical assets or is an exposure that is economically comparable to such an exposure;

(b) the exposure is not ▌ related to the financing of real estate ***and is within the definitions of object finance, project finance or commodities finance exposures laid down in paragraph 3***;

(c) the contractual arrangements governing the obligation related to the exposure give the institution a substantial degree of control over the assets and the income that they generate;

(d) the primary source of repayment of the obligation related to the exposure is the income generated by the assets being financed, rather than the independent capacity of a broader commercial enterprise.

2. Specialised lending exposures for which a directly applicable credit assessment by a nominated ECAI is available shall be assigned a risk weight in accordance with Table 6aa:

Table 6aa

Credit quality Step	1	2	3	4	5	***6***
Risk Weight	20 %	50 %	75 %	100 %	150 %	***150 %***

3. Specialised lending exposures for which a directly applicable credit assessment is not available shall be risk weighted as follows:

(a) where the purpose of a specialised lending exposure is to finance the acquisition of physical assets, including ships, aircraft, satellites, railcars, and fleets, and the income to be generated by those assets comes in the form of cash flows generated by the specific physical assets that have been financed and pledged or assigned to the lender ▌ ('object finance exposures'), institutions shall apply the following risk weights:

(i) 80 % where the exposure is deemed to be high quality when taking into account all of the following criteria:

– the obligor can meet its financial obligations even under severely stressed conditions due to the presence of all of the following features:

- adequate exposure-to-value of the exposure;
- conservative repayment profile of the exposure;

- commensurate remaining lifetime of the assets upon full pay-out of the exposure or alternatively recourse to a protection provider with high creditworthiness;
- low refinancing risk of the exposure by the obligor or that risk is adequately mitigated by a commensurate residual asset value or recourse to a protection provider with high creditworthiness;
- the obligor has contractual restrictions over its activity and funding structure;
- the obligor uses derivatives only for risk-mitigation purposes;
- material operating risks are properly managed;

– the contractual arrangements on the assets provide lenders with a high degree of protection including the following features:

- the lenders have a legally enforceable first-ranking right over the assets financed, and, where applicable, over the income that they generate;
- there are contractual restrictions on the ability of the obligor to change anything to the asset which would have a negative impact on its value;
- where the asset is under construction, the lenders have a legally enforceable first-ranking right over the assets and the underlying construction contracts;

– the assets being financed meet all of the following standards to operate in a sound and effective manner:

- the technology and design of the asset are tested;
- all necessary permits and authorisations for the operation of the assets have been obtained;
- where the asset is under construction, the obligor has adequate safeguards on the agreed specifications, budget and completion date of the asset, including strong completion guarantees or the involvement of an experienced constructor and adequate contract provisions for liquidated damages;

(ii) 100 % where the exposure is not deemed to be high quality as referred to in point (i);

(b) where the purpose of a specialised lending exposure is to provide for short-term financing of reserves, inventories or receivables of exchange-traded commodities, including crude oil, metals, or crops, and the income to be generated by those reserves, inventories or receivables is to be the proceeds from the sale of the commodity (‘commodities finance exposures’), institutions shall apply a risk weight of 100 %;

(c) where the purpose of a specialised lending exposure is to finance a ***single*** project***, either in the form of construction of a new capital installation or refinancing of an existing installation, with or without improvements*** for the development or acquisition of large, complex and expensive installations, including power plants, chemical processing plants, mines, transportation infrastructure, environment, and telecommunications infrastructure, ***in which the lender looks primarily to the revenues*** generated by the ***financed*** project***, both as the source of repayment and as security*** for the ***loan*** ('project finance exposures'), institutions shall apply the following risk weights:

(i) 130 % where the project to which the exposure is related is in the pre-operational phase;

(ii) provided that the adjustment to own funds requirements for credit risk referred to in Article 501a is not applied, 80 % where the project to which the exposure is related is in the operational phase and the exposure meets all of the following criteria:

– there are contractual restrictions on the ability of the obligor to perform activities that may be detrimental to lenders, including the restriction that new debt cannot be issued without the consent of existing debt providers;

– the obligor has sufficient reserve funds fully funded in cash, or other financial arrangements, with ▌ guarantors ***with an ECAI rating with a credit quality step of at least 3, or, if not externally rated, are assigned with a rating equivalent to a step 3 or higher with the bank validated internal rating model*** to cover the contingency funding and working capital requirements over the lifetime of the project being financed;

– ***the income generated by the financed project is availability-based or subject to a rate-of-return regulation or take-or-pay contract; for this purpose "availability-based" means that, once construction is completed,*** the obligor ***is entitled, as long as contract conditions are fulfilled, to payments from its contractual counterparties which cover operating and maintenance costs, debt service costs and equity returns as the obligor operates the project, and these payments are not subject to swings in demand, such as traffic levels, and are adjusted typically only for lack of performance or lack of availability of the asset to the public;***

– ***where the revenues of the obligor are not funded by payments from a large number of users,*** the source of repayment of the obligation depends on one main counterparty and that main counterparty is one of the following:

- a central bank, a central government, a regional government or a local authority, provided that they are assigned a risk weight of 0 % in accordance with Articles 114 and 115, or are assigned an ECAI rating with a credit quality step of at least 3;

- a public sector entity, provided that that entity is assigned a risk weight of 20 % or below in accordance with Article 116, or is assigned an ECAI rating with a credit quality step of at least 3***, or, if not externally rated, are assigned with a rating equivalent to a step 3 or higher with the bank validated internal rating model***;
- a corporate entity which has been assigned an ECAI rating with a credit quality step of at least 3***, or, if not externally rated, are assigned with a rating equivalent to a step 3 or higher with the bank validated internal rating model***.

– the contractual provisions governing the exposure to the obligor provide for a high degree of protection for the lending institution in case of a default of the obligor;

– the ***main counterparty or other counterparties which meet the eligibility criteria for the main counterparty*** effectively protect the lending institution against losses resulting from the termination of the project;

– all assets and contracts necessary to operate the project have been pledged to the lending institution to the extent permitted by applicable law;

– ▌the lending institution ***is*** able to take control of the obligor entity ***in case of a*** default ***event***;

(iii) 100 % where the project to which the exposure is related is in the operational phase and the exposure does not meet the conditions laid down in point (ii) of this subparagraph;

(d) for the purposes of point (c)(ii), third indent, the cash flows generated shall not be considered predictable unless a substantial part of the revenues satisfies one or more of the following conditions:

(i) the revenues are availability-based;

(ii) the revenues are subject to a rate-of-return regulation;

(iii) the revenues are subject to a take-or-pay contract;

(e) for the purposes of point (c), the operational phase shall mean the phase in which the entity that was specifically created to finance the project***, or that is economically comparable***, meets both of the following conditions:

(i) the entity has a positive net cash flow that is sufficient to cover any remaining contractual obligation;

(ii) the entity has a declining long term debt.

4. EBA shall develop draft regulatory technical standards specifying in further detail the conditions under which the criteria set out in paragraph 3, point (a)(i) and point (c)(ii), are met.

EBA shall submit those draft regulatory technical standards to the Commission by [OP please insert the date = 1 year after the date of entry into force of this Regulation].

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.';

(42) Article 123 is replaced by the following:

'Article 123
Retail exposures

1. Exposures that comply with all of the following criteria shall be considered retail exposures:

(a) the exposure is ***an exposure to one or more natural persons or an exposure to a SME within the meaning of Article 5, point (8);***

(aa) the total amount owed to the institution, its parent undertakings and its subsidiaries, by the obligor or group of connected clients, including any exposure in default but excluding exposures secured by residential property up to the property value shall not, to the knowledge of the institution, which shall take reasonable steps to confirm the situation, exceed EUR 1 million;

(b) the exposure represents one of a significant number of exposures with similar characteristics, such that the risks associated with such exposure are substantially reduced;

(c) the institution concerned treats the exposure in its risk management framework and manages the exposure internally as retail exposure consistently over time and in a manner that is similar to the treatment by the institution of other retail exposures.

The present value of retail minimum lease payments shall be eligible for the retail exposure class.

EBA shall issue guidelines, in accordance with Article 16 of Regulation (EU) No 1093/2010, to specify proportionate diversification methods under which an exposure is to be considered as one of a significant number of similar exposures as specified in point (b), by [OP please insert the date = 1 year after entry into force of this Regulation].

Where any of these criteria are not met for an exposure to one or more natural persons, the exposure shall be considered retail exposure and the risk weight shall be 100%.

2. The following exposures shall not be considered to be retail exposures:

(a) non-debt exposures conveying a subordinated, residual claim on the assets or income of the issuer;

(b) debt exposures and other securities, partnerships, derivatives, or other vehicles, the economic substance of which is similar to the exposures specified in point (a);

(c) all other exposures in the form of securities.

3. Retail exposures as referred to in paragraph 1 shall be assigned a risk weight of 75 %, with the exception of transactor exposures, which shall be assigned a risk weight of 45 %.

4. By way of derogation from paragraph 3, exposures due to loans granted by an institution to pensioners or employees with a permanent contract against the unconditional transfer of part of the borrower's pension or salary to that institution shall be assigned a risk weight of 35 %, provided that all the following conditions are met:

(a) to repay the loan, the borrower unconditionally authorises the pension fund or employer to make direct payments to the institution by deducting the monthly payments on the loan from the borrower's monthly pension or salary;

(b) the risks of death, inability to work, unemployment or reduction of the net monthly pension or salary of the borrower are properly covered through an insurance policy to the benefit of the institution;

(c) the monthly payments to be made by the borrower on all loans that meet the conditions set out in points (a) and (b) do not in aggregate exceed 20 % of the borrower's net monthly pension or salary;

(d) the maximum original maturity of the loan is equal to or less than ten years.';

(43) the following Article 123a is inserted:

'Article 123a
Exposures with a currency mismatch

1. ***Where the following conditions are met for an exposure*** to ***natural person or for an exposure to*** natural persons ***which is*** assigned to ▌ the ***exposure*** classes laid down in point (h) ▌ of Article 112 ***or, if it is secured by residential immovable property, to the exposure class laid down in point (i) of Article 112***, the risk weight assigned ***to such exposure*** in accordance with Chapter 2 shall be multiplied by a factor of 1,5, whereby the resulting risk weight shall not be higher than 150 %, where the following conditions are met:

(a) the exposure is ▌ a loan denominated in a currency which is different from the currency of the obligor's source of income;

(b) the obligor does not have a hedge for its payment risk due to the currency mismatch, either by a financial instrument or foreign currency income that matches the currency of the exposure, or the total of such hedges available to the borrower cover less than 90 % of any instalment for this exposure.

Where an institution is unable to single out those exposures with a currency mismatch, the risk weight multiplier of 1,5 shall apply to all unhedged exposures where the currency of the exposures is different from the domestic currency of the country of residence of the obligor.

2. For the purposes of this Article, source of income refers to any source that generates cash flows to the obligor, including from remittances, rental incomes or salaries, whilst excluding proceeds from selling assets or similar recourse actions by the institution.';

(44) Article 124 is replaced by the following:

'Article 124
Exposures secured by mortgages on immovable property

1. A non-ADC exposure that does not meet all of the conditions laid down in paragraph 3 shall be treated as follows:

(a) a non-IPRE exposure shall be treated as an exposure not secured by the immovable property concerned;

(b) an IPRE exposure shall be risk-weighted at 150 %.

2. A non-ADC exposure secured by an immovable property, where all of the conditions laid down in paragraph 3 are met , shall be treated as follows:

(a) where the exposure is secured by a ***non-IPRE*** residential property ***or is secured by a IPRE residential property that meets any of the following conditions***, the exposure shall ***not qualify as an IPRE exposure and shall*** be treated in accordance with Article 125(1) where the exposure meets any of the following conditions:

(i) the ***income-producing*** immovable property securing the exposure is the obligor's primary residence, either where the immovable property as a whole constitutes a single housing unit or where the immovable property securing the exposure is a housing unit that is a separated part within an immovable property;

(ii) the exposure is to ***a natural person*** and is secured by an income-producing residential housing unit, either where the immovable property as a whole constitutes a single housing unit or where the housing unit is a separated part within the immovable property, and total exposures of the institution to that ***natural person*** are not secured by more than four immovable properties, including those which are not residential properties or which do not meet any of the criteria in this point, or separate housing units within immovable properties;

(iii) the exposure secured by ***an income-producing*** residential property is to associations or cooperatives of ***natural persons*** that are regulated by law and solely exist to grant their members the use of a primary residence in the property securing the loans;

(iv) the exposure is secured by ***an income producing*** residential property to public housing companies or not-for-profit associations that are regulated by law and exist to serve social purposes and to offer tenants long-term housing;

(b) where the exposure is secured by residential property and ***either an IPRE exposure or*** the exposure does not meet any of the conditions laid down in point (a), points (i) to (iv), the exposure shall be treated in accordance with Article 125(2);

(c) where the exposure is secured by a commercial immovable property, the exposure shall be treated as follows:

(i) a non-IPRE exposure shall be treated in accordance with Article 126(1);

(ii) an IPRE exposure shall be treated in accordance with Article 126(2).

3. In order to be eligible for the treatment laid down in ***Article 125(1), point (a), or Article 126(1), point (a)***, an exposure secured by an immovable property shall fulfil all of the following conditions:

(a) the immovable property securing the exposure meets any of the following conditions:

(i) the immovable property has been fully completed;

(ii) the immovable property is forest or agricultural land;

(iii) ***the lending is to a natural person and*** the immovable property is ***either a*** residential property under construction or it is land upon which a residential property is planned to be constructed where that plan has been ***legally*** approved by all ***relevant*** authorities***, as applicable***, concerned and where any of the following conditions is met:

– the property does not have more than four residential housing units and will be the primary residence of the obligor and the lending to the ***natural person*** is not indirectly financing ADC exposures;

– a central government, regional government or local authority or a public sector entity, exposures to which are treated in accordance with Articles 115(2) and 116(4), respectively, has the legal powers and ability to ensure that the property under construction will be finished within a reasonable time frame and is required to or has committed in a legally binding manner to do so where the construction would otherwise not be finished within a reasonable time frame***. Alternatively, there is an equivalent legal mechanism to ensure that the property under construction is completed within a resonable timeframe***;

(b) the exposure is secured by a first lien held by the institution on the immovable property, or the institution holds the first lien and any sequentially lower ranking lien on that property;

(c) the property value is not materially dependent upon the credit quality of the obligor;

(d) all the information required at origination of the exposure and for monitoring purposes is properly documented, including information on the ability of the obligor to repay and on the valuation of the property;

(e) the requirements set out in Article 208 are met and the valuation rules set out in Article 229(1) are complied with.

For the purposes of point (c), institutions may exclude situations where purely macro-economic factors affect both the value of the property and the performance of the obligor.

4. By way of derogation from paragraph 3, point (b), in jurisdictions where junior liens provide the holder with a claim on collateral that is legally enforceable and constitutes an effective credit risk mitigant, junior liens held by an institution other than the one holding the senior lien may also be recognised, including where the institution does not hold the senior lien or does not hold a lien ranking between a more senior lien and a more junior lien both held by the institution.

For the purposes of the first subparagraph, the rules governing the liens shall ensure all of the following:

(a) each institution holding a lien on a property can initiate the sale of the property independently from other entities holding a lien on the property;

(b) where the sale of the property is not carried out by means of a public auction, entities holding a senior lien take reasonable steps to obtain a fair market value or the best price that may be obtained in the circumstances when exercising any power of sale on their own;

5. For the purposes of Article 125(2) and Article 126(2), the exposure-to-value ('ETV') ratio shall be calculated by dividing the gross exposure amount by the property value subject to the following conditions:

(a) the gross exposure amount shall be calculated as the outstanding amount of credit obligation related to the exposure secured by the immovable property and any undrawn but committed amount that, once drawn, would increase the exposure value of the exposure which is secured by the immovable property;

(b) the gross exposure amount shall be calculated without taking into account credit risk adjustments ***in accordance with Article 110, additional value adjustments in accordance with Article 34 related to the non-trading book business of the institution, amounts deducted in accordance with Article 36(1), point (m),*** and other own funds reductions related to the exposure or any form of funded or unfunded credit protection, except for pledged deposits accounts with the lending institution that meet all requirements for on-balance sheet netting, either under master netting agreements in accordance with Articles 196 and 206 or under other on-balance sheet netting agreements in accordance with Articles 195 and 205 and have been unconditionally and irrevocably pledged for the sole purposes of fulfilling the credit obligation related to the exposure secured by the immovable property;

(c) exposures that have to be treated in accordance with Article 125(2) or 126(2) where a party other than the institution holds a senior lien and a junior lien held by the institution is recognised according to paragraph 4, the gross exposure amount shall be calculated as the sum of the gross exposure amount of the institution's lien and of the gross exposure amounts for all other liens of equal or higher ranking seniority than the institution's lien. Where there is insufficient information for ascertaining the ranking of the other liens, the institution should treat these liens as ranking pari passu with the junior lien held by the institution. The institution shall first determine the risk weight in accordance with Article 125(2) or Article 126(2) ('base risk weight'), as applicable. It shall then adjust this risk weight by a multiplier of 1.25, for the purposes of calculating the risk-weighted amounts of junior liens. Where the base risk weight corresponds to the lowest ETV bucket, the multiplier shall not be applied. The risk weight resulting from multiplying the base risk weight by 1.25 shall be capped at the risk weight that would be applied to the exposure if the requirements in paragraph 3 would not met.

For the purposes of point (a), where an institution has more than one exposure secured by the same immovable property and these exposures are secured by liens on this immovable property sequential in ranking order without any lien held by a third party ranking in-between, the exposures shall be treated as a single combined exposure and

the gross exposure amounts for the individual exposures shall be summed up to calculate the gross exposure amount for the single combined exposure.

6. Member States shall designate an authority to be responsible for the application of paragraph 7. That authority shall be the competent authority or the designated authority.

Where the authority designated by the Member State for the application of this Article is the competent authority, it should ensure that the relevant national bodies and authorities which have a macroprudential mandate are duly informed of the competent authority's intention to make use of this Article, and are appropriately involved in the assessment of financial stability concerns in its Member State in accordance with paragraph 6.

Where the authority designated by the Member State for the application of this Article is different from the competent authority, the Member State shall adopt the necessary provisions to ensure proper coordination and exchange of information between the competent authority and the designated authority for the proper application of this Article. In particular, authorities shall be required to cooperate closely and to share all the information that may be necessary for the adequate performance of the duties imposed upon the designated authority pursuant to this Article. That cooperation shall aim at avoiding any form of duplicative or inconsistent action between the competent authority and the designated authority, as well as ensuring that the interaction with other measures, in particular measures taken under Article 458 of this Regulation and Article 133 of Directive 2013/36/EU, is duly taken into account.

7. Based on the data collected under Article 430a on any other relevant indicators, the authority designated in accordance with paragraph 6 of this Article shall periodically, and at least annually, assess whether the weights laid down in Article 125 and Article 126 for exposures secured by immovable property located in their territory are appropriately based on:

(a) the loss experience of exposures secured by immovable property;

(b) forward-looking immovable property markets developments.

Where, on the basis of the assessment referred to in the first subparagraph, the authority designated in accordance with paragraph 6 of this Article concludes that the risk weights set out in Article 125 or 126 do not adequately reflect the actual risks related to exposures to one or more property segments secured by mortgages on residential property or on commercial immovable property located in one or more parts of the territory of the Member State of the relevant authority, and if it considers that the inadequacy of the risk weights could adversely affect current or future financial stability in its Member State, it may increase the risk weights applicable to those exposures within the ranges determined in the fourth subparagraph of this paragraph or impose stricter criteria than those set out in paragraph 3 of this Article.

The authority designated in accordance with paragraph 6 of this Article shall notify EBA and the ESRB of any adjustments to risk weights and criteria applied pursuant to this paragraph. Within one month of receipt of that notification, EBA and the ESRB shall provide their opinion to the Member State concerned ***and indicate whether they consider that the adjustments to risk weights and criteria are also recommended to other Member States***. EBA and the ESRB shall publish the risk weights and criteria

for exposures referred to in Articles 125, 126 and Article 199(1), point (a), as implemented by the relevant authority.

For the purposes of the second subparagraph of this paragraph, the authority designated in accordance with paragraph 6 may increase the risk weights laid down in Article 125(1), point (a), ***the first subparagraph of Article 125(2),*** Article 126(1), point (a) ***or the first subparagraph of Article 126(2), or impose stricter criteria than those set out in paragraph 3 of this Article for exposures to one or more property segments secured by mortgages on residential property located in one or more parts of the jurisdiction of the Member State***. The authority shall not increase those to more than 150 %.

When increasing the risk weights set out in the first subparagraph of Article 125(2) or 126(2), the designated authority shall move the whole ETV-risk weight ladder laid down in Table 6aaa in Article 125(2) ir in Table 6c in Article 126(2) accordingly.

8. Where the authority designated in accordance with paragraph 6 sets higher risk weights or stricter criteria pursuant to the paragraph *7*, institutions shall have a six-month transitional period to apply them.

9. EBA, in close cooperation with the ESRB, shall develop draft regulatory technical standards to specify the types of factors to be considered for the assessment of the appropriateness of the risk weights referred in the paragraph 7.

EBA shall submit those draft regulatory technical standards to the Commission by 31 December 2024.

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

10. The ESRB ***shall***, by means of recommendations in accordance with Article 16 of Regulation (EU) No 1092/2010, and in close cooperation with EBA, give guidance to authorities designated in accordance with paragraph 6 of this Article on both of the following:

(a) factors which could 'adversely affect current or future financial stability' referred to in the second subparagraph of paragraph 7;

(b) indicative benchmarks that the authority designated in accordance with paragraph 6 is to take into account when determining higher risk weights.

11. Institutions established in a Member State shall apply the risk weights and criteria that have been determined by the authorities of another Member State in accordance with paragraph 7 to all their corresponding exposures secured by mortgages on residential property or commercial immovable property located in one or more parts of that other Member State.';

(45) Article 125 is replaced by the following:

'Article 125
Exposures secured by mortgages on residential immovable property

1. An exposure secured by a residential property that complies with ***the definition of a non IPRE-exposure or*** any of the conditions laid down in Article 124(2), point (a), points (i) to (iv), shall be treated as follows:

(a) the part of the exposure up to 55 % of the property value remaining after any senior or pari passu ranking liens not held by the institution have been deducted shall be assigned a risk weight of 20 %.

For the purposes of this point, where, in accordance with Article 124(7), the competent or designated authority, as applicable, has set a higher risk weight or a lower percentage of the property value than those referred to in this point, institutions shall use the risk weight and percentage set in accordance with Article 124(7).

(b) the remaining part of the exposure, if any, shall be treated as an exposure that is not secured by residential property***, in the exposure class applicable to the counterparty.***

2. An ***IPRE exposure or an*** exposure secured by a residential property that does not meet any of the conditions laid down in Article 124(2), point (a), points (i) to (iv), shall be assigned the higher between the risk weight set in accordance with the following Table 6aaa, and the risk weight set in accordance with Article 124(7):

Table 6aaa

ETV	ETV ≤ 50 %	50 % < ETV ≤ 60 %	60 % < ETV ≤ 80 %	80 % < ETV ≤ 90 %	90 % < ETV ≤100 %	ETV > 100 %
Risk weight	30 %	35 %	45 %	60 %	75 %	105 %

,

By way of derogation from the first subparagraph of this paragraph, institutions may apply the treatment referred to in paragraph 1 to exposures secured by residential property which is situated within the territory of a Member State, where the loss rates for such exposures published by the competent authorities of that Member State in accordance with Article 430a(3) do not exceed any of the following limits for losses aggregated across all institutions with such exposures existing in the previous year:

(a) the losses on the part of the exposures up to 55 % of the property value do not exceed 0,3 % of the total amount, across all those exposures, of credit obligations outstanding in that year.

For the purposes of this point, where, in accordance with Article 124(7), the competent or designated authority, as applicable, has set a lower percentage of the property value than the one referred to in this point, institutions shall use the percentage set in accordance with Article 124(7);

(b) the losses on the part of the exposures up to 100 % of the property value do not exceed 0,5 % of the total amount, across all these exposures, of credit obligations outstanding in that year.

2a. Institutions may apply the derogation referred to in the second subparagraph of paragraph 2 also in cases where competent authorities of a third country which apply supervisory and regulatory arrangements at least equivalent to those applied in the Union as decided in accordance with Article 107(4), publish corresponding loss rates for exposures secured by residential immovable property situated within

the territory of their country or where a competent authority of a Member State publishes such information for a third country jurisdiction provided the availability of valid statistical data.';

(46) Article 126 is replaced by the following:

'Article 126

Exposures secured by mortgages on commercial immovable property

1. An exposure as referred to in Article 124(2), point (c)(i) shall be treated as follows:

(a) the part of the exposure up to 55 % of the property value reduced by any senior or pari passu ranking liens not held by the institution shall be assigned a risk weight of 60 %, unless that part of the exposure is subject to a higher risk weight or lower percentage of the property value where decided in accordance with Article 124(7);

(b) the remaining part of the exposure, if any, shall be treated as an exposure that is not secured by this immovable property.

EBA shall assess the appropriateness of adjusting the treatment of exposures secured by mortgages on commercial property, including IPRE and non-IPRE exposures, taking into account the appropriateness of risk weights for exposures secured by mortgages on residential property laid out in the first subparagraph and the relative differences in risk and the recommendations of the ESRB on the vulnerabilities in the commercial real estate sector in the EU (ESRB/2022/9) and report to the Commission by 31 December 2027.

On the basis of that report and taking due account of the related internationally agreed standards developed by the BCBS, the Commission shall, where appropriate, submit to the European Parliament and to the Council a legislative proposal by 31 December 2028.

2. An exposure as referred to in Article 124(2), point (c)(ii) shall be assigned the higher between the risk weight set in accordance with Table 6c and the risk weight set in accordance with Article 124(7):

Table 6c

	ETV ≤ 60 %	60 % < ETV ≤ 80 %	ETV > 80 %
Risk weight	70 %	90 %	110 %

By way of derogation from the first subparagraph of this paragraph, institutions may apply the treatment referred to in paragraph 1 to an exposure secured by a commercial property which is situated within the territory of a Member State, where the loss rates for such exposures published by the competent authorities of that Member State in accordance with Article 430a(3) do not exceed any of the following limits for losses aggregated across all such exposures existing in the previous year:

(a) the losses on the part of the exposures up to 55 % of the property value do not exceed 0,3 % of the total amount of credit obligations outstanding in that year.

For the purposes of this point, where, in accordance with Article 124(7), the competent or designated authority, as applicable, has set a lower percentage of the property value than the one referred to in this point, institutions shall use the percentage set in accordance with Article 124(7);

(b) the losses on the part of the exposures up to 100 % of the property value do not exceed 0,5 % of the total amount of credit obligations outstanding in that year.

2a. Institutions may apply the derogation referred to in the second subparagraph of paragraph 2 also in cases where competent authorities of a third country jurisdiction, which apply supervisory and regulatory arrangements at least equivalent to those applied in the Union as decided in accordance with Article 107(4), publish corresponding loss rates for exposures secured by commercial immovable property situated within the territory of their country. Where a competent authority of a third country jurisdiction does not publish corresponding loss rates for exposures secured by commercial immovable property situated within the territory of their country, EBA may publish such information for a third country jurisdiction, provided that valid statistical data, that is statistically representative of the corresponding commercial real estate market, is available.';

(47) a new Article 126a is inserted:

'Article 126a
Land acquisition, development and construction exposures

1. An ADC exposure shall be assigned a risk weight of 150 %.

2. ADC exposures to residential property, however, may be risk weighted at 100 %, provided that, the institution applies sound origination and monitoring standards which meet the requirements of Articles 74 and 79 of Directive 2013/36/EU and where at least one of the following conditions is met:

(a) legally binding pre-sale or pre-lease contracts, for which the purchaser or tenant has made a substantial cash deposit which is subject to forfeiture if the contract is terminated ***or where the financing is ensured in an equivalent manner***, amount to a significant portion of total contracts;

(b) the obligor has substantial equity at risk, which is represented as an appropriate amount of obligor-contributed equity to the residential property's appraised value upon completion.

3. EBA shall by [OP please insert date = 1 year after entry into force] issue guidelines specifying the terms "substantial cash deposits", "appropriate amount of obligor-contributed equity", "significant portion of total contracts", and "substantial equity at risk***, and what can be considered "financing in an equivalent manner***".

Those guidelines shall be adopted in accordance with Article 16 of Regulation (EU) No 1093/2010.

(48) Article 127 is amended as follows:

(a) in paragraph (1), the following subparagraph is added:

'For the purposes of calculating the sum of specific credit risk adjustments referred to in this paragraph, institutions shall include in the calculation any

positive difference between the amount owed by the obligor on ***that*** exposure and the sum of:

(i) the additional own funds reduction if ***that*** exposure ***were*** written off fully; and

(ii) any already existing own funds reductions related to that exposure.'

(b) paragraph 2 is replaced by the following:

'2. For the purposes of determining the secured part of a defaulted exposure, collateral and guarantees shall be eligible for credit risk mitigation purposes in accordance with Chapter 4.';

(c) paragraphs 3 is replaced by the following:

'3. The exposure value remaining after specific credit risk adjustments of non-IPRE exposures secured by residential or commercial immovable property in accordance with Article 125 and 126, respectively, shall be assigned a risk weight of 100 % if a default has occurred in accordance with Article 178.';

(d) paragraph 4 is deleted;

(49) Article 128 is replaced by the following:

'Article 128
Subordinated debt exposures

1. The following exposures shall be treated as subordinated debt exposures:

(a) debt exposures which are subordinated to claims of ***other ordinary unsecured creditors***;

(b) own funds instruments to the extent that those instruments are not considered as equity exposures in accordance with Article 133(1); and

(c) liabilities instruments that meet the conditions set out in Article 72b.

2. Subordinated debt exposures shall be assigned a risk weight of 150 %, unless those subordinated debt exposures are required to be deducted in accordance with Part Two of this Regulation.';

(50) Article 129 ***is amended as follows:***

(a) in paragraph 3, the following subparagraph is added:

' By way of derogation from the first subparagraph, for the purposes of valuing immovable property, the competent authorities designated pursuant to Article 18(2) of Directive (EU) 2019/2162 may allow that property to be valued at or at less than the market value, or in those Member States that have laid down rigorous criteria for the assessment of the mortgage lending value in statutory or regulatory provisions, the mortgage lending value of that property without applying the limits set out in Article 208(3), point (b).'

(b) paragraph 4, subparagraph 1 is replaced by the following:

'4. Covered bonds for which a directly applicable credit assessment by a nominated ECAI is available shall be assigned a risk weight in accordance

with Table 6a which corresponds to the credit assessment of the ECAI in accordance with Article 136.';

(c) paragraph 5 is replaced by the following:

5. Covered bonds for which a directly applicable credit assessment by a nominated ECAI is not available shall be assigned a risk weight on the basis of the risk weight assigned to senior unsecured exposures to the institution which issues them. The following correspondence between risk weights shall apply:

(a) if the exposures to the institution are assigned a risk weight of 20 %, the covered bond shall be assigned a risk weight of 10 %;

(aa) if the exposures to the institution are assigned a risk weight of 30 %, the covered bond shall be assigned a risk weight of 15 %;

(ab) if the exposures to the institution are assigned a risk weight of 40 %, the covered bond shall be assigned a risk weight of 20 %;

(b) if the exposures to the institution are assigned a risk weight of 50 %, the covered bond shall be assigned a risk weight of 25 %;

(ba) if the exposures to the institution are assigned a risk weight of 75 %, the covered bond shall be assigned a risk weight of 35 %;

(c) if the exposures to the institution are assigned a risk weight of 100 %, the covered bond shall be assigned a risk weight of 50 %;

(d) if the exposures to the institution are assigned a risk weight of 150 %, the covered bond shall be assigned a risk weight of 100 %.'; ***(51a) in Article 132c(2), subparagraph 1 is replaced by the following:***

'Institutions shall calculate the exposure value of a minimum value commitment that meets the conditions set out in paragraph 3 of this Article as the discounted present value of the guaranteed amount using a discount factor that is derived from a risk free rate. Institutions may reduce the exposure value of the minimum value commitment by any losses recognised with respect to the minimum value commitment under the applicable accounting standard.';

(52) Article 133 is replaced by the following:

'Article 133
Equity exposures

1. All of the following shall be classified as equity exposures:

(a) any exposure meeting all of the following conditions:

(i) the exposure is irredeemable in the sense that the return of invested funds can be achieved only by the sale of the investment or sale of the rights to the investment or by the liquidation of the issuer;

(ii) the exposure does not embody an obligation on the part of the issuer; and

(iii) the exposure conveys a residual claim on the assets or income of the issuer;

(b) instruments that would qualify as Tier 1 items if issued by an institution;

(c) instruments that embody an obligation on the part of the issuer and meet any of the following conditions:

(i) the issuer may defer the settlement of the obligation indefinitely;

(ii) the obligation requires, or permits at the issuer's discretion, settlement by issuance of a fixed number of the issuer's equity shares;

(iii) the obligation requires, or permits at the issuer's discretion, settlement by issuance of a variable number of the issuer's equity shares and, ceteris paribus, any change in the value of the obligation is attributable to, comparable to, and in the same direction as, the change in the value of a fixed number of the issuer's equity shares;

(iv) the holder of the instrument has the option to require that the obligation be settled in equity shares, unless one of the following conditions is met:

– in the case of a traded instrument, the institution has demonstrated to the satisfaction of the competent authority that the instrument is traded on the market more like the debt of the issuer than like its equity;

– in the case of non-traded instruments, the institution has demonstrated to the satisfaction of the competent authority that the instrument should be treated as a debt position.

For the purposes of point (c)(iii), obligations are included that require or permit settlement by issuance of a variable number of the issuer's equity shares, for which the change in the monetary value of the obligation is equal to the change in the fair value of a fixed number of equity shares multiplied by a specified factor, where both the factor and the referenced number of shares are fixed.

For the purposes of point (iv), where one of the conditions laid down in that point is met, the institution may decompose the risks for regulatory purposes, subject to the prior permission by the competent authority.

(d) debt obligations and other securities, partnerships, derivatives or other vehicles structured in a way that the economic substance is similar to the exposures referred to in points (a), (b) and (c), including liabilities from which the return is linked to that of equities;

(e) equity exposures that are recorded as a loan but arise from a debt/equity swap made as part of the orderly realisation or restructuring of the debt.

2. Equity investments shall not be treated as equity exposures in any of the following cases:

(a) the equity investments are structured in a way that their economic substance is similar to the economic substance of debt holdings which do not meet the criteria in any of the points in paragraph 1;

(b) the equity investments constitute securitisation exposures.

3. Equity exposures, other than those referred to in paragraph 4 to 7, shall be assigned a risk weight of 250 %, unless those exposures are required to be deducted or risk-weighted in accordance with Part Two.

4. The following equity exposures to unlisted companies shall be assigned a risk weight of 400 %, unless those exposures are required to be deducted or risk-weighted in accordance with Part Two:

(a) investments for short-term resale purposes;

(b) investments in venture capital firms or similar investments which are acquired in anticipation of significant short-term capital gains.

By way of derogation from the first subparagraph, long-term equity investment, including investments in equities of corporate clients with which the institution has or intends to establish a long-term business relationship ▌ and debt-equity swaps for corporate restructuring purposes shall be assigned a risk weight in accordance with paragraph 3 or 5, as applicable. For the purposes of this Article, a long-term equity investment is an equity investment that is held for three years or longer or incurred with the intention to be held for three years or longer as approved by the institution's senior management.

5. Institutions that have received the prior permission of the competent authorities, may assign a risk weight of 100 % to equity exposures incurred under legislative programmes to promote specified sectors of the economy***, up to the part of such equity exposures that in aggregate does not exceed 10 % of the institution's own funds,*** that comply with all of the following conditions:

(a) the legislative programs provide significant subsidies ***or*** guarantees***, including*** by multilateral development banks, public development credit institutions as defined ***in*** Article 429a(2) or international organisations, for the investment to the institution;

(b) the legislative programs involve some form of government oversight;

(ba) legislative programmes or guarantees involve restrictions on the equity investment, such as limitations on the size and types of businesses in which the institution is investing, on allowable amounts of ownership interests, on the geographical location and on other pertinent factors that limit the potential of the investment for the investing institution;

▌

6. Equity exposures to central banks shall be assigned a risk weight of ***0*** %.

7. Equity exposures that are recorded as a loan but arise from a debt/equity swap made as part of the orderly realisation or restructuring of the debt shall not be assigned a risk weight lower than the risk weight that would apply had the equity holdings remained in the debt portfolio.';

(53) Article 134 is amended as follows:

(a) paragraph 3 is replaced by the following:

'3. Cash items in the process of collection shall be assigned a 20 % risk weight. Cash owned and held by the institution or in transit, and equivalent cash items shall be assigned a 0 % risk weight.';

(b) the following paragraph 8 is added:

‘8. The exposure value of any other item for which no risk weight is provided under Chapter 2 shall be assigned a risk weight of 100 %.’;

(54) in Article 135, the following ***paragraphs are*** added:

‘3. EBA, EIOPA and ESMA shall by [OP please insert the date = 1 year after entry into force] prepare a report on the impediments to the availability of credit assessments by ECAIs, in particular for corporates, and on possible measures to address them taking into account differences across economic sectors and geographical areas. ***EBA, EIOPA and ESMA shall submit the report to the European Parliament, to the Council and to the Commission***.’

3a. ESMA shall by [OP please insert the date = 1 year after entry into force] prepare a report on whether ESG risks are appropriately reflected in ECAI credit risk rating methodologies. Based on this report and if appropriate, the Commission shall submit a legislative proposal to the European Parliament and the Council by [OP please insert the date = 18 months after entry into force]’

;

(55) Article 138 is amended as follow:

(a) the following point (g) is added:

‘(g) an institution shall not use an ECAI credit assessment in relation to an institution that incorporates assumptions of implicit government support, unless the respective ECAI credit assessment refers to an institution owned by or ▌ sponsored by central governments, regional governments or local authorities.’;

(b) the following subparagraph is added:

‘For the purposes of point (g), in case of institutions, other than institutions owned by or ▌ sponsored by central governments, regional governments or local authorities, for which only ECAI credit assessment exist which do incorporate assumptions of implicit government support, exposures to such institutions shall be treated as exposures to unrated institutions in accordance with Article 121.

Implicit government support means that the central government, regional government or local authority ***is expected to*** act to prevent creditors of the institution from incurring losses in the event of the institution’s default or distress.’;

(56) in Article 139(2), points (a) and (b) are replaced by the following:

‘(a) the credit assessment produces a higher risk weight than would be the case when the exposure is treated as unrated and the exposure concerned:

(i) is not a specialised lending exposure;

(ii) ranks pari passu or junior in all respects to the specific issuing program or facility or to senior unsecured exposures of that issuer, as relevant;

(b) the credit assessment produces a lower risk weight and the exposure concerned:

(i) is not a specialised lending exposure;

(ii) ranks pari passu or senior in all respects to the specific issuing programme or facility or to senior unsecured exposures of that issuer, as relevant.’;

(57) Article 141 is replaced by the following:

'Article 141
Domestic and foreign currency items

1. A credit assessment that refers to an item denominated in the obligor's domestic currency shall not be used to derive a risk weight for an exposure on that same obligor that is denominated in a foreign currency.

2. By way of derogation from paragraph 1, where an exposure arises through an institution's participation in a loan that has been extended by, or has been guaranteed against convertibility and transfer risk, by a multilateral development bank listed in Article 117(2) the preferred creditor status of which is recognised in the market, the credit assessment on the obligor's domestic currency item may be used to derive a risk weight for an exposure on that same obligor that is denominated in a foreign currency.

For the purposes of the first subparagraph, where the exposure denominated in a foreign currency is guaranteed against convertibility and transfer risk, the credit assessment on the obligor's domestic currency item may only be used for risk weighting purposes on the guaranteed part of that exposure. The part of that exposure that is not guaranteed shall be risk-weighted based on a credit assessment on the obligor that refers to an item denominated in that foreign currency.';

(58) Article 142, paragraph 1 is amended as follows:

(a) the following points (1a) to (1e) are inserted:

'(1a) 'exposure class' means any of the exposure classes referred to in Article 147(2), points (a), (a1)(i), (a1)(ii), (b), (c)(i), (c)(ii), (c)(iii), (d)(i), (d)(ii), (d)(iii), (d)(iv), (e), (e1), (f) and (g);

(1b) 'corporate exposure class' means any of the exposure classes referred to in Article 147(2), points (c)(i), (c)(ii) and (c)(iii);

(1c) 'corporate exposure' means any exposure assigned to ***any of*** the exposure classes referred to in Article 147(2), points (c)(i), (c)(ii) and (c)(iii);

(1d) 'retail exposure class' means any of the exposure classes referred to in Article 147(2), points (d)(i), (d)(ii), (d)(iii) and (d)(iv);

(1e) 'retail exposure' means any exposure assigned to ***any of*** the exposure classes referred to in Article 147(2), points (d)(i), (d)(ii), (d)(iii) and (d)(iv);';

(b) point (2) is replaced by the following:

'(2) 'type of exposures' means a group of homogeneously managed exposures, which may be limited to a single entity or a single sub-set of entities within a group provided that the same type of exposures is managed differently in other entities of the group;';

(c) points (4) and (5) are replaced by the following:

'(4) 'large regulated financial sector entity' means a financial sector entity which meets all the following conditions:

(a) the entity's total assets, or the total assets of its parent company where the entity has a parent company, calculated on an individual or consolidated

basis, are greater than or equal to EUR 70 billion , using the most recent audited financial statement or consolidated financial statement in order to determine asset size;

(b) the entity is subject to prudential requirements, directly on an individual or consolidated basis, or indirectly from the prudential consolidation of its parent undertaking, in accordance with this Regulation, Regulation (EU) 2019/2033, Directive 2009/138/EC, or legal prudential requirements of a third country at least equivalent to those Union acts;

(5) 'unregulated financial sector entity' means a financial sector entity that does not fulfil the condition laid down in point (4)(b);';

(d) the following point (5a) is inserted:

'(5a) 'large corporate' means any corporate undertaking having consolidated annual sales of more than EUR 500 million or belonging to a group where the total annual sales for the consolidated group is more than EUR 500 million.';'

(e) the following points (8) to (12) are added:

'(8) 'PD/LGD modelling adjustment approach' refers to modelling an adjustment of the LGD or modelling an adjustment of both the PD and the LGD of the underlying exposure in accordance with Article 183(1a);

(9) 'protection-provider-RW-floor' refers to the risk weight applicable to a comparable, direct exposure to the protection provider;

(10) for an exposure to which an institution applies the IRB approach by using its own estimates of LGD under Article 143, 'recognised' unfunded credit protection means an unfunded credit protection the effect of which on the calculation of risk-weighted exposure amounts or expected loss amounts of the underlying exposure is taken into account with one of the following methods, in accordance with Article 108(2a):

(a) PD/LGD modelling adjustment approach;

(b) substitution of risk parameters approach under A-IRB, in accordance with Article 192, point (8);

(11) 'SA-CCF' means the percentage applicable under Chapter 2, by which the nominal value of an off-balance sheet item is multiplied to calculate its exposure value in accordance with Article 111(2);

(12) 'IRB-CCF' means own estimates of CCF.;

(59) Article 143 is amended as follows:

(a) paragraph 2 is replaced by the following:

'2. Prior permission to the use the IRB Approach, including own estimates of LGDs and CCFs, shall be required for each exposure class and for each rating system and for each approach to estimating LGDs and CCFs used.';

(b) in paragraph 3, first subparagraph, points (a) and (b) are replaced by the following:

‘(a) material changes to the range of application of a rating system that the institution has received permission to use;

(b) material changes to a rating system that the institution has received permission to use.’;

(c) paragraph 4 and 5 are replaced by the following:

‘4. Institutions shall notify the competent authorities of all changes to rating systems.

5. EBA shall develop draft regulatory technical standards to specify the conditions for assessing the materiality of the use of an existing rating system for other additional exposures not already covered by that rating system and changes to rating systems under the IRB Approach.

EBA shall submit those draft regulatory technical standards to the Commission by [OP please insert date = 18 months after the entry into force of this amending Regulation].

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

(60) in Article 144(1), the first subparagraph is amended as follows:

(a) point (f) is replaced by the following:

‘(f) the institution has validated each rating system during an appropriate time period prior to the permission to use that rating system, has assessed during that time period whether the rating system are suited to the range of application of the rating system, and has made necessary changes to those rating systems following from its assessment;’;

(b) point (h) is replaced by the following:

‘(h) the institution has assigned and continues to assign each exposure in the range of application of a rating system to a rating grade or pool of this rating system;’;

(c) paragraph 2 is replaced by the following:

‘2. EBA shall develop draft regulatory technical standards to specify the assessment methodology competent authorities shall follow when assessing the compliance of an institution with the requirements to use the IRB Approach.

EBA shall submit those draft regulatory technical standards to the Commission by 31 December 2025.

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.’;

(61) Article 147 is amended as follows:

(a) paragraph 2 is replaced by the following:

‘2. Each exposure shall be assigned to one of the following exposure classes:

(a) exposures to central governments and central banks;

(a1) exposures to regional and local authorities and to public sector entities ('RGLA-PSE'), which shall be divided into the following exposure classes:

(i) exposures to regional and local authorities ('RGLAs');

(ii) exposures to public sector entities ('PSEs');

(b) exposures to institutions;

(c) exposures to corporates ▌ shall be ***assigned to*** the following exposure classes:

(i) general corporates;

(ii) specialised lending ('SL') exposures;

(iii) corporate purchased receivables;

(d) retail exposures ▌ shall be ***assigned to*** the following exposure classes:

(i) qualifying revolving retail exposures ('QRREs');

(ii) retail exposures secured by residential property;

(iii) retail purchased receivables;

(iv) other retail exposures;

(e) equity exposures;

(e1) exposures in the form of units or shares in a CIU;

(f) items representing securitisation positions;

(g) other non credit-obligation assets.

(b) in paragraph 3, point (a) is deleted;

(c) the following paragraph 3a is inserted:

'3a. Exposures to regional governments, local authorities or public sector entities shall ▌ be assigned to the exposure ***classes*** referred to in paragraph 2, point (a1)***(i) or (a1)(ii), respectively unless they are treated as exposures to the central government according to*** Articles 115 or 116. ***Exposures treated as exposures to central governments according to Articles 115 or 116 shall be assigned to the exposure class referred to in paragraph 2, point (a).***';

(d) in paragraph 4, points (a) and (b) are deleted;

(e) paragraph 5 is amended as follows:

(i) in point (a), point (ii) is replaced by the following:

'(ii) exposures to an SME within the meaning of Article 5, point (8), provided in that case that 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 exposures secured by residential property up to the property value does

not, to the knowledge of the institution, ▌ which shall take reasonable steps to verify the amount of that exposure ***exceed EUR 1 million***;

(iii) exposures secured by residential property, including first and subsequent liens, term loans, revolving home equity lines of credit, and exposures as referred to in Article 108, paragraphs 3 and 4, regardless of the exposure size, provided that the exposure is either of the following:

– an exposure to a natural person;

– an exposure to associations or cooperatives of individuals that are regulated under national law and exist with the only purpose of granting their members the use of a primary residence in the property securing the loan;';

(ii) the following subparagraphs are added:

'Exposures fulfilling all the conditions laid down in points (a)(iii), (b), (c), (d) shall be assigned to the exposure class 'retail exposures secured by residential property' as referred to in paragraph 2, point (d)(ii).

By way of derogation from the third subparagraph, competent authorities may exclude from the exposure class 'retail exposures secured by residential property' as referred to in paragraph 2, point (d)(ii), loans to natural persons who have mortgaged more than four properties or housing units and assign those loans to the corporate exposure class.';

(iii) the following paragraph 5a is inserted:

'5a. Retail exposures belonging to a type of exposures meeting all the following conditions ***shall*** be assigned to the QRRE exposure class:

(a) the exposures of that type of exposures are to ***one or more natural persons***;

(b) the exposures of that type of exposures are revolving, unsecured, and to the extent they are not drawn immediately and unconditionally, cancellable by the institution;

(c) the maximum exposure of that type of exposure to a ***natural person*** is EUR 100 000▌ ;

(d) that type of exposures has exhibited low volatility of loss rates, relative to its average level of loss rates, especially within the low PD bands;

(e) the treatment ***of exposures assigned to that type of exposures*** as a qualifying revolving retail ***exposure*** is consistent with the underlying risk characteristics of ***that*** type of exposures▌ .

By way of derogation from point (b), the requirement to be unsecured shall not apply in respect of collateralised credit facilities linked to a wage account. In that case, amounts recovered from the collateral shall not be taken into account in the LGD estimate.

Institutions shall identify within the QRRE exposure class transactor exposures ('QRRE transactors'), as defined in Article 4(1), point (152),

and exposures that are not transactor exposures (‘QRRE revolvers’). In particular, QRREs with less than 12 months of repayment history shall be identified as QRRE revolvers.’;

(f) paragraphs 6 and 7 are replaced by the following:

‘6. Unless they are assigned to the exposure class laid down in paragraph 2, point (e1), the exposures referred to in Article 133, paragraph 1 shall be assigned to the equity exposure class laid down in paragraph 2, point (e).

7. Any credit obligation not assigned to the exposure classes laid down in paragraph 2, points (a), (a1), (b), (d), (e) and (f), shall be assigned to one of the exposure classes referred to in point (c) of that paragraph.’;

(g) in paragraph 8, the following subparagraphs are added:

‘Those exposures shall be assigned to the exposure class referred to in paragraph 2, point (c)(ii), and shall be distributed into the following categories: ‘project finance’ (PF), ‘object finance’ (OF), ‘commodity finance’ (CF) and ‘income producing real estate’ (IPRE).

EBA shall develop draft regulatory technical standards to specify the following:

(a) the categorisation to PF, OF and CF, consistently with the definitions of Chapter 2;

(b) the determination of the IPRE category, in particular providing which ADC exposures and exposures secured by immovable property, may or shall be categorised as IPRE, where those exposures do ***not*** materially depend on cash flows generated by the property for their repayment.

EBA shall submit those draft regulatory technical standards to the Commission by 31 December 2025.

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.’;

(h) a new paragraph 11 is added:

‘11. EBA shall develop draft regulatory technical standards specifying further the ***exposure*** classes referred to in paragraph 2 where necessary .

EBA shall submit those draft regulatory technical standards to the Commission by 31 December 2026.

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

(62) Article 148 is amended as follows:

(a) paragraphs 1 and 2 are replaced by the following:

‘1. An institution that is permitted to apply the IRB Approach in accordance with Article 107(1), shall, together with any parent undertaking and its subsidiaries, implement the IRB Approach for at least one of the exposure classes referred to in points (a), (a1)(i), (a1)(ii), (b), (c)(i), (c)(ii), (c)(iii), (d)(i), (d)(ii), d(iii), (d)(iv), (e1),

▌and (g) of Article 147(2). Once an institution ***has implemented*** the IRB Approach for ***a certain*** exposure ***class***, it shall do so for all the exposures within that exposure class, unless it has received the permission of the competent authorities to use the Standardised Approach permanently in accordance with Article 150.

Subject to the prior permission of the competent authorities, implementation of the IRB Approach may be carried out sequentially across the different types of exposures within ***a certain*** exposure class ***or*** business unit, ***or*** across different business units in the same group, or for the use of own estimates of LGDs or ***the use of*** IRB-CCFs.

2. Competent authorities shall determine the time period over which an institution and any parent undertaking and its subsidiaries shall be required to implement the IRB Approach for all exposures within ***a certain*** exposure class ***across different types of exposures within the same business unit,*** across different business units in the same group or for the use of own estimates of LGDs or ***the use of*** IRB-CCF ***as applicable***. That time period shall be one that competent authorities consider to be appropriate on the basis of the nature and scale of the activities of the institution concerned, or any parent undertaking and its subsidiaries, and the number and nature of rating systems to be implemented.';

(aa) paragraph 3 is replaced by the following:

'3. Institutions shall carry out implementation of the IRB Approach in accordance with conditions determined by the competent authorities. The competent authority shall design those conditions in a way that they ensure that the flexibility under paragraph 1 is not used selectively for the purpose of achieving reduced own funds requirements in respect of those types of exposures or business units that are yet to be included in the IRB Approach or in the use of own estimates of LGDs or the use of IRB-CCF.';

(b) paragraphs 4, 5 and 6 are deleted;

(63) Article 150 is amended as follows:

(a) paragraph 1 is replaced by the following:

'1. Institutions shall apply the Standardised Approach for all the following exposures:

(a) exposures assigned to the equity exposure class referred to in Article 147(2), point (e);

▌

(c) exposures ***assigned to a certain exposure class*** for which institutions have not received the prior permission of the competent authorities to use the IRB Approach for the calculation of the risk-weighted exposure amounts and expected loss amounts.

An institution that is permitted to use the IRB Approach for the calculation of risk-weighted exposure amounts and expected loss amounts for a given exposure class may, subject to the competent authority's prior permission, apply the Standardised Approach for some types of exposures within that exposure class where those types of exposures are immaterial in terms of size and perceived risk profile.

In addition to the exposures referred to in the second subparagraph, an institution may, subject to the competent authorities prior permission apply the Standardised Approach for the following exposures where the IRB Approach is applied for other types of exposures within the respective exposure class:

(a) some types of exposures within that exposure class, including exposures from foreign branches and different product groups, where those types of exposures are immaterial in terms of size and perceived risk profile;

(b) exposures to central governments and central banks of the Member States and their regional governments, local authorities, administrative bodies and public sector entities provided that:

(i) there is no difference in risk between the exposures to that central government and central bank and those other exposures because of specific public arrangements; and

(ii) exposures to central governments and central banks are assigned a 0% risk weight under Article 114(2) or (4);

(c) exposures of an institution to a counterparty which is its parent undertaking, its subsidiary or a subsidiary of its parent undertaking provided that the counterparty is an institution or a financial holding company, mixed financial holding company, financial institution, asset management company or ancillary services undertaking subject to appropriate prudential requirements or an undertaking linked by a relationship within the meaning of Article 22(7) of Directive 2013/34/EU;

(d) exposures between institutions which meet the requirements set out in Article 113(7);

An institution that is permitted to use the IRB Approach for the calculation of risk-weighted exposure amounts for ***the*** exposures ***referred to in the second subparagraph***, shall apply the Standardised Approach for the remaining types of exposures within that exposure class.';

(aa) paragraph 2 is replaced by the following:

'EBA shall, in accordance with Article 16 of Regulation (EU) No 1093/2010, issue guidelines by 31 December 2025 on what constitutes types of exposures that are immaterial in terms of size and perceived risk profile.';

(b) paragraphs ▌ 3 and 4 are deleted;

(64) Article 151 is amended as follows:

(a) paragraph 4 is deleted;

(b) paragraph 7, 8 and 9 are replaced by the following:

'7. For retail exposures, institutions shall provide own estimates of LGDs, and IRB-CCF where applicable pursuant to Article 166, paragraphs 8 and 8b, in accordance with Article 143 and Section 6. Institutions shall use SA-CCF where Article 166, paragraphs 8 and 8b do not allow for the use of IRB-CCF.

8. For the following exposures, institutions shall apply the LGD values set out in Article 161(1) and SA-CCF in accordance with Article 166, paragraphs 8, 8a and 8b:

(a) exposures assigned to the exposure class 'exposures to institutions' referred to in Article 147(2), point (b);

(b) exposures to financial sector entities;

(c) exposures to large ***corporates not assigned to the exposure class referred to in Article 147(2), point (c)(ii)***.

For exposures belonging to the exposure classes referred to in Article 147(2), points (a), (a1) and (c), except for the exposures referred to in the first subparagraph of this paragraph, institutions shall apply the LGD values set out in Article 161(1), and the SA-CCF in accordance with Article 166, paragraphs 8, 8a and 8b, unless they have been permitted to use their own estimates of LGDs and CCFs for those exposures in accordance with paragraph 9 of this Article.

9. For the exposures referred to in paragraph 8, second subparagraph the competent authority shall permit institutions to use own estimates of LGDs, and IRB-CCFs where applicable pursuant to Article 166, paragraphs 8 and 8b, in accordance with Article 143 and Section 6.';

(c) the following paragraphs ▌ 12 and 13 are added:

▌

12. For exposures in the form of shares or units in a CIU belonging to the exposure class referred to in Article 147(2), point (e1), institutions shall apply the treatment set out in Article 152***, unless deducted from own funds, the risk-weighted exposure amounts for credit risk shall be calculated in accordance with Article 152 except where those exposures are deducted from Common Equity Tier 1 items, Additional Tier 1 items or Tier 2 items***.

13. EBA shall develop draft regulatory technical standards to ***further*** specify the treatment ***set out in this Chapter that is*** applicable to exposures ***in the form of*** purchased receivables' referred to in ***Articles 153 and 154***, for the purposes of calculating risk-weighted exposure amounts for the default risk and for the dilution risk of those exposures, including for the recognition of credit risk mitigation techniques.

EBA shall submit those draft regulatory technical standards to the Commission by 31 December 2025.

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.';

(65) in Article 152, paragraph 4 is replaced by the following:

'4. Institutions that apply the look-through approach in accordance with paragraphs 2 and 3 of this Article and that do not use the methods set out in this Chapter or in Chapter 5 as applicable for all or parts of the underlying exposures of the CIU, shall calculate risk-weighted exposure amounts and expected loss amounts ***for those parts of the underlying exposures*** in accordance with the following principles:

(a) for underlying exposures that would be assigned to the equity exposure class referred to in Article 147(2), point (e), institutions shall apply the Standardised Approach laid down in Chapter 2;

(b) for exposures assigned to the items representing securitisation positions referred to in Article 147(2), point (f), institutions shall apply the treatment set out in Article 254 as if those exposures were directly held by those institutions;

(c) for all other underlying exposures, institutions shall apply the Standardised Approach laid down in Chapter 2.';

(66) Article 153 is amended as follows:

(a) paragraph 1, point (iii) is replaced by the following:

'(iii) if 0 < PD < 1, then:

$$\text{RW} = \left(\text{LGD} \cdot N\left(\frac{1}{\sqrt{1-R}} \cdot G(\text{PD}) + \sqrt{\frac{R}{1-R}} \cdot G(0{,}999)\right) - \text{LGD} \cdot \text{PD}\right) \cdot \frac{1 + (\text{M} - 2{,}5) \cdot b}{1 - 1{,}5 \cdot b} \cdot 12{,}5$$

where:

N = the cumulative distribution function for a standard normal random variable, i.e. $N(x)$ equals the probability that a normal random variable with mean of 0 and variance of 1, is less than or equal to x;

G = the inverse cumulative distribution function for a standard normal random variable, i.e. if $x = G(z)$, x is the value such that $N(x) = z$;

R = the coefficient of correlation, which is defined as:

$$R = 0{,}12 \cdot \frac{1 - e^{-50 \cdot \text{PD}}}{1 - e^{-50}} + 0{,}24 \cdot \left(1 - \frac{1 - e^{-50 \cdot \text{PD}}}{1 - e^{-50}}\right)$$

b = the maturity adjustment factor, which is defined as:

$$b = [0{,}11852 - 0{,}05478 \cdot ln\,(\text{PD})]^2$$

M = the maturity and shall be expressed in years and ***determined*** in accordance with Article 162.';

(b) paragraph 2 is replaced by the following:

'2. For exposures to large regulated financial sector entities and to unregulated financial sector entities, the coefficient of correlation R provided in paragraph 1, point (iii), or paragraph 4 as applicable, shall be multiplied by 1,25 when calculating the risk weights of those exposures.';

(c) paragraph 3 is deleted;

(d) paragraph 9 is replaced by the following:

'9. EBA shall develop draft regulatory technical standards to specify how institutions shall take into account the factors referred to in paragraph 5, second subparagraph, when assigning risk weights to specialised lending exposures.

EBA shall submit those draft regulatory technical standards to the Commission by 31 December 2025.

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.';

(67) Article 154 is amended as follows:

(a) in paragraph 1, point (ii) is replaced by the following:

'(ii) if PD < 1, then:

$$\text{RW} = \left(\text{LGD} \cdot N\left(\frac{1}{\sqrt{1-R}} \cdot G(\text{PD}) + \sqrt{\frac{R}{1-R}} \cdot G(0{,}999)\right) - \text{LGD} \cdot \text{PD}\right) \cdot 12{,}5$$

where:

N = the cumulative distribution function for a standard normal random variable, i.e. $N(x)$ equals to the probability that a normal random variable with mean of 0 and variance of 1, is less than or equal to x;

G = the inverse cumulative distribution function for a standard normal random variable, i.e. if $x = G(z)$, x is the value such that $N(x) = z$;

R = the coefficient of correlation, which is defined as:

$$R = 0{,}03 \cdot \frac{1 - e^{-35 \cdot \text{PD}}}{1 - e^{-35}} + 0{,}16 \cdot \left(1 - \frac{1 - e^{-35 \cdot \text{PD}}}{1 - e^{-35}}\right)$$

';

(b) paragraph 2 is deleted;

(c) paragraph 3 is replaced by the following:

'3. For retail exposures that are not in default and are secured or partly secured by residential property, a coefficient of correlation R of 0,15 shall replace the figure produced by the coefficient of correlation formula in paragraph 1.

The risk-weight ***calculated for*** an exposure partly secured by residential property ***pursuant to paragraph 1, point (ii), taking into account a coefficient of correlation R as set out in the first subparagraph of this paragraph,*** shall ***be applied both to the secured and the*** unsecured portion of the underlying exposure.';

(d) paragraph 4 is replaced by the following:

'4. For QRREs that are not in default, a coefficient of correlation R of 0,04 shall replace the figure produced by the coefficient of correlation formula in paragraph 1.

Competent authorities shall review the relative volatility of loss rates across QRREs belonging to the same type of exposures, as well as across the aggregate QRRE exposure class, and shall share information on the typical characteristics of qualifying revolving retail loss rates across Member States and with EBA.';

(68) Article 155 is deleted;

(69) in Article 157, the following paragraph 6 is added:

'6. EBA shall develop draft regulatory technical standards to specify further:

(a) the methodology for the calculation of risk-weighted exposure amount for dilution risk of purchased receivables, including recognition of ***credit risk mitigation*** in accordance with Article 160(4), and the conditions for the use of own estimates and fall-back parameters;

(b) the assessment of the immateriality criterion for ***types*** of exposures referred to in paragraph 5;

EBA shall submit those draft regulatory technical standards to the Commission by 31 December ***2025***.

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

(70) Article 158 is amended as follows:

(a) in paragraph 5, the last subparagraph is deleted;

(b) paragraphs 7, 8 and 9 are deleted.

(71) Article 159 is replaced by the following:

'Article 159

Treatment of expected loss amounts, IRB shortfall and IRB excess

Institutions shall subtract the expected loss amounts of exposures referred to in Article 158, paragraphs 5, 6 and 10 from the sum of all of the following:

(a) the general and specific credit risk adjustments related to those exposures, calculated in accordance with Article 110;

(b) additional value adjustments related to the non-trading book business of the institution determined in accordance with Articles 34, related to those exposures;

(c) other own funds reductions related to those exposures other than the deductions made in accordance with Article 36(1), point (m).

Where the calculation performed in accordance with the first subparagraph results in a positive amount, the amount obtained shall be called 'IRB excess'. Where the calculation performed in accordance with the first subparagraph results in a negative amount, the amount obtained shall be called 'IRB shortfall'.

For the purposes of the calculation referred to in the first ***paragraph***, institutions shall treat discounts ▌determined in accordance with Article 166(1) on balance sheet exposures purchased when in default in the same manner as specific credit risk adjustments. Discounts or premiums on balance sheet exposures purchased when not in default shall not be allowed to be included in the calculation of the IRB shortfall or IRB excess. Specific credit risk adjustments on exposures in default shall not be used to cover expected loss amounts on other exposures. Expected loss amounts for securitised exposures and general and specific credit risk adjustments related to those exposures shall not be included in the calculation of the IRB shortfall or IRB excess.';

(72) in Section 4, the following Sub-Section 0 is inserted:

‘Sub-Section 0
Exposures covered by guarantees provided by Member States’ central governments and central banks or the ECB

Article 159a
Non application of PD and LGD input floors

For the purposes of Chapter 3, and in particular with regard to Articles 160(1), 161(4), 164(4) and 166(8c), where an exposure is covered by an eligible guarantee provided by a Member State’s central government or central bank or by the ECB, the PD, LGD and CCF input floors shall not apply to the part of the exposure covered by that guarantee. However, the part of the exposure that is not covered by that guarantee shall be subject to the PD, LGD and CCF input floors concerned.’;

(73) Article 160 is amended as follows:

(a) paragraph 1 is replaced by the following:

‘1. For exposures assigned to the exposure class ‘exposures to institutions’ referred to in Article 147(2), point (b), or ‘exposures to corporates’ referred to in Article 147(2), point (c), for the sole purposes of calculating risk weighted ***exposure amounts*** and expected ***loss*** amounts of those exposures, in particular for the purposes of Article 153, Article 157, Article 158(1), Article 158(5) and Article 158(10), the PD ***for each exposure that is*** used in the input of the risk weights and expected loss formulas shall not be less than the following value: 0,05 % (‘PD input floor’).’;

(aa) the following paragraph is inserted:

1a. For exposures assigned to the exposure class ‘regional and local authorities and to public sector entities (‘RGLA-PSE’)’, referred to in Article 147(2), point (a1), for the sole purposes of calculating risk weighted exposure amounts and expected loss amounts of those exposures, the PD values used in the input of the risk weights and expected loss formulas shall not be less than the following value: 0,03% (‘PD input floor’).’;

(b) paragraph 4 is replaced by the following:

‘4. For an exposure covered by an UFCP, an institution using own LGD estimates under Article 143 for both the original exposure and for direct comparable exposures to the protection provider may recognise the unfunded credit protection in the PD in accordance with Article 183.’;

(c) paragraph 5 is deleted;

(d) paragraph 6 is replaced by the following:

‘6. For dilution risk of purchased corporate receivables, PD shall be set equal to the EL estimate of the institution for dilution risk. An institution that has received permission from the competent authority pursuant to Article 143 to use own LGD estimates for corporate exposures that can decompose its EL estimates for dilution risk of purchased corporate receivables into PDs and LGDs in a manner that the competent authority considers to be reliable, may use the PD estimate that results from this decomposition. Institutions may recognise unfunded credit protection in the PD in accordance with Chapter 4.’;

(e) paragraph 7 is replaced by the following:

'7. An institution that has received the permission of the competent authority pursuant to Article 143 to use own LGD estimates for dilution risk of purchased corporate receivables, may recognise unfunded credit protection by adjusting PDs subject to Article 161(3).';

(74) Article 161 is amended as follows:

(a) paragraph 1 is amended as follows:

(i) point (a) is replaced by the following:

'(a) senior exposures without ***eligible*** FCP to central governments and central banks and financial sector entities: 45 %;';

(ii) the following point (aa) is inserted:

'(aa) senior exposures without ***eligible*** FCP, to corporates which are not financial sector entities: 40 %;';

(iii) point (c) is deleted;

(iv) point (e) is replaced by the following:

'(e) for senior purchased corporate receivables exposures where an institution is not able to estimate PDs or where the institution's PD estimates do not meet the requirements set out in Section 6: 40 %;';

(v) point (g) is replaced by the following

'(g) for dilution risk of purchased corporate receivables: 100 %.';

(b) paragraph 3 and 4 are replaced by the following:

'3. For an exposure covered by an unfunded credit protection, an institution using own LGD estimates pursuant to Article 143 for both the original exposure and for direct comparable exposures to the protection provider may recognise the unfunded credit protection in the LGD in accordance with Article 183.

4. For exposures assigned to the exposure class 'corporate exposure class' ▌ for the sole purpose of calculating risk weighted ***exposure amounts*** and expected loss amounts of those exposures, and in particular for the purposes of Article 153(1), point (iii), Article 157, Article 158, paragraphs 1, 5 and 10, where own LGD estimates are used, the LGD ***for each exposure*** used ***as an*** input of the risk weight and ***expected*** loss formulas shall not be less than the following LGD input floor values, and calculated in accordance with paragraph 5:

Table 2a

LGD input floors (LGD_{floor}) for exposures belonging to the exposure class 'exposure to corporates'		
exposure without FCP ($LGD_{U\text{-}floor}$)	exposure fully secured by FCP ($LGD_{S\text{-}floor}$)	
25 %	financial collateral	0 %

	receivables	10 %
	residential or commercial immovable property	10 %
	other physical collateral	15 %

;';

(c) the following ***paragraphs*** are added:

'5. For the purposes of paragraph 4, the LGD input floors in Table 2a in that paragraph for exposures fully secured with FCP shall apply when the value of the FCP, after the application of the volatility adjustments H_c and H_{fx} concerned in accordance with Article 230, is equal to or exceeds the value of the underlying exposure. In addition, those values shall be applicable for FCP eligible pursuant to this Chapter. ***In that case, the type of FCP "Other physical collateral" in Table 2aaa of Article 230 shall be understood as "Other physical and other eligible collateral".***

The applicable LGD input floor (LGD_{floor}) for an exposure partially secured with FCP is calculated as the weighted average of $LGD_{U\text{-}floor}$ for the portion of the exposure without FCP and $LGD_{S\text{-}floor}$ for the fully secured portion, as follows:

$$\mathrm{LGD_{floor}} = \mathrm{LGD_{U\,-\,floor}} \cdot \frac{\mathrm{E_U}}{\mathrm{E} \cdot (1 + \mathrm{H_E})} + \mathrm{LGD_{S\,-\,floor}} \cdot \frac{\mathrm{E_S}}{\mathrm{E} \cdot (1 + \mathrm{H_E})}$$

where:

$LGD_{U\text{-}floor}$ and $LGD_{S\text{-}floor}$ are the relevant floor values of Table ***2a***;

E , E_S , E_U and H_E are determined as specified in Article 230.

5a. To the extent that an institution recognises FCP under the IRB Approach, the institution may recognise the FCP in the calculation of the LGD input floor for secured exposures. Otherwise, the LGD input floor for unsecured exposures shall apply.

6. Where an institution that uses own LGD estimates for a given type of corporate unsecured exposures is not able to take into account the effect of the FCP securing one of the exposures of that type of exposures in the own LGD estimates ***due to lack of data***, the institution shall be permitted to apply the formula set out in Article 230, with the exception that the LGD_U term in that formula shall be the institution's own LGD estimate ***for unsecured exposures***. In that case, the FCP shall be eligible in accordance with Chapter 4 and the institution's own LGD estimate used as LGD_U term shall be calculated based on underlying losses data excluding any recoveries arising from that FCP.

6a. For exposures assigned to the exposure class 'exposures to regional government and local authorities and to public sector entities ('RGLA-PSE'), referred to in Article 147(2), point (a1), for the sole purpose of calculating risk

weighted exposure amounts and expected loss amounts of those exposures, where own LGD estimates are used, the LGD values used as an input of the risk weight and expect loss formulas shall not be less than the following value: 5%.';

(75) Article 162 is amended as follows:

(a) paragraph 1 is replaced by the following:

'1. For exposures for which an institution has not received permission of the competent authority to use own estimates of LGD, the maturity value ('M') shall ***either*** be ***set at*** 2,5 years, except for exposures arising from securities financing transactions, for which M shall be 0,5 years ***or, alternatively, calculated in accordance with paragraph 2***.

▌';

(b) paragraph 2 is amended as follows:

(i) the introductory phrase in paragraph 2 is replaced by the following:

'For exposures for which an institution applies own estimates of LGD, the maturity value ('M') shall be calculated using periods of times expressed in years, as set out in this paragraph and subject to paragraphs 3 to 5 of this Article. M shall be no greater than 5 years, except in the cases specified in Article 384(***2***) where M as specified there shall be used. M shall be calculated as follows in each of the following cases:';

(ii) the following points (da) and (db) are inserted:

'(da) for secured lending transactions which are subject to a master netting agreement, M shall be the weighted average remaining maturity of the transactions where M shall be at least 20 days. The notional amount of each transaction shall be used for weighting the maturity;

(db) for a master netting agreement including more than one ***of the*** transaction types corresponding to points (c), (d) or (da), M shall be the weighted average remaining maturity of the transactions where M shall be at least the longest holding period (expressed in years) ***applicable*** to such transactions as provided in Article 224(2) (either 10 days or 20 days, depending on the cases). The notional amount of each transaction shall be used for weighting the maturity';

(iii) point (f) is replaced by the following:

'(f) for any instrument other than those referred to in this paragraph or when an institution is not in a position to calculate M as set out in point (a), M shall be the maximum remaining time (in years) that the obligor is permitted to take to fully discharge its contractual obligations (principal, interest, and fees), where M shall be at least one year;';

(iv) point (i) is replaced by the following:

'(i) for institutions using the approaches referred to in Article 382a(1), points (a) or (b), to calculate own fund requirement for CVA risks of transactions with a given counterparty, M shall be no greater than 1 in the formula laid out in Article 153(1) for the purposes of calculating the risk

weighted exposure amounts for counterparty risk for the same transactions, as referred to in Article 92(4), points (a) or (f), as applicable;';

(v) point (j) is replaced by the following:

'(j) For revolving exposures, M shall be determined using the maximum contractual termination date of the facility. Institutions shall not use the repayment date of the current drawing if this date is not the maximum ***contractual*** termination date of the facility.';

(c) paragraph 3 is amended as follows:

(i) in the first subparagraph, the introductory sentence is replaced by the following:

'Where the documentation requires daily re-margining and daily revaluation and includes provisions that allow for the prompt liquidation or set off of collateral in the event of default or failure to remargin, M shall be the weighted average remaining maturity of the transactions and M shall be at least one day:';

(ii) the second subparagraph is amended as follows:

– point (b) is replaced by the following:

'(b) self-liquidating short-term trade finance transactions connected to the exchange of goods or services, ▌ as referred to in Article 4(1), point (80) ***and corporate purchased receivables, provided that the respective exposures have a residual maturity of up to one year***;';

– the following point (e) is added:

'(e) issued as well as confirmed letters of credit that are short term, ***meaning they have*** a maturity below 1 year, and are self-liquidating.';

(d) paragraph 4 is replaced by the following:

'4. For exposures to corporates established in the Union which are not large corporates, institutions may choose to set for all such exposures M as set out in paragraph 1 instead of applying paragraph 2.';

(e) the following new paragraph 6 is added:

'6. For the purposes of expressing in years the minimum numbers of days referred to in paragraph 2, points (c) to (db), and paragraph 3, the minimum numbers of days shall be divided by 365,25.';

(76) Article 163 is amended as follows:

(a) paragraph 1 is replaced by the following:

'1. For the sole purposes of calculating risk weighted ***exposure amounts*** and expected ***loss*** amounts of those exposures, and in particular for the purposes of Article 154, Article 157 and Article 158, paragraphs 1, 5 and 10, the PD ***for each retail exposure that is*** used in the input of the risk weight and expected loss formulas shall not be less than ***the one-year PD associated with the internal borrower grade to which the retail exposure is assigned and*** the following:

(a) 0,1 % for QRRE revolvers;

(b) 0,05 % for retail exposures which are not QRRE revolvers.';

(b) paragraph 4 is replaced by the following:

'4. For an exposure covered by an unfunded credit protection, an institution using own LGD estimates under Article 143 for direct comparable exposures to the protection provider may recognise the unfunded credit protection in the PD in accordance with Article 183.';

(77) Article 164 is amended as follows:

(a) paragraphs 1 and 2 are replaced by the following:

'1. Institutions shall provide own estimates of LGDs subject to the requirements specified in Section 6 of this Chapter and to permission of the competent authorities granted in accordance with Article 143. For dilution risk of purchased receivables, an LGD value of 100 % shall be used. Where an institution can decompose its expected loss estimates for dilution risk of purchased receivables into PDs and LGDs in a reliable manner, the institution may use its own LGD estimate.

2. Institutions using own LGD estimates pursuant to Article 143 for direct comparable exposures to the protection provider may recognise the unfunded credit protection in the LGD in accordance with Article 183.';

(b) paragraph 3 is deleted;

(c) paragraph 4 is replaced by the following:

'4. For the sole purpose of calculating risk weighted ***exposure amounts*** and expected ***loss*** amounts for retail exposures, and in particular pursuant to Article 154(1), ***Article*** 157, Article 158, paragraphs 1 and 10, the LGD ***for each exposure*** used ***as an*** input of the risk weight and expected loss formulas shall not be less than the LGD input floor values laid down in Table 2aa and in accordance with paragraphs 4a and 4b:

Table 2aa

LGD input floors (LGD_{floor}) for retail exposures			
exposure without FCP ($LGD_{U\text{-}floor}$)		exposure secured with FCP ($LGD_{S\text{-}floor}$)	
Retail exposure secured by residential property	N/A	Retail exposure secured by residential property	5 %
QRRE	50 %	QRRE	N/A
Other retail exposure	30 %	Other retail exposure secured with	0 %

		financial collateral	
		Other retail exposure secured with receivables	10 %
		Other retail exposure secured with residential or commercial immovable property	10 %
		Other retail exposure secured with other physical collateral	15 %

’;

(d) the following paragraphs 4a and 4b are inserted:

‘4a. For the purposes of paragraph 4, the following shall apply:

(a) LGD input floors in paragraph 4, Table 2aa shall be applicable for exposures secured with FCP when the FCP is eligible pursuant to this Chapter;

(b) except for retail exposures secured by residential property, the LGD input floors in paragraph 4, Table 2aa shall be applicable to exposures fully secured with FCP where the value of the FCP, after the application of the relevant volatility adjustments in accordance with Article 230, is equal to or exceeds the value of the underlying exposure;

(c) except for retail exposures secured by residential property, the applicable LGD input floor for an exposure partially secured with FCP is calculated in accordance with the formula laid down in Article 161(5);

(d) for retail exposures secured by residential property, the applicable LGD input floor shall be fixed at 5 % irrespective of the level of collateral provided by the residential property.

For the purposes of point (b), the type of FCP "Other physical collateral" in Table 2aaa of Article 230 shall be understood as "Other physical and other eligible collateral".

4b. ***To the extent that*** an institution ▌ ***recognises*** ▌ FCP ***under the IRB Approach***, the institution ***may recognise*** the FCP ***in the calculation of the*** LGD ***input floor***

for secured exposures. Otherwise, the LGD ***input floor for unsecured exposures*** shall ***apply***.';

(78) Part Three, Title II, Chapter 3, Section 4, Sub-Section 3 is deleted.;

(79) Article 166 is amended as follows:

(a) paragraph 8 is replaced by the following:

'8. The exposure value of off-balance sheet items which are not contracts as listed in Annex II, shall be calculated by using either using IRB-CCF or SA-CCF, in accordance with paragraphs 8a and 8b and Article 151(8).

Where ***only*** the drawn balances of revolving facilities have been securitised, institutions shall ensure that they continue to hold the required amount of own funds against the undrawn balances associated with the securitisation.

An institution that ***has not received permission to*** use IRB-CCF ▌, shall calculate the exposure value as the committed but undrawn amount multiplied by the SA-CCF concerned.

An institution that ***uses*** IRB-CCF, shall calculate the exposure value for undrawn commitments as the undrawn amount multiplied by an IRB-CCF.';

(b) the following paragraphs 8a, 8b and 8c are inserted:

8a. For an exposure for which ***an institution has not received permission to use*** IRB-CCF▌, the applicable CCF shall be the SA-CCF as provided under Chapter 2 for the same types of items as laid down in Article 111. The amount to which the SA-CCF shall be applied shall be the lower of the value of the ***undrawn*** committed credit line, and the value that reflects any possible constraining of the availability of the facility, including the existence of an upper limit on the potential lending amount which is related to an obligor's reported cash flow. Where a facility is constrained in that way, the institution shall have sufficient line monitoring and management procedures to support the existence of that constraining.

8b. Subject to the permission of competent authorities, institutions that meet the requirements for the use of IRB-CCF as specified in Section 6 shall use IRB-CCF for exposures arising from undrawn revolving commitments treated under the IRB Approach provided that those exposures would not be subject to a SA-CCF of 100 % under the Standardised Approach. SA-CCF shall be used for:

(a) all other off-balance sheet items, in particular undrawn non-revolving commitments;

(b) exposures where the minimum requirements for calculating IRB-CCF as specified in Section 6 are not met by the institution or where the competent authority has not permitted the use of IRB-CCFs.

For the purposes of this Article, a commitment shall be deemed 'revolving' where it lets an obligor obtain a loan where the obligor has the flexibility to decide how often to withdraw from the loan and at what time intervals, allowing the obligor to drawdown, repay and re-draw loans advanced to it. Contractual arrangements that allow prepayments and subsequent redraws of those prepayments shall be considered as revolving.

8c. ***Where the IRB-CCF are used for*** the sole purposes of calculating ***risk-weighted exposure amounts*** and expected ***loss*** amounts of exposures arising from revolving commitments ***other than exposures assigned to the exposure class in accordance with Article 147(2), point (a)***, in particular pursuant to Article 153(1), Article 157, Article 158 paragraph 1, 5 and 10, the exposure value ***for each exposure*** used as input in the ***risk-weighted*** exposure amount and ***expected*** loss formulas shall not be less ***than*** the sum of:

(a) the drawn amount of the revolving commitment;

(b) 50 % of the off-balance exposure amount of the remaining undrawn part of the revolving commitment calculated using the applicable SA-CCF provided for in Article 111.

The sum of points (a) and (b) shall be referred to as the 'CCF input floor'.';

(c) paragraph 10 is deleted;

(80) Article 167 is deleted;

(81) in Article 169(3), the following subparagraph is added:

'EBA shall issue guidelines on how to apply in practice the requirements on model design, risk quantification, validation and application of risk parameters using continuous or very granular rating scales for each risk parameter. Those guidelines shall be adopted in accordance with Article 16 of Regulation (EU) No 1093/2010.';

(82) in Article 170(4), point (b) is replaced by the following:

'(b) transaction risk characteristics, including product and funded credit protection, recognised unfunded credit protection, loan to value measures, seasoning and seniority. Institutions shall explicitly address cases where several exposures benefit from the same ***funded or unfunded credit protection***;';

(83) in Article 171, the following paragraph 3 is added:

'3. ***Although the time horizon used in PD estimation is one year, institutions shall use a longer time horizon in assigning ratings. A borrower rating must represent the institution's assessment of the borrower's ability and willingness to contractually perform independently from the adverse economic conditions or the occurrence of unexpected events.*** Rating systems shall be designed in such a way that idiosyncratic or industry-specific changes are a driver of migrations from one grade to another. In addition, business cycles effects shall be taken into account as a driver for migrations of obligors and facilities from one grade or pool to another.';

(84) in Article 172, paragraph 1 is amended as follows:

(a) the introductory sentence is replaced by the following:

'For exposures to corporates, institutions and central governments and central banks, assignment of exposures shall be carried out in accordance with the following criteria:';

(b) point (d) is replaced by the following:

'(d) each separate legal entity to which the institution is exposed shall be separately rated;';

(c) the following subparagraph is added:

'For the purposes of point (d), an institution shall have appropriate policies for the treatment of individual obligor clients and groups of connected clients. Those policies shall contain a process for the identification of specific wrong way risk for each legal entity to which the institution is exposed. ***For the purposes of Chapter 6, transactions*** with counterparties where specific wrong way risk has been identified shall be treated differently when calculating their exposure value ***For the purposes of Chapter 3, transactions with counterparties where specific wrong way risk has been identified shall be treated differently when calculating their loss given default.***';

(85) Article 173 is amended as follows:

(a) in paragraph 1, the introductory sentence is replaced by the following:

'For exposures to corporates, institutions and central governments and central banks, assignment process shall meet the following requirements:';

(b) paragraph 3 is replaced by the following:

'3. EBA shall develop draft regulatory technical standards setting out the methodologies of the competent authorities to assess the integrity of the assignment process and the regular and independent assessment of risks.

EBA shall submit those draft regulatory technical standards to the Commission by 31 December 2025.

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.';

(86) Article 174 is amended as follows:

(a) the introductory sentence is replaced by the following:

'***If an institution uses*** statistical ***or*** other mathematical methods ('models') to assign exposures to obligors or ***facility*** grades or pools, ▌the following requirements shall be met:';

(b) point (a) is replaced by the following:

'(a) the model shall have good predictive power and capital requirements shall not be distorted as a result of its use;';

(c) the following subparagraph is added:

'For the purposes of point (a), the input variables shall form a reasonable and effective basis for the resulting predictions. The model shall not have material biases. There shall be a functional link between the inputs and the outputs of the model, which may be determined through expert judgement where appropriate.';

(87) Article 176 is amended as follows:

(a) in paragraph 2, the introductory sentence is replaced by the following:

'For exposures to corporates, institutions and central governments and central banks, institutions shall collect and store:';

(b) paragraph 3 is replaced by the following:

'3. For exposures for which this Chapter allows the ***use*** of own estimates of LGDs or ***the use of*** IRB-CCFs but for which institutions do not use own estimates of LGDs or IRB-CCFs, institutions shall collect and store data on comparisons between realised LGDs and the values as set out in Article 161(1), and between realised CCFs and SA-CCFs as set out in Article 166(8a).';

(88) Article 177 ***is amended as follows:***

(a) the following paragraph is inserted:

'2a. The scenarios used under paragraph 2 must also include ESG risk factors, in particular physical and transition risks stemming from climate change.

EBA shall issue guidelines on the application of paragraph 2a of this Article. Those guidelines shall be adopted in accordance with Article 16 of Regulation (EU) No 1093/2010.';

(b) paragraph 3 is deleted.

(89) Article 178 is amended as follows:

(a) the title is replaced by the following:

'Default of an obligor or facility'

(b) in paragraph 1, point (b) is replaced by the following:

'(b) the obligor is more than 90 days past due on any material credit obligation to the institution, the parent undertaking or any of its subsidiaries.';

(c) in paragraph 3, point (d) is replaced by the following:

'(d) the institution consents to a distressed restructuring of the credit obligation where such restructuring is likely to result in a diminished financial obligation due to the material forgiveness, or postponement, of principal, interest or, where relevant, fees. A distressed restructuring shall be considered to have occurred when forbearance measures as referred to in Article 47b have been extended toward the obligor;';

(ca) paragraph 7 is replaced by the following:

'7. By 30 June 2024 EBA shall issue updated guidelines on the application of this Article and, in particular, what constitutes a material 'diminished financial obligation' in case of distressed restructuring for the purposes of point (d) of paragraph 3. Those guidelines shall be adopted in accordance with Article 16 of Regulation (EU) No 1093/2010.';

(90) Article 180 is amended as follows:

(a) paragraph 1 is amended as follows:

(i) the introductory sentence is replaced by the following:

'In quantifying the risk parameters to be associated with rating grades or pools, institutions shall apply the following requirements specific to PD

estimation to exposures to corporates, institutions and central governments and central banks:';

(ii) point (h) is replaced by the following:

'(h) irrespective of whether an institution is using external, internal, or pooled data sources, or a combination of the three, for its PD estimation, the length of the underlying historical observation period used shall be at least five years for at least one source.';

(iii) the following point (i) is added:

'(i) irrespective of the method used to estimate PD, institutions shall estimate a PD for each rating grade based on the observed historical average one-year default rate that is a simple average based on number of obligors (count weighted) and other approaches, including exposure-weighted averages, shall not be permitted.';

(iv) the following subparagraph is added:

'For the purposes of point (h), where the available observation period spans a longer period for any source, and this data is relevant, this longer period shall be used. The data shall ***be a*** representative mix of good and bad years relevant for the type of exposures. Subject to the permission of competent authorities, institutions which have not received the permission of the competent authority pursuant to Article 143 to use own estimates of LGDs or ***to use IRB-CCF,*** may use, when they implement the IRB Approach, relevant data covering a period of two years. The period to be covered shall increase by one year each year until relevant data cover a period of five years.';

(b) paragraph 2 is amended as follows:

(i) point (a) is replaced by the following:

'(a) institutions shall estimate PDs by obligor or facility grade or pool from long run averages of one-year default rates, and default rates shall be calculated at facility level only where the definition of default is applied at individual credit facility level pursuant to Article 178(1), second subparagraph;'

(ii) point (e) is replaced by the following:

'(e) irrespective of whether an institution is using external, internal or pooled data sources, or a combination of the three, for its PD estimation, the length of the underlying historical observation period used shall be at least five years for at least one source.';

(iii) the following subparagraph is added:

'For the purposes of point (e), where the available observation spans a longer period for any source, and where those data are relevant, such longer period shall be used. The data shall ***be a*** representative mix of good and bad years of the economic cycle relevant for the type of exposures. The PD***, for each rating grade,*** shall be based on the observed historical average one-year default rate ***that is a simple average based on the***

number of obligors (count weighted), or based on the number of facilities only where the definition of default is applied at individual credit facility level pursuant to Article 178(1), second subparagraph, and other approaches, including exposure-weighted averages, shall not be permitted. Subject to the permission of the competent authorities, institutions may use, when they implement the IRB Approach, relevant data covering a period of two years. The period to be covered shall increase by one year each year until relevant data cover a period of five years.';

(c) paragraph 3 is replaced by the following:

'EBA shall develop draft regulatory technical standards to specify the methodologies in accordance with which competent authorities shall assess the methodology of an institution for estimating PD pursuant to Article 143.

EBA shall submit those draft regulatory technical standards to the Commission by 31 December 2025.

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.';

(91) Article 181 is amended as follows:

(a) paragraph 1 is amended as follows:

(i) points (c) to (g) are replaced by the following:

'(c) an institution shall consider the extent of any dependence between, on the one hand, the risk of the obligor and, on the other hand, that of funded credit protection, other than master netting agreements and on-balance sheet netting of loans and deposits, or its provider.;

(d) currency mismatches between the underlying obligation and the funded credit protection other than master netting agreements and on-balance sheet netting of loans and deposits shall be treated conservatively in the institution's assessment of LGD;'

(e) to the extent that LGD estimates take into account the existence of funded credit protection other than master netting agreements and on-balance sheet netting of loans and deposits, those estimates shall not solely be based on the estimated market value of the funded credit protection.;

(f) to the extent that LGD estimates take into account the existence of funded credit protection other than master netting agreements and on-balance sheet netting of loans and deposits, institutions shall establish internal requirements for the management, legal certainty and risk management of that funded credit protection, and those requirements shall be generally consistent with those set out in Chapter 4, Section 3;

(g) to the extent that an institution recognises funded credit protection other than master netting agreements and on-balance sheet netting of loans and deposits for determining the exposure value for counterparty credit risk in accordance with Chapter 6, Section 5 or 6, any amount expected to

be recovered from this funded credit protection shall not be taken into account in the LGD estimates;';

(ii) point (i) is replaced by the following:

'(i) to the extent that fees for late payments, imposed on the obligor before the time of default, have been capitalised in the institution's income statement, they shall be added to the institution's measure of exposure and loss;';

▌

(iv) the following subparagraphs are added:

'For the purposes of point (a), institutions shall adequately take into account recoveries realised in the course of the relevant recovery processes from any form of FCP as well as from UFCP not falling under the definition of Article 142, point (10).

For the purposes of point (c), cases where there is a significant degree of dependence shall be addressed in a conservative manner.

For the purposes of point (e), LGD estimates shall take into account the effect of the potential inability of institutions to expeditiously gain control of their collateral and liquidate it.';

(b) paragraph 2 is amended as follows:

(i) in the first subparagraph, point (b) is ***replaced by the following*****:**

'(b) reflect future drawings either in their conversion factors or in their LGD estimates. In case institutions include future additional drawings in their conversion factors, these should be taken into account in the LGD in both numerator and denominator. In case institutions do not include future additional drawings in their conversion factors, these should be taken into account in the LGD numerator only;';

(ii) the second subparagraph is replaced by the following:

'For retail exposures, estimates of LGD shall be based on data over a minimum of five years. Subject to the permission of the competent authorities, institutions may use, when they implement the IRB Approach, relevant data covering a period of two years. The period to be covered shall be increased by one year each year until the data concerned cover a period of five years.';

(c) the following ***paragraphs*** added:

'4. EBA shall, in accordance with Article 16 of Regulation (EU) No 1093/2010, issue guidelines to clarify the treatment of any form of funded and unfunded credit protection for the purposes of paragraph 1, point (a), and for the purposes of the application of the LGD parameters;

4a. For the purpose of calculating loss in accordance with point 2 of Article 5 with regard to cases that return to non-default status, the EBA shall issue updated guidelines until 31 December 2025, in accordance with Article 16 of Regulation (EU) No 1093/2010, specifying how artificial cash flow should be

treated and consider the possibility of institutions only discounting the artificial cash flow over the actual period of default.';

(92) Article 182 is amended as follows:

(a) ▌ paragraph 1 is amended as follows:

(i) point (c) is replaced by the following:

'(c) institutions' IRB-CCF shall reflect the possibility of additional drawings by the obligor up to ***and after*** the time a default event is triggered▌ ;';

(ii) the following points (g) and (h) are added:

'(g) institutions' IRB-CCF shall be ***estimated*** using a 12-month fixed-horizon approach▌ ;

(h) institutions' IRB-CCF shall be based on reference data that reflect the obligor, facility and bank management practice characteristics of the exposures to which the estimates are applied.

(iii) the following subparagraphs are added:

'For the purposes of point (c), the IRB-CCF shall incorporate a larger margin of conservatism where a stronger positive correlation can reasonably be expected between the default frequency and the magnitude of the conversion factor.

For the purposes of point (g), ▌ each ▌ default▌ shall be linked to relevant obligor and facility characteristics at ***the*** fixed reference date ***defined*** as 12 months prior to ***the date of*** default▌ .

For the purposes of point (h), IRB-CCF applied to particular exposures shall not be based on data that comingle the effects of disparate characteristics or data from exposures that exhibit ***materially*** different risk characteristics. IRB-CCF shall be based on appropriately homogenous segments. For that purpose, the following practices shall not be allowed ***or would request a detailed scrutiny and justification***:

(a) SME/mid-market underlying data being applied to ***large*** corporate obligors;

(b) data from commitments with 'small' unused limit availability being applied to facilities with 'large' unused limit availability;

(c) data from delinquent obligors or blocked for further drawdowns at reference date being applied to obligors with no known delinquency or relevant restrictions;

(d) data that have been affected by changes in the obligors' mix of borrowing and other credit-related products over the observation period unless those data have been effectively ***adjusted*** by removing the effects of the changes in the product mix.

For the purposes of the fourth subparagraph, point (d), institutions shall demonstrate to the competent authorities that they have a detailed understanding of the impact of changes in customer product mix on the exposures reference data sets and associated CCF estimates, and that the impact is immaterial or has been effectively mitigated within their estimation process. In that regard, the following shall not be deemed appropriate:

(a) setting floors ***or caps to realised*** CCF or ***realised*** exposure values ▌

(b) the use of obligor-level estimates that do not fully cover the relevant product transformation options or inappropriately combine products with very different characteristics,

(c) adjusting only material observations affected by product transformation,

(d) excluding observations affected by product profile transformation.';

(aa) the following paragraphs are inserted:

'1a. Institutions shall ensure that their CCF estimates are effectively quarantined from the potential effects of region of instability caused by a facility being close to being fully drawn at reference date.

1b. Reference data must not be capped at the principal amount outstanding of a facility or the available facility limit. Accrued interest, other due payments and drawings in excess of facility limits must be included in the reference data.';

▌

(c) the following paragraph 5 is added:

'5. EBA shall, in accordance with Article 16 of Regulation (EU) No 1093/2010, issue guidelines to specify the methodology institutions shall apply to estimate IRB-CCF.

EBA shall submit those draft regulatory technical standards to the Commission by 31 December 2026.

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.';

(93) Article 183 is amended as follows

(a) the title is replaced by the following:

'**Requirements for assessing the effect of unfunded credit protection for exposures to corporates, central governments and central banks where own estimates of LGD are used and for retail exposures***';*

(b) paragraph 1 is amended as follows:

(i) point (c) is replaced by the following:

‘(c) the guarantee shall be evidenced in writing, non-cancellable and non-changeable on the part of the guarantor, in force until the obligation is satisfied in full, to the extent of the amount and tenor of the guarantee, and legally enforceable against the guarantor in a jurisdiction where the guarantor has assets to attach and enforce a judgement;

(ii) the following points (d) and (e) are added:

‘(d) the guarantee shall be unconditional.

(e) first-to-default credit derivatives may be recognised as eligible unfunded credit protection, but second-to-default or more generally nth-to-default credit derivatives shall not be recognised as eligible unfunded credit protection.’;

(iii) the following subparagraph is added:

[redacted]

‘Guarantees where the payment by the guarantor is subject to the lending institution first having to pursue the obligor and that only cover losses remaining after the institutions has completed the workout process shall be considered as unconditional.’;

(c) the following paragraph 1a is added:

‘1a. Institutions may recognise unfunded credit protection by using either the PD/LGD modelling approach, in accordance with this Article and subject to the requirement set out in paragraph 4, or the substitution of risk parameters approach under A-IRB as referred to in Article 236a and subject to the eligibility requirements of Chapter 4. Institutions should have clear policies for assessing the effects of unfunded credit protection on risk parameters. The policies of the institutions shall be consistent with their internal risk management practices and shall reflect the requirements of this Article. Those policies shall clearly specify which of the specific methods described in this subparagraph are used for each rating system, and institutions shall apply those policies consistently over time.’;

(d) paragraph 4 is replaced by the following:

‘4. Where institutions recognise unfunded credit protection by the PD/LGD modelling approach, ***they should reflect the risk-reducing effect of the unfunded credit protection for a given type of exposures through an adjustment of either the PD or the LGD estimate and*** the covered portion of the underlying exposure shall not be assigned a risk weight which would be lower than the protection-provider-RW-floor. For that purpose, the protection-provider-RW-floor shall be calculated using the same PD, the same LGD and the same risk weight function as the ones used applicable to comparable direct exposure to the protection provider as referred to in Article 236a.’;

(e) paragraph 6 is deleted;

(94) in Part Three, Title II, Chapter 3, Section 6, Sub-Section 4 is deleted;

(95) in Article 192, the following points (5) to (8) are added:

‘(5) ‘substitution of risk weight approach under SA’ means the substitution, [redacted], of the risk weight of the underlying exposure with the risk weight applicable under the

Standardised Approach to a comparable direct exposure to the protection provider ***in accordance with Article 235, when the guaranteed exposure is treated under the Standardised Approach and comparable direct exposures to the protection provider are treated under the Standardised Approach or IRB Approach***;

(6) 'substitution of risk weight approach under IRB' means the substitution, of the risk weight of the underlying exposure with the risk weight applicable under the Standardised Approach to a comparable direct exposure to the protection provider ***in accordance with Article 235a, when the guaranteed exposure is treated under the IRB Approach and comparable direct exposures to the protection provider are treated under the Standardised Approach;***

(7) 'substitution of risk parameters approach under F-IRB' means the substitution, in accordance with Article 236, of both the PD and LGD risk parameters of the underlying exposure with the corresponding PD and LGD that would be assigned under the IRB approach without using own LGD estimates to a comparable direct exposures to the protection provider;

(8) 'substitution of risk parameters approach under A-IRB' means the substitution, in accordance with Article 236a, of both the PD and LGD risk parameters of the underlying exposure with the corresponding PD and LGD that would be assigned under the IRB approach using own LGD estimates to a comparable direct exposure to the protection provider.';

(96) in Article 193, ***paragraphs*** 7 ***and 7a are*** added:

'7. Collateral that satisfies all eligibility requirements set out in this Chapter can be recognised as such even for exposures associated with undrawn facilities. Where drawing under the facility is conditional on the prior or simultaneous purchase or reception of collateral to the extent of the institution's interest in the collateral once the facility is drawn, such that the institution does not have any interest in the collateral to the extent the facility is not drawn, such collateral can be recognised for the exposure arising from the undrawn facility.

7a. Where institutions calculate risk-weighted exposure amounts under the Standardised Approach or institutions calculate risk-weighted exposure amounts and expected loss amounts under the IRB Approach in accordance with the provisions laid down in this Chapter, they should factor in the ESG risks, to which the collateral is subject.

The EBA shall, in accordance with Article 16 of Regulation (EU) No 1093/2010, issue guidelines on what constitutes the materialisation of climate physical risk and how this risk should be reflected in institutions' calculations of the risk-weighted amount of the exposure.';

(97) in Article 194, paragraph 10 is deleted;

(98) in Article 197, paragraph 1 is amended as follows:

(a) points (b) to (e) are replaced by the following:

'(b) debt securities satisfying all of the following conditions:

(i) the debt securities are issued by central governments or central banks;

(ii) the debt securities have a credit assessment carried out by an ECAI or export credit agency that ***satisfied all of the following conditions***:

– ***the ECAI or export credit agency*** has been recognised as being eligible for the purposes of Chapter 2;

– ***the credit assessment*** has been determined by EBA to be associated with credit quality step 1, 2, 3 or 4 under the rules for the risk weighting of exposures to central governments and central banks under Chapter 2;

(c) debt securities satisfying all of the following conditions:

(i) those debt securities are issued by institutions;

(ii) those debt securities have a credit assessment carried out by an ECAI that ***satisfy all of the following conditions***:

– ***the ECAI*** has been recognised as being eligible for the purposes of Chapter 2;

– ***the credit assessment*** has been determined by EBA to be associated with credit quality step 1, 2 or 3 under the rules for the risk weighting of exposures to ***institutions*** under Chapter 2;

(d) debt securities satisfying all of the following conditions:

(i) those debt securities are issued by other entities;

(ii) those debt securities have a credit assessment carried out by an ECAI that satisfies all of the following conditions:

– the ECAI has been recognised as being eligible for the purposes of Chapter 2;

– the ***credit assessment*** has been determined by EBA to be associated with credit quality step 1, 2 or 3 under the rules for the risk weighting of exposures to ***corporates*** under Chapter 2;

(e) debt securities having a short-term credit assessment carried out by an ECAI that satisfies all of the following conditions:

(i) the ECAI has been recognised as being eligible for the purposes of Chapter 2; and

(ii) the ***credit assessment*** has been determined by EBA to be associated with credit quality step 1, 2 or 3 under the rules for the risk weighting of short-term exposures under Chapter 2;';

(b) point (g) is replaced by the following:

'(g) gold bullion;';

(98a) in Article 197(6), subparagraph 1 is replaced by the following:

'For the purposes of paragraph 5, where a CIU ('the original CIU') or any of its underlying CIUs are not limited to investing in instruments that are eligible under paragraphs 1 and 4:

- where the institutions can apply the look-through approach, they may use units or shares in that CIU as collateral up to the amount equal to the value of the instruments held by the CIU, that are eligible under paragraphs 1 and 4;

- where institutions can apply the mandate-based approach, they may use units or shares in that CIU as collateral up to an amount equal to the value of the instruments held by that CIU that are eligible under paragraphs 1 and 4 under the assumption that that CIU or any of its underlying CIUs have invested in non-eligible instruments to the maximum extent allowed under their respective mandates.';

(98b) in Article 198, paragraph 2 is replaced by the following:

'2. Where the CIU or any underlying CIU are not limited to investing in instruments that are eligible for recognition under Article 197(1) and (4) and the items referred to in point (a) of paragraph 1 of this Article,

- ***where institutions can apply the look-through approach, they may use units or shares in that CIU as collateral up to the amount equal to the value of the instruments held by the CIU, that are eligible under paragraphs 1 and 4 of Article 197 and the items referred to in point (a) of paragraph 1 of this Article;***
- ***where institutions can apply the mandate-based approach, they may use units or shares in that CIU as collateral up to an amount equal to the value of the instruments held by that CIU that are eligible under paragraphs 1 and 4 of Article 197 and the items referred to in point (a) of this Article under the assumption that that CIU or any of its underlying CIUs have invested in non-eligible instruments to the maximum extent allowed under their respective mandates.***

Where non-eligible instruments can have a negative value due to liabilities or contingent liabilities resulting from ownership, institutions shall do both of the following:

(a) calculate the total value of the non-eligible instruments;

(b) where the amount obtained under point (a) is negative, subtract the absolute value of that amount from the total value of the eligible instruments.';

(99) Article 199 is amended as follows:

(a) paragraph 2 is replaced by the following:

'2. Unless otherwise specified under Article 124(7), institutions may use as eligible collateral residential property which is or will be occupied or let by the owner, or the beneficial owner in the case of personal investment companies, and commercial immovable property, including offices and other commercial premises, where both of the following conditions are met:

(a) the value of the property does not materially depend upon the credit quality of the obligor;

(b) the risk of the borrower does not materially depend upon the performance of the underlying property or project, but on the underlying capacity of the borrower to repay the debt from other sources, and as a consequence the repayment of the facility does not materially depend on any cash flow generated by the underlying property serving as collateral.

For the purposes of point (a), institutions may exclude situations where purely macro-economic factors affect both the value of the property and the performance of the borrower. ';

(b) in paragraph 3, point (a) is replaced by the following:

'(a) losses stemming from loans collateralised by residential property up to 55 % of the value determined in accordance with Article 229, unless otherwise provided under Article 124(7), do not exceed 0,3 % of the outstanding loans collateralised by residential property in any given year;';

(c) in paragraph 4, point (a) is replaced by the following:

'(a) losses stemming from loans collateralised by commercial property up to 55 % of the value determined in accordance with Article 229, unless otherwise provided under Article 124(7), do not exceed 0,3 % of the outstanding loans collateralised by commercial property in any given year;';

(d) in paragraph 5, the following subparagraph is added:

'Where a public development credit institution as defined in Article 429a(2) issues a promotional loan as defined in Article 429a(3) to another institution, or to a financial institution that is authorised to perform activities as referred to in points 2 or 3 of Annex I to Directive 2013/36/EU and that meets the conditions pursuant to Article 119(5) of this Regulation, and where that other institution or financial institution passes through directly or indirectly that promotional loan to an ultimate obligor and cedes the receivable from the promotional loan as collateral to the public development credit institution, the public development credit institution may use the ceded receivable as eligible collateral, regardless of the original maturity of the ceded receivable.';

(e) in paragraph 6, in the first subparagraph, point (d) is replaced by the following:

'(d) the institution demonstrates that in at least 90 % of all liquidations for a given type of collateral the realised proceeds from the collateral are not below 70 % of the collateral value. Where there is material volatility in the market prices, the institution demonstrates to the satisfaction of the competent authorities that its valuation of the collateral is sufficiently conservative.';

(100) Article 201 is amended as follows:

(a) paragraph 1 is amended as follows:

(i) point (d) is replaced by the following:

' (d) international organisations to which a 0 % risk weight is assigned in accordance with in Article 118;';

(ii) the following point (fa) is inserted:

'(fa) regulated financial sector entities;';

(iii) point (g) is replaced by the following:

‘(g) where the credit protection is not provided to a securitisation exposure, other undertakings, that have a credit assessment by ***a nominated*** ECAI, including parent undertakings, subsidiaries or affiliated entities of the obligor where ***a direct exposure to*** those parent undertakings, subsidiaries or affiliated entities ***has*** a lower risk weight than ***the exposure to*** the obligor;’;

(iv) the following point (ga) is inserted:

‘(ga) where the credit protection is provided to a securitisation exposure, other undertakings, that have a credit assessment by ***a nominated*** ECAI of credit quality step 1, 2 or 3 and that had a credit assessment of credit quality step 1 or 2 at the time the credit protection was provided, including parent undertakings, subsidiaries and affiliated entities of the obligor where ***a direct exposure to*** those parent undertakings, subsidiaries or affiliated entities ***has*** a lower risk weight than that of the ***securitisation exposure***;’;

(v) the following subparagraph is added:

‘For the purposes of point (fa), ‘regulated financial sector entity’ means a financial sector entity meeting the condition laid down in Article 142(1), point (4)(b).’;

(b) paragraph 2 is replaced by the following:

‘2. In addition to the protection providers listed in paragraph 1, corporate entities that are internally rated by the institution in accordance with Chapter 3, Section 6, shall be eligible protection providers of unfunded credit protection where the institution ***uses the IRB approach for exposures to*** those corporate entities.’;

(101) Article 202 is deleted;

(102) in Article 204, the following paragraph 3 is added:

‘3. First-to-default and all other nth-to-default credit derivatives shall not be eligible forms of unfunded credit protection under this Chapter.

[redacted] ’;

(103) Article 208 is amended as follows:

(a) paragraph 3 is amended as follows:

(i) in point (b), the following sentences are added:

‘***In the case of a revaluation beyond the value at the time the loan was granted the*** value of the property shall not exceed the average value measured for that property or for a comparable property over the last ***four*** years in case of commercial immovable property, and over the last ***eight*** years in case of residential property. ***The value of the property can exceed this value in case modifications are*** made to the property that ***unequivocally increase its value, such as improvements of*** the energy ***performance or improvements to the resilience, protection and adaptation to physical risks*** of the building or housing unit[redacted] .’;

(ii) the second subparagraph is deleted;

(b) the following paragraph 3a is inserted:

'3a. In accordance with paragraph 3 , institutions may carry out the ***monitoring*** of the property value ***and the identification of immovable property in need of revaluation*** by means of advanced statistical or other mathematical methods ('models'), developed independently from the credit decision process ***and*** subject to the fulfilment of the following conditions:

(a) the institutions set out, in their policies and procedures, the criteria for using models to monitor the values of collateral ***and to identify the properties that should be revaluated***. Those policies and procedures shall account for such models' proven track record, property-specific variables considered, the use of minimum available and accurate information, and the models' uncertainty;

(b) the institutions ensure that the models used are:

(i) property and location specific at a sufficient level of granularity;

(ii) valid and accurate, and subject to robust and regular back-testing against the actual observed transaction prices;

(iii) based on a sufficiently large and representative sample, based on observed transaction prices;

(iv) based on up-to-date data of high quality;

(c) the institutions are ultimately responsible for the appropriateness and performance of the models, the valuer referred to in paragraph 3, point (b), is responsible for the valuation ***of immovable property for which the need for revaluation has been identified*** that is made using the models and the institutions understand the methodology, input data and assumptions of the models used;

(d) the institutions ensure that the documentation of the models is up to date;

(e) the institutions have in place adequate IT processes, systems and capabilities and have sufficient and accurate data for any model-based ***monitoring of the value of immovable property collateral and identification of properties in need of*** revaluation ;

(f) the estimates of models are independently validated and the validation process is generally consistent with the principles set out in Article 185, ***where applicable*** and the independent valuer referred to in paragraph 3, point (b) is responsible for the final values used by the institution for the purposes of this Chapter.';

(ba) the following paragraph 3b is inserted:

'3b. The valuation criteria set out in Article 229(1) shall be taken into account for the purpose of monitoring and revaluation of the property value as set out in this Article.';

(c) paragraph 5 is replaced by the following:

‘5. The immovable property taken as credit protection shall be adequately insured against the risk of damage and institutions shall have in place procedures to monitor the adequacy of the insurance.’;

(104) Article 210 ***is amended as follows:***

(a) in paragraph 1, the following subparagraph is added:

‘Where general security agreements, or other forms of floating charge, provide the lending institution with a registered claim over a company’s assets and where that claim contains both assets that are not eligible as collateral under the IRB Approach and assets that are eligible as collateral under the IRB Approach, the institution may recognise those latter assets as eligible funded credit protection. In that case, that recognition shall be conditional on those assets meeting the requirements for eligibility of collateral under the IRB Approach as set out in this Chapter.’;

(b) the following paragraph is added:

‘2. For physical collateral, obsolescence of collateral shall also include ESG-related valuation considerations related to prohibitions or limitations imposed by the relevant Member States and Union legal and regulatory objectives and legislation, as well as, where relevant for internationally active institutions, third country objectives and regulations.’;

(105) in Article 213, paragraph 1 is replaced by the following:

‘1. Subject to Article 214(1), credit protection deriving from a guarantee or credit derivative shall qualify as eligible unfunded credit protection where all of the following conditions are met:

(a) the credit protection is direct;

(b) the extent of the credit protection is clearly set out and incontrovertible;

(c) the credit protection contract does not contain any clause, the fulfilment of which is outside the direct control of the lending institution, that:

(i) would allow the protection provider to cancel or change the credit protection unilaterally;

(ii) would increase the effective cost of the credit protection as a result of a deterioration in the credit quality of the protected exposure;

(iii) could prevent the protection provider from being obliged to pay out in a timely manner in the event that the original obligor fails to make any payments due, or where the leasing contract has expired for the purposes of recognising guaranteed residual value under Articles 134(7) and 166(4);

(iv) could allow the maturity of the credit protection to be reduced by the protection provider;

(d) the credit protection contract is legally effective and enforceable in all jurisdictions which are relevant at the time of the conclusion of the credit agreement.

For the purposes of point (c), a clause in the credit protection contract providing that faulty due diligence or fraud by the lending institution ***or by the debtor*** cancels or

diminishes the extent of the credit protection offered by the guarantor, shall not disqualify that credit protection from being eligible.

▌

For the purposes of point (c), the protection provider may make one lump sum payment of all monies due under the claim, or may assume the future payment obligations of the obligor covered by the credit protection contract.';

(106) Article 215 is amended as follows:

(a) paragraph 1 is amended as follows:

(i) point (a) is replaced by the following:

'(a) on the qualifying default of or non-payment by the obligor, the lending institution has the right to pursue, in a timely manner, the guarantor for any monies due under the claim in respect of which the protection is provided.';

(ii) the following subparagraphs are added:

'The payment by the guarantor shall not be subject to the lending institution first having to pursue the obligor.

In the case of unfunded credit protection covering residential mortgage loans, the requirements in Article 213(1), point (c)(iii), and in the first subparagraph of this point, shall only have to be satisfied within 24 months.';

(b) paragraph 2 is replaced by the following:

'2. In the case of guarantees provided in the context of mutual guarantee schemes or provided by or counter-guaranteed by entities as listed in Article 214(2), the requirements in paragraph 1, point (a), of this Article and in Article 213(1), point (c)(iii) shall be considered to be satisfied where either of the following conditions is met:

(a) pursuant to the default of the obligor or to the event that the original obligor fails to make any payments due, the lending institution has the right to obtain in a timely manner a provisional payment by the guarantor that meets both the following conditions:

(i) the provisional payment represents a robust estimate of the amount of the loss that the lending institution is likely to incur, including losses resulting from the non-payment of interest and other types of payment which the borrower is obliged to make;

(ii) the provisional payment is proportional to the coverage of the guarantee;

(b) the lending institution can demonstrate to the satisfaction of the competent authorities that the effects of the guarantee, which shall also cover losses resulting from the non-payment of interest and other types of payments which the borrower is obliged to make, justify such treatment.';

(107) in Article 216, the following paragraph 3 is added:

‘3. By way of derogation from paragraph 1, for a corporate exposure covered by a credit derivative, the credit event referred to in point (a)(iii) of that paragraph shall not need to be specified in the derivative contract provided that all of the following conditions are met:

(a) a 100 % vote is needed to amend the maturity, principal, coupon, currency or seniority status of the underlying corporate exposure;

(b) the legal domicile in which the corporate exposure is governed has a well-established bankruptcy code that allows for a company to reorganise and restructure, and provides for an orderly settlement of creditor claims.

Where the conditions laid down in point (a) and (b) are not met, the credit protection may nonetheless be eligible subject to a reduction in the value as specified in Article 233(2).’;

(108) Article 217 is deleted;

(109) Article 219 is replaced by the following:

‘Article 219
On-balance sheet netting

Loans to and deposits with the lending institution subject to on-balance sheet netting shall be treated by that institution as cash collateral for the purposes of calculating the effect of funded credit protection for those loans and deposits of the lending institution subject to on-balance sheet netting.’;

(110) Article 220 is amended as follows:

(a) the title is replaced by the following:

*‘***Using the Supervisory Volatility Adjustments Approach for master netting agreements***’;*

(b) paragraph 1 is replaced by the following:

‘1. Institutions that calculate the ‘fully adjusted exposure value’ (E*) for the exposures subject to an eligible master netting agreement covering securities financing transactions or other capital market-driven transactions shall calculate the volatility adjustments that they need to apply by using the Supervisory Volatility Adjustments Approach set out in Articles 223 to 227 for the Financial Collateral Comprehensive Method.’;

(c) in paragraph 2, point (c) is replaced by the following:

‘(c) apply the value of the volatility adjustment, or, where relevant, the absolute value volatility adjustment appropriate for a given group of securities or for a given type of commodities, to the absolute value of the positive or negative net position in the securities in that group of securities, or to the commodities from that type of commodities;’;

(d) paragraph 3 is replaced by the following:

‘3. Institutions shall calculate E* in accordance with the following formula:

$$E^{*} = \max\left(0; \sum_{i} E_i - \sum_{j} C_j + 0{,}4 \cdot E_{\text{net}} + 0{,}6 \cdot \frac{E_{\text{gross}}}{\sqrt{N}} + \sum_{k} \left|E_k^{\text{fx}}\right| \cdot H_k^{\text{fx}}\right)$$

where:

i = the index that denotes all separate securities, commodities or cash positions under the agreement, that are either lent, sold with an agreement to repurchase, or posted by the institution to the counterparty;

j = the index that denotes all separate securities, commodities or cash positions under the agreement that are either borrowed, purchased with an agreement to resell, or held by the institution;

k = the index that denotes all separate currencies in which any securities, commodities or cash positions under the agreement are denominated;

E_i = the exposure value of a given security commodity or cash position i, that is either lent, sold with an agreement to repurchase, or posted to the counterparty under the agreement that would apply in the absence of credit protection, where institutions calculate the risk weighted exposure amounts in accordance with Chapter 2 or Chapter 3, as applicable;

C_j = the value of a given security, commodity or cash position j that is either borrowed, purchased with an agreement to resell, or held by the institution under the agreement;

E_k^{fx} = the net position (positive or negative) in a given currency k other than the settlement currency of the agreement as calculated in accordance with paragraph 2, point (b);

H_k^{fx} = the foreign exchange volatility adjustment for currency k;

E_{net} = the net exposure of the agreement, calculated as follows:

$$E_{\text{net}} = \left|\sum_{l=1}^{N} \left|E_l^{\text{sec}}\right| \cdot H_l^{\text{sec}}\right|$$

where:

l = the index that denotes all distinct groups of the same securities and all distinct types of the same commodities under the agreement;

E_l^{sec} = the net position (positive or negative) in a given group of securities l, or a given type of commodities l, under the agreement, calculated in accordance with paragraph 2, point (a);

H_l^{sec} = the volatility adjustment appropriate to a given group of securities l, or a given type of commodities l, determined in accordance with paragraph 2, point (c). The sign of H_l^{sec} shall be determined as follows:

(a) it shall have a positive sign where the group of securities l is lent, sold with an agreement to repurchase, or transacted in a manner similar to either securities lending or a repurchase agreement;

(b) it shall have a negative sign where group of securities l is borrowed, purchased with an agreement to resell, or transacted in a manner similar to either a securities borrowing or reverse repurchase agreement;

N = the total number of distinct groups of the same securities and distinct types of the same commodities under the agreement; for the purposes of this calculation, those groups and types $E_l^{\text{sec}}$for which $\left|E_l^{\text{sec}}\right|$ is less than $\frac{1}{10}$ $\max_l$ $(\left|E_l^{\text{sec}}\right|)$ shall not be counted;

E_{gross} = the gross exposure of the agreement, calculated as follows:

$$E_{\text{gross}} = \sum_{l=1}^{N} \left|E_l^{\text{sec}}\right| \cdot \left|H_l^{\text{sec}}\right|.$$';

(111) Article 221 is amended as follows:

(a) paragraphs 1, 2 and 3 are replaced by the following:

'1. For the purposes of calculating risk-weighted exposure amounts and expected loss amounts for securities financing transactions or other capital market-driven transactions other than derivative transactions covered by an eligible master netting agreement that meets the requirements set out in Chapter 6, Section 7, an institution may calculate the fully adjusted exposure value (E*) of the agreement using the internal models approach, provided that the institution meets the conditions set out in paragraph 2.';

2. An institution may use the internal models approach where all of the following conditions are met:

(a) the institution uses that approach only for exposures for which the risk weighted exposures amounts are calculated under the IRB Approach set out in Chapter 3;

(b) the institution is granted the permission to use that approach by its competent authorities';

3. An institution that uses an internal models approach shall do so for all counterparties and securities, with the exception of immaterial portfolios for which it may use the Supervisory Volatility Adjustments Approach laid down in Article 220';

(b) paragraph 8 is deleted.

(111a) in Article 222, paragraph1 is replaced by the following:

'1. Institutions may use the Financial Collateral Simple Method where they calculate risk-weighted exposure amounts under the Standardised Approach. Institution shall not use both the Financial Collateral Simple Method and the Financial Collateral Comprehensive Method, except for the purposes of Articles 148(1) and 150(1). Institutions shall not use this exception selectively with the purpose of achieving reduced own funds requirements or with the purpose of conducting regulatory arbitrage.';

(112) Article 223 is amended as follows

(a) in paragraph 4, point (b) is replaced by the following:

‘(b) for off-balance sheet items other than derivatives treated under the IRB Approach, institutions shall calculate their exposure values using CCFs of 100 % instead of the SA-CCFs or IRB-CCFs provided for in Article 166, paragraphs 8, 8a and 8b.’;

(b) paragraph 6 is replaced by the following:

‘6. Institutions shall calculate volatility adjustments by using the Supervisory Volatility Adjustments Approach referred to in Articles 224 to 227.’;

(113) In Article 224, paragraph 1, Tables 1 to 4 are replaced by the following:

‘*Table 1*

Table 1Credit quality step with which the credit assessment of the debt security is associated	Residual Maturity (m), expressed in years	Volatility adjustments for debt securities issued by entities as referred to in Article 197(1), point (b)			Volatility adjustments for debt securities issued by entities as referred to inArticle 197(1), points (c) and (d)			Volatility adjustments for securitisation positions and meeting the criteria laid down in Article 197(1), point (h)		
		20-day liquidation period (%)	10-day liquidation period (%)	5-day liquidation period (%)	20-day liquidation period (%)	10-day liquidation period (%)	5-day liquidation period (%)	20-day liquidation period (%)	10-day liquidation period (%)	5-day liquidation period (%)
1	m ≤ 1	0,707	0,5	0,354	1,414	1	0,707	2,828	2	1,414
	1 < m ≤ 3	2,828	2	1,414	4,243	3	2,121	11,314	8	5,657

	3 < m ≤ 5	2,828	2	1,414	5,657	4	2,828	11,314	8	5,657
	5 < m ≤ 10	5,657	4	2,828	8,485	6	4,243	22,627	16	11,314
	m > 10	5,657	4	2,828	16,971	12	8,485	22,627	16	11,314
2-3	m ≤ 1	1,414	1	0,707	2,828	2	1,414	5,657	4	2,828
	1 < m ≤ 3	4,243	3	2,121	5,657	4	2,828	16,971	12	8,485
	3 < m ≤ 5	4,243	3	2,121	8,485	6	4,243	16,971	12	8,485
	5 < m ≤ 10	8,485	6	4,243	16,971	12	8,485	33,941	24	16,971
	m > 10	8,485	6	4,243	28,284	20	14,142	33,941	24	16,971
4	all	21,213	15	10,607	N/A	N/A	N/A	N/A	N/A	N/A

Table 2

Credit quality step with which the credit assessment of a short term debt	Residual Maturity (m), expressed in years	Volatility adjustments for debt securities issued by entities as referred to inArticle 197(1), point (b) with short-term credit assessments	Volatility adjustments for debt securities issued by entities as referred to inArticle 197(1), points (c) and (d) with short-term credit assessments	Volatility adjustments for securitisation positions and meeting the criteria laid down in Article 197(1), point (h) with short-term credit assessments

security is associated										
		20-day liquidation period (%)	10-day liquidation period (%)	5-day liquidation period (%)	20-day liquidation period (%)	10-day liquidation period (%)	5-day liquidation period (%)	20-day liquidation period (%)	10-day liquidation period (%)	5-day liquidation period (%)
1		0,707	0,5	0,354	1,414	1	0,707	2,828	2	1,414
2-3		1,414	1	0,707	2,828	2	1,414	5,657	4	2,828

Table 3

Other collateral or exposure types

	20-day liquidation period (%)	10-day liquidation period (%)	5-day liquidation period (%)
Main Index Equities, Main Index Convertible Bonds	28,284	20	14,142
Other Equities or Convertible Bonds listed on a recognised exchange	42,426	30	21,213
Cash	0	0	0
Gold bullion	28,284	20	14,142

Table 4

Volatility adjustment for currency mismatch (H_{fx})

20-day liquidation period (%)	10-day liquidation period (%)	5-day liquidation period (%)
11,314	8	5,657

’;

(114) Article 225 is deleted;

(115) Article 226 is replaced by the following:

'Article 226

Scaling up of volatility adjustment under the Financial Collateral Comprehensive Method

The volatility adjustments set out in Article 224 are the volatility adjustments an institution shall apply where there is daily revaluation. Where the frequency of revaluation is less than daily, institutions shall apply larger volatility adjustments. Institutions shall calculate them by scaling up the daily revaluation volatility adjustments, using the following square-root-of-time formula:

$$H = H_M \cdot \sqrt{\frac{N_R + (T_M - 1)}{T_M}}$$

where:

H = the volatility adjustment to be applied;

H_M = the volatility adjustment where there is daily revaluation;

N_R = the actual number of business days between revaluations;

T_M = the liquidation period for the type of transaction in question.';

(116) in Article 227, paragraph 1 is replaced by the following:

'1. Institutions that use the Supervisory Volatility Adjustments Approach referred to in Article 224, may, for repurchase transactions and securities lending or borrowing transactions, apply a 0 % volatility adjustment instead of the volatility adjustments calculated under Articles 224 to 226, provided that the conditions set out in paragraph 2, points (a) to (h) are satisfied. Institutions that use the internal models approach set out in Article 221 shall not use the treatment set out in this Article.';

(117) Article 228 is amended as follows:

(a) the title is replaced by the following:

*'***Calculating risk-weighted exposure amounts under the Financial Collateral Comprehensive method for exposures in the Standardised Approach***';*

(b) paragraph 2 is deleted;

(118) Article 229 is amended as follows:

(a) the title is replaced by the following:

*'***Valuation principles for eligible collateral other than financial collateral***';*

(b) paragraph 1 is replaced by the following:

'1. The valuation of immovable property shall meet all of the following requirements:

(a) the value shall be appraised independently from an institution's mortgage acquisition, loan processing and loan decision process by an independent valuer who possesses the necessary qualifications, ability and experience to execute a valuation;

(b) the value is appraised using prudently conservative valuation criteria which meet all of the following requirements:

(i) the value excludes expectations on price increases;

(ii) the value is adjusted to take into account the potential for the current market price to be significantly above the value that would be sustainable over the life of the loan;

(c) the value is not higher than a market value for the immovable property where such market value can be determined.

The value of the collateral shall reflect the results of the monitoring required under Article 208(3) and take account of any prior claims on the immovable property.';

(119) Article 230 is replaced by the following:

'Article 230

Calculating risk-weighted exposure amounts and expected loss amounts for an exposure with an eligible FCP under the IRB Approach

1. Under the IRB Approach, except for those exposures that fall under the scope of Article 220, institutions shall use the effective LGD (LGD*) as the LGD for the purposes of Chapter 3 to recognise funded credit protection eligible pursuant to this Chapter. Institutions shall calculate LGD* as follows:

$$LGD^{*} = LGD_U \cdot \frac{E_U}{E \cdot (1 + H_E)} + LGD_S \cdot \frac{E_S}{E \cdot (1 + H_E)}$$

where:

E = the exposure value before taking into account the effect of the funded credit protection. For an exposure secured with financial collateral eligible in accordance with this Chapter, that amount shall be calculated in accordance with Article 223(3). In the case of securities lent or posted, that amount shall be equal to the cash lent or securities lent or posted. For securities that are lent or posted the exposure value shall be increased by applying the volatility adjustment (H_E) in accordance with Articles 223 to 227;

E_S = the current value of the funded credit protection received after the application of the volatility adjustment applicable to that type of funded credit protection (H_C) and the application of the volatility adjustment for currency mismatches (H_{fx}) between the exposure and the funded credit protection, in accordance with paragraphs 2 and 2a. E_S shall be capped at the following value: $E \cdot (1+H_E)$;

E_U = $E \cdot (1+H_E) - E_S$;

LGD_U = the applicable LGD for an unsecured exposure as set out in Article 161(1);

LGD_S = the applicable LGD to exposures secured by the type of eligible FCP used in the transaction, as specified in paragraph 2, Table 2aaa.

2. Table 2aaa specifies the values of LGD_S and H_c applicable in the formula set out in paragraph 1.

Table 2aaa

Type of FCP	LGD_S	Volatility adjustment (H_c)
financial collateral	0 %	Volatility adjustment H_c as set out in Articles 224 to 227.
receivables	20 %	40 %
residential and commercial immovable property	20 %	40 %
Other physical collateral	25 %	40 %
Ineligible FCP	Not applicable	100 %

2a. Where an eligible funded credit protection is denominated in a different currency than that of the exposure, the volatility adjustment for currency mismatch (H_{fx}) shall be the same as the one that applies pursuant to Articles 224 to 227.

3. As an alternative to the treatment set out in paragraphs 1 and 2, and subject to Article 124(7), institutions may assign a 50 % risk weight to the part of the exposure that is, within the limits set out in Article 125(1), point (a) and Article 126(1), point (a) respectively, fully collateralised by residential property or commercial immovable property situated within the territory of a Member State where all of the conditions laid down in Article 199, paragraph 3 or 4 are met.

4. To calculate risk-weighted exposure amounts and expected loss amounts for IRB exposures that fall within the scope of Article 220, institutions shall use E* in accordance with Article 220(4) and shall use LGD for unsecured exposures, as set out in Article 161(1), points (a), (aa) and (b).';

(120) Article 231 is replaced by the following:

'Article 231

Calculating risk-weighted exposure amounts and expected loss amounts in the case of pools of eligible funded credit protections for an exposure under the IRB Approach

Institutions that have obtained multiple types of funded credit protections may, for exposures treated under the IRB Approach, apply the formula set out in Article 230, sequentially for each individual type of collateral. For that purpose, those institutions shall, after each step of recognising one individual type of FCP, reduce the remaining value of the unsecured exposure (E_U) by the adjusted value of the collateral (E_S) recognised in that step. In accordance with Article 230(1), the total of E_S across all

funded credit protection types shall be capped at the value of $E \cdot (1+H_E)$, resulting in the following formula:

$$LGD^* = LGD_U \cdot \frac{E_U}{E \cdot (1 + H_E)} + \sum_i LGD_{S,i} \cdot \frac{E_{S,i}}{E \cdot (1 + H_E)}$$

where:

$LGD_{S,i}$ = the LGD applicable to FCP *i*, as specified in Article 230(2);

$E_{S,i}$ = the current value of FCP *i* received after the application of the volatility adjustment applicable for the type of FCP (H_c) pursuant to Article 230(2).';

(121) in Article 232, paragraph 1 is replaced by the following:

'1. Where the conditions set out in Article 212(1) are met, cash on deposit with, or cash assimilated instruments held by, a third party institution in a non-custodial arrangement and pledged to the lending institution, may be treated as a guarantee provided by the third party institution.';

(122) in Article 233, paragraph 4 is replaced by the following:

'4. Institutions shall base the volatility adjustments for any currency mismatch on a 10 business day liquidation period, assuming daily revaluation, and shall calculate those adjustments based on the Supervisory Volatility Adjustments as set out in Articles 224. Institutions shall scale up the volatility adjustments in accordance with Article 226.';

(123) Article 235 is amended as follows:

(a) the title is amended as follows:

'Calculating risk-weighted exposure amounts under the substitution approach when the guaranteed exposure is under the Standardised Approach';

(b) paragraph 1 is replaced by the following:

'1. For the purposes of Article 113(3), institutions shall calculate the risk-weighted exposure amounts for exposures with unfunded credit protection to which those institutions apply the Standardised Approach, irrespective of the treatment of comparable direct exposure to the protection provider, in accordance with the following formula:

$$\max\{0, E - G_A\} \cdot r + G_A \cdot g$$

where:

E = the exposure value calculated in accordance with Article 111. For that purpose, the exposure value of an off-balance sheet item listed in Annex I shall be 100 % of its value rather than the exposure value indicated in Article 111(1);

G_A = the amount of credit risk protection as calculated under Article 233(3) (G*) further adjusted for any maturity mismatch as laid down in Section 5;

r = the risk weight of exposures to the obligor as specified in Chapter 2;

g = the risk weight ***applicable for a direct exposure*** to the protection provider as specified in Chapter 2.'

(c) paragraph 3 is replaced by the following:

'3. Institutions may extend the preferential treatment set out in Article 114, paragraphs 4 and 7, to exposures or parts of exposures guaranteed by the central government or the central bank as if those exposures were direct exposures to the central government or the central bank, provided that the conditions in Article 114, paragraphs 4 or 7, as applicable, are met for such direct exposures.';

(124) the following Article 235a is inserted:

'Article 235a

Calculating risk-weighted exposure and expected loss amounts under the substitution approach when the guaranteed exposure is treated under the IRB Approach and comparable direct exposures to the protection provider are treated under the Standardised Approach

1. For exposures with unfunded credit protection to which an institution applies the IRB Approach referred to in Chapter 3 and where comparable direct exposures to the protection provider are treated under the Standardised Approach, institutions shall calculate the risk-weighted exposure amounts in accordance with the following formula:

$$\max\{0, E - G_A\} \cdot r + G_A \cdot g$$

where:

E = the exposure value determined in accordance with Chapter 3, Section 5. For that purpose, institutions shall calculate the exposure value for off-balance sheet items other than derivatives treated under the IRB Approach using CCFs of 100 % instead of the SA-CCFs or IRB-CCFs provided for in Article 166, paragraphs 8, 8a and 8b;

G_A = the amount of credit risk protection as calculated in accordance with Article 233(3)

(G*) further adjusted for any maturity mismatch as laid down in Chapter 3, Section 5;

r = the risk weight ▌ as specified in Chapter 3 ***by using the PD of the obligor and the LGD of the exposure to the obligor without taking into account the unfunded credit protection***;

g = the risk weight ***applicable for a direct exposure*** to the protection provider as specified in Chapter 2.

2. Where the protected amount (G_A) is less than the exposure (E), institutions may apply the formula specified in paragraph 1 only where the protected and unprotected parts of the exposure are of equal seniority.

3. Institutions may extend the preferential treatment set out in Article 114, paragraphs 4 and 7, to exposures or parts of exposures guaranteed by the central government or the central bank as if those exposures were direct exposures to the central government or the central bank, provided that the conditions in Article 114, paragraphs 4 or 7, as applicable, are met for such direct exposures.

4. The expected loss amount for the covered portion of the exposure value shall be zero.

5. For any uncovered portion of the exposure value (E) the institution shall use the risk weight and the expected loss corresponding to the underlying exposure. For the calculation laid down in Article 159, institutions shall assign any general or specific credit risk adjustments or additional value adjustments in accordance with Articles 34 related to the non-trading book business of the institution or other own funds reductions related to the exposure, to the uncovered portion of the exposure value.';

(125) Article 236 is amended as follows:

(a) the title is replaced by the following:

'**Calculating risk-weighted exposure amounts and expected loss amounts under the substitution approach when the guaranteed exposure is treated under the IRB Approach and a comparable direct exposure to the protection provider is treated under the IRB Approach**';

(b) paragraph 1 is replaced by the following:

'1. For an exposure with unfunded credit protection to which an institution applies the IRB Approach referred to in Chapter 3, but without using its own estimates of loss given default (LGD), and where comparable direct exposures to the protection provider are treated under the IRB Approach set out in Chapter 3, institutions shall determine the covered portion of the exposure as the lower of the exposure value E and the adjusted value of the unfunded credit protection G_A ***calculated in accordance with Article 235a(1)***;'

(c) the following paragraphs 1a to 1d are inserted:

'1a. An institution that applies to comparable direct exposures to the protection provider the IRB Approach using own estimates of PD shall calculate the risk-weighted exposure amount and the expected loss amount for the covered portion of the exposure value by using the PD of the protection provider and the LGD applicable for a comparable direct exposure to the protection provider as referred to in Article 161(1), in accordance with paragraph 1b. For subordinated exposures and non-subordinated unfunded credit protection, the LGD to be applied by institutions to the covered portion of the exposure value is the LGD associated with senior claims and may account for any ***funded credit protection securing the unfunded credit protection*** in accordance with this Chapter.

1b. Institutions shall calculate the risk weight and expected loss applicable to the covered portion of the underlying exposure using the PD, the LGD specified in paragraph 1a, and the same risk weight function as the ones used for a comparable direct exposure to the protection provider, and shall, where applicable, use the maturity M related to the underlying exposure, calculated in accordance with Article 162.

1c. Institutions that apply to comparable direct exposures to the protection provider the IRB Approach using the method provided for in Article 153(5), shall use the risk weight and expected loss applicable to the covered portion of

the exposure that correspond to the ones provided for in Articles 153(5) and 158(6).

1d. Notwithstanding paragraph 1c, institutions that apply to guaranteed exposures the IRB Approach using the method provided for in Article 153(5) shall calculate the risk weight and expected loss applicable to the covered portion of the exposure using the PD, the LGD applicable for a comparable direct exposure to the protection provider as referred to in Article 161(1), in accordance with paragraph 1b, and the same risk weight function as the ones used for a comparable direct exposure to the protection provider, and shall, where applicable, use the maturity M related to the underlying exposure, calculated in accordance with Article 162. For subordinated exposures and non-subordinated unfunded credit protection, the LGD to be applied by institutions to the covered portion of the exposure value is the LGD associated with senior claims and that may account for any collateralisation of the underlying exposure in accordance with this Chapter.';

(d) paragraph 2 is replaced by the following:

'2. For any uncovered portion of the exposure value (E), institutions shall use the risk weight and the expected loss corresponding to the underlying exposure. For the calculation laid down in Article 159, institutions shall assign any general and specific credit risk adjustments, additional value adjustments related to the non-trading book business of the institution as referred to in Article 34 and other own funds reductions related to the exposure other than the deductions made in accordance with Article 36(1), point (m), to the uncovered portion of the exposure value.';

(126) the following Article 236a is inserted:

'Article 236a

Calculating risk-weighted exposure amounts and expected loss amounts under the substitution approach when the guaranteed exposure is treated under the IRB Approach using own estimates of loss given default (LGD) and a comparable direct exposure to the protection provider is treated under the IRB Approach

1. For an exposure with unfunded credit protection to which an institution applies the IRB Approach referred to in Chapter 3 using its own estimates of loss given default (LGD) and where comparable direct exposures to the protection provider are treated under the IRB Approach referred to in Chapter 3, ***without the use of own estimates of LGD,*** institutions shall determine the covered portion of the exposure as the lower of the exposure value E and the adjusted value of the unfunded credit protection G_A ***calculated in accordance with Article 235a(1).*** The risk-weighted exposure amount and the expected loss amount for the covered portion of the exposure value shall be calculated by using the PD, the LGD and the same risk weight function as the ones used for a comparable direct exposure to the protection provider, and shall, where applicable, use the maturity M related to the underlying exposure, calculated in accordance with Article 162.

2. Institution that apply the IRB Approach referred to in Chapter 3 but without using their own estimates of loss given default (LGD) to comparable direct exposures to the protection provider, shall determine the LGD in accordance with Article 161. For

subordinated exposures and non-subordinated unfunded credit protection, the LGD to be applied by institutions to the covered portion of the exposure value is the LGD associated with senior claims and that may account for any collateralisation of the underlying exposure in accordance with this Chapter.

3. Institutions that apply the IRB Approach referred to in Chapter 3 using their own estimates of LGD to comparable direct exposures to the protection provider, shall calculate the risk weight and the expected loss applicable to the covered portion of the underlying exposure using the PD, the LGD and the same risk weight function as the ones used for such a comparable direct exposure to the protection provider, and shall use the maturity M related to the underlying exposure, calculated, where applicable, in accordance with Article 162.

4. Institution that apply to comparable direct exposures to the protection provider the IRB Approach using the method provided for in Article 153(5), shall apply the risk weight and expected loss applicable to the covered portion of the exposure that correspond to the ones provided in Articles 153(5) and 158(6).

5. For any uncovered portion of the exposure value (E), institutions shall use the risk weight and the expected loss corresponding to the underlying exposure. For the calculation laid down in Article 159, institutions shall assign any general and specific credit risk adjustments, additional value adjustments related to the non-trading book business of the institution as referred to in Article 34 and other own funds reductions related to the exposure other than the deductions made in accordance with Article 36(1), point (m), to the uncovered portion of the exposure value.';

(127) in Part three, Title II, Chapter 4, Section 6 is deleted;

(128) in Article 273(3), point (b) is replaced by the following:

'(b) in accordance with Article 183, where permission has been granted in accordance with Article 143.'

(129) Article 273b is amended as follows:

(a) the title is replaced by the following:

'Article 273b
Non-compliance with the conditions for using simplified methods for calculating the exposure value of derivatives and the simplified approach for calculating the own funds requirement for CVA risk';

(b) in paragraph 2, the introductory wording is replaced by the following:

'Institutions shall cease to calculate the exposure values of its derivative positions in accordance with Section 4 or 5 and to calculate the own funds requirement for CVA risk in accordance with Article 385, as applicable, within three months of one of the following occurring:';

(c) paragraph 3 is replaced by the following:

'3. Institutions that have ceased to calculate the exposure values of its derivative positions in accordance with Section 4 or 5 and to calculate the own funds requirement for CVA risk in accordance with Article 385, as applicable, shall only be permitted to resume calculating the exposure value of their derivative positions as set out in Section

4 or 5 and the own funds requirement for CVA risk in accordance with Article 385 where they demonstrate to the competent authority that all the conditions set out in Article 273a, paragraphs 1 or 2, have been met for an uninterrupted period of one year.';

(130) Article 274 is amended as follows:

(a) paragraph 4 is replaced by the following:

'4. Where multiple margin agreements apply to the same netting set, or the same netting set includes both transactions subject to a margin agreement and transactions not subject to a margin agreement, an institution shall calculate its exposure value as follows:

(a) the institution shall establish the hypothetical sub-netting sets concerned, composed of transactions included in the netting set, as follows:

(i) all transactions subject to a margin agreement and to the same margin period of risk as determined in accordance with Article 285, paragraphs 2 to 5, shall be allocated to the same sub-netting set;

(ii) all transactions not subject to a margin agreement shall be allocated to the same sub-netting set, distinct from the sub-netting sets established in accordance with point (i).

(b) the institution shall calculate the replacement cost of the netting set referred to in the introductory sentence of this paragraph in accordance with Article 275(2) by taking into account all the transactions within the netting set, subject to a margin agreement or not, and apply all of the following:

(i) CMV shall be calculated for all the transactions within a netting set gross of any collateral held or posted where positive and negative market values are netted in computing the CMV;

(ii) NICA, VM, TH, and MTA, where applicable, shall be calculated separately as the sum across the same inputs applicable to each individual margin agreement of the netting set.

(c) the institution shall calculate the potential future exposure of the netting set referred to in Article 278 by applying all of the following:

(i) the multiplier referred to in Article 278(1) shall be based on the inputs CMV, NICA and VM, as applicable, in accordance with point (b) of this paragraph;

(ii) $\sum_a AddOn^{(a)}$ shall be calculated in accordance with Article 278, separately for each hypothetical sub-netting set referred to in point (a)';

(b) in paragraph 6, the following subparagraph is added:

'By way of derogation from the first sub-paragraph, institutions shall replace a vanilla digital option whose strike equals to K with the relevant collar combination of two sold and bought vanilla call or put options that meet with the following requirements:

(a) the two options of the collar combination shall have:

(i) the same expiry date and same spot or forward price of the underlying instrument as the vanilla digital option;

(ii) strikes equal to 0.95·K and 1.05·K respectively;

(b) the collar combination exactly replicates the vanilla digital option payoff outside the range between the two strikes referred to in point (a);

The risk position of the two options of the collar combination shall be calculated separately in accordance with Article 279.';

(130a) in Article 291(5), point (f) is replaced by the following:

'(f) to the extent that this uses existing market risk calculations for own funds requirements for default risk as set out in Title IV, Chapter 1a, Section 4 or 5 or for default risk using an internal default risk model as set out in Title IV, Chapter 1b, Section 3 that already contain an LGD assumption, the LGD in the formula used shall be 100 %.';

(131) in Part Three, Title III is replaced by the following:

'TITLE III
OWN FUNDS REQUIREMENTS FOR OPERATIONAL RISK

Article 311a
Definitions

For the purposes of this Title, the following definitions shall apply:

(a) 'operational risk event' means any event linked to an operational risk which generates a loss or multiple losses, within one or multiple financial years;

(b) 'aggregated gross loss' means the sum of all gross losses linked to the same operational risk event over one or multiple financial years;

(c) 'aggregated net loss' means the sum of all net losses linked to the same operational risk event over one or multiple financial years.

CHAPTER 1
Calculation of own funds requirements for operational risk

Article 312
Own funds requirement

The own funds requirement for operational risk shall be the business indicator component calculated in accordance with Article 313.

Article 313

Business indicator component

Institutions shall calculate their business indicator component in accordance with the following formula:

$$BIC = \begin{cases} 0.12 \cdot \text{BI}, & \text{where BI} \leq 1 \\ 0.12 + 0.15 \cdot (\text{BI} - 1), & \text{where } 1 < \text{BI} \leq 30 \\ 4.47 + 0.18 \cdot (\text{BI} - 30), & \text{where BI} > 30 \end{cases}$$

where:

BIC = the business indicator component;

BI = the business indicator, expressed in billions of euro, calculated in accordance with Article 314.

Article 314

Business indicator

1. Institutions shall calculate their business indicator in accordance with the following formula:

$$BI = ILDC + SC + FC$$

where:

BI = the business indicator, expressed in billions of euro;

ILDC = the interest, leases and dividend component, expressed in billions of euros and calculated in accordance with paragraph 2;

SC = the services component, expressed in billions of euros and calculated in accordance with paragraph 3;

FC = the financial component, expressed in billions of euros and calculated in accordance with paragraph 4.

2. For the purposes of paragraph 1, the interest, leases and dividend component shall be calculated in accordance with the following formula:

$$ILDC = \min(IC, 0.0225 * AC) + DC$$

where:

ILDC = the interest, leases and dividend component;

IC = the interest component, ***determined at jurisdiction level for the purpose of taking into consideration high and low net interest margin jurisdictions*** which is the institution's interest income from all financial assets and other interest income, including finance income from financial ***leases*** and income from operating leases and profits from leased assets, minus the institution's interest expenses from all financial liabilities and other interest expenses, including interest expense from financial and operating leases, depreciation and impairment of, and losses from, operating leased assets, calculated as the annual average of the absolute values of the ***differences*** over the previous three financial years;

AC = the asset component, ***determined at jurisdiction level for the purposes of taking into consideration high and low net interest margin jurisdictions*** which is

the sum of the institution's total gross outstanding loans, advances, interest bearing securities, including government bonds, and lease assets, calculated as the annual average over the previous three financial years on the basis of the amounts at the end of each of the respective financial years;

DC = the dividend component, which is the institution's dividend income from investments in stocks and funds not consolidated in the financial statements of the institution, including dividend income from non-consolidated subsidiaries, associates and joint ventures, calculated as the annual average over the previous three financial years.

3. For the purposes of paragraph 1, the services component shall be calculated in accordance with the following formula:

$$SC = \max(OI, OE) + \max(FI, FE)$$

where:

SC = the services component;

OI = the other operating income, which is the annual average over the previous three financial years of the institution's income from ordinary banking operations not included in other items of the business indicator but of similar nature;

OE = the other ***operating*** expenses, which is the annual average over the previous three financial years of the institution's expenses and losses from ordinary banking operations not included in other items of the business indicator but of similar nature, and from operational risk events;

FI = the fee and commission income component, which is the annual average over the previous three financial years of the institution's income received from providing advice and services, including income received by the institution as an outsourcer of financial services;

FE = the fee and commission expenses component, which is the annual average over the previous three financial years of the institution's expenses paid for receiving advice and services, including outsourcing fees paid by the institution for the supply of financial services, but excluding outsourcing fees paid for the supply of non-financial services.

3a. Subject to the prior permission of the competent authority, and to the extent that the institutional protection scheme disposes of suitable and uniformly stipulated systems for the monitoring and classification of operational risks, institutions that are members of an institutional protection scheme meeting the requirements of Article 113(7) may calculate the SC net of any income received from or expenses paid to institutions, that are members of the same institutional protection scheme.

Any financial consequence resulting from the related operational risks is subject to mutualisation across institutional protection scheme members.

4. For the purposes of paragraph 1, the financial component shall be calculated in accordance with the following formula:

$$FC = TC + BC$$

where:

FC = the financial component;

TC = the trading book component, which is the annual average of the absolute values over the previous three financial years of the net profit or loss, as applicable, on the institution's trading book, including on trading assets and trading liabilities, from hedge accounting, and from exchange differences;

BC = the banking book component, which is the annual average of the absolute values over the previous three financial years of the net profit or loss, as applicable, on the institution's banking book, including on financial assets and liabilities measured at fair value through profit and loss, from hedge accounting, from exchange differences, and realised gains and losses on financial assets and liabilities not measured at fair value through profit and loss.

5. Institutions shall not use any of the following elements in the calculation of their business indicator:

(a) income and expenses from insurance or reinsurance businesses;

(b) premiums paid and payments received from insurance or reinsurance policies purchased;

(c) administrative expenses, including staff expenses, outsourcing fees paid for the supply of non-financial services, and other administrative expenses;

(d) recovery of administrative expenses including recovery of payments on behalf of customers;

(e) expenses of premises and fixed assets, except where those expenses result from operational ***risk*** events;

(f) depreciation of tangible assets and amortisation of intangible assets, except the depreciation related to operating lease assets, which shall be included in financial and operating lease expenses;

(g) provisions and reversal of provisions, except where those provisions relate to operational ***risk*** events;

(h) expenses due to share capital repayable on demand;

(i) impairment and reversal of impairment;

(j) changes in goodwill recognised in profit or loss;

(k) corporate income tax.

6. EBA shall develop draft regulatory technical standards to specify the following:

(a) the components of the business indicator by developing a list of typical sub-items, taking into account international regulatory standards; ***for the Financial Component calculation, that list shall not be used to separate TC and BC components and shall not prevent an institution from addressing sub-items to the TC or the BC components according to their prudential boundary defined in Part three, Title I, Chapter 3;***

(b) the elements listed in paragraph 5.

EBA shall submit those draft regulatory technical standards to the Commission by [OP please insert the date = 18 months after entry into force of this Regulation].

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.

7. EBA shall develop draft implementing technical standards to specify the items of the business indicator by mapping those items with the reporting cells concerned set out in Commission Implementing Regulation (EU) 2021/451[*5].

EBA shall submit those draft ***implementing*** technical standards to the Commission by [OP please insert the date = 24 months after entry into force of this Regulation].

Power is delegated to 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 315

Adjustments to the business indicator

1. Institutions shall include business indicator items of merged or acquired entities or activities in their business indicator calculation from the time of the merger or acquisition, as applicable, and shall cover the previous three financial years.

2. Institutions may request permission from the competent authority to exclude business indicator items related to disposed entities or activities from the calculation of their business indicator.

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

(a) how institutions shall determine the adjustments to the business indicator referred to in paragraph 1 and 2;

(b) the conditions according to which competent authorities may grant the permission referred to in paragraph 2;

(c) the timing of the adjustments referred to in paragraph 2.

EBA shall submit those draft regulatory technical standards to the Commission by [OP please insert the date = 18 months after entry into force of this Regulation].

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.

CHAPTER 2
Data collection and governance

Article 316

Calculation of the annual operational risk loss

1. Institutions with a business indicator equal to or exceeding EUR 750 million shall calculate annual operational risk losses as the sum of all net losses over a given financial year, calculated in accordance with Article 318(1), that are equal to or exceed the loss data thresholds set out in Article 319, paragraphs 1 or 2, respectively.

By way of derogation from the first subparagraph, competent authorities may grant a waiver from the requirement to calculate an annual operational risk loss to institutions with a business indictor that does not exceed EUR 1 billion, provided that the institution has demonstrated to the satisfaction of the competent authority that it would be unduly burdensome for the institution to apply the first subparagraph.

2. For the purposes of paragraph 1, the relevant business indicator shall be the highest value of the business indicator the institution has reported at the last eight reporting reference dates. An institution that has not yet reported its business indicator shall use its most recent business indicator.

3. EBA shall develop draft regulatory technical standards to specify the condition of 'unduly burdensome' for the purposes of the first paragraph.

EBA shall submit those draft regulatory technical standards to the Commission by [OP please insert the date = 18 months after entry into force of this Regulation].

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 317
Loss data set

1. Institutions that calculate annual operational risk losses in accordance with Article 316(1) shall have in place arrangements, processes and mechanisms to inform and maintain updated on an ongoing basis a loss data set compiling for each recorded operational risk event the gross loss amounts, non-insurance recoveries, insurance recoveries, reference ***dates*** and grouped losses, including those from misconduct events.

2. The institution's loss data set shall capture all operational risk events stemming from all the entities that are part of the scope of consolidations pursuant to Part One, Title II, Chapter 2.

3. For the purpose of paragraph 1, institutions shall:

(a) include in the loss data set each operational risk event recorded during one or multiple financial years;

(b) use a date no later than the date of accounting for including losses related to operational risk events in the loss data set;

(c) allocate losses and related recoveries posted to the accounts over several years to the corresponding financial years of the loss data set, in line with their accounting treatment.

4. Institutions shall also collect:

(a) information about the reference dates of operational risk events, including:

(i) the date when the operational risk event happened or first began ('date of occurrence'), where available;

(ii) the date on which the institution became aware of the operational risk event ('date of discovery');

(iii) the date or dates on which an operational risk event results in a loss, or the reserve or provision against a loss, recognised in the institution's profit and loss accounts ('date of accounting');

(b) information on any recoveries of gross loss amounts as well as descriptive information about the drivers or causes of the loss events.

The level of detail of any descriptive information shall be commensurate with the size of the gross loss amount.

5. An institution shall not include in the loss data set operational risk events related to credit risk that are accounted for in the risk weighted exposure amount for credit risk. Operational risk events that relate to credit risk but are not accounted for in the risk weighted exposure amount for credit risk shall be included in the loss data set.

6. Operational risk events related to market risk shall be treated as operational risk and be included in the loss data set.

7. An institution shall upon request from the competent authority be able to map its historical internal loss data to the ***event*** type .

8. For the purposes of this Article, institutions shall ensure the soundness, robustness and performance of the IT ***systems and*** infrastructure necessary to maintain and update the loss data set by confirming all of the following:

(a) that the IT systems and infrastructure of the institution for the purposes of this Article are sound and resilient and that that soundness and resilience can be maintained on a continuous basis;

(b) that the institution's IT ***systems and*** infrastructure implemented for the purpose of this Article is subject to configuration management, change management and release management processes;

(c) where the institution outsources parts of the maintenance of the IT ***systems and*** infrastructure implemented for the purpose of this Article, that the soundness, robustness and performance of the IT infrastructure is ensured by confirming at least the following:

(i) that the IT systems and infrastructure of the institution for the purpose of this Article are sound and resilient and that those features can be maintained on a continuous basis;

(ii) that the process for planning, creating, testing, and deploying the IT ***systems and*** infrastructure for the purpose of this Article is sound and proper with reference to project management, risk management, and governance, engineering, quality assurance and test planning, systems' modelling and development, quality assurance in all activities, including code reviews and where appropriate, code verification, and testing, including user acceptance;

(iii) that the institution's IT ***systems and*** infrastructure for the purpose of this Article is subject to configuration management, change management and release management processes;

(iv) that the process for planning, creating, testing, and deploying the IT ***systems and*** infrastructure and contingency plans for the purpose of this

Article is approved by the institution's management body or senior management and that the management body and senior management are periodically informed about the IT infrastructure performance for the purposes of this Article.

9. For the purposes of paragraph ***7*** of this Article, EBA is mandated to develop draft regulatory technical standards establishing a risk taxonomy on operational risk and a methodology to classify, based on that risk taxonomy on operational risk, the loss events included in the loss data set, ***that should comply with international standards***.

EBA shall submit those draft regulatory technical standards to the Commission by [OP please insert the date = 18 months after entry into force of this Regulation].

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.

10. For the purposes of paragraph ***8***, EBA shall develop guidelines explaining the technical elements necessary to ensure the soundness, robustness and performance of governance arrangements to maintain the loss data set, with a particular focus on IT systems and infrastructures.

Those guidelines shall be issued in accordance with Article 16 of Regulation (EU) No 1093/2010.

Article 318

Calculation of net loss and gross loss

1. For the purposes of Article 316(1), institutions shall calculate for each operational risk event a net loss as follows:

Net loss = gross loss – recovery

where:

gross loss = a loss linked to an operational risk event before recoveries of any type;

recovery = one or multiple independent occurrences, related to the original operational risk event, separated in time, in which funds or inflows of economic benefits are received from a third party.

Institutions shall maintain on an ongoing basis an updated calculation of the net loss for each specific operational risk event. To that end, institutions shall update the net loss calculation based on the observed or estimated variations of the gross loss and the recovery for each of the last ten financial years. Where losses, linked to the same operational risk event, are observed during multiple financial years within that ten-year time window, the institution shall calculate and maintain updated:

(a) the net loss, gross loss and recovery for each of the financial years of the ten-year time window where that net loss, gross loss and recovery were recorded;

(b) the aggregated net loss, aggregated gross loss and aggregated recovery of all the relevant financial years of the ten-year time window.

2. For the purposes of paragraph 1, the following items shall be included in the gross loss computation:

(a) direct charges, including impairments, settlements, amounts paid to make good the damage, penalties, interest in arrears and legal fees to the institution's profit and loss accounts and write-downs due to the operational risk event, including:

(i) where the operational risk event relates to market risk, the costs to unwind market positions in the ***recorded*** loss amount of the operational risk items;

(ii) where payments relate to failures or inadequate processes of the institution, penalties, interest charges, late-payment charges, and legal fees, and, with the exclusion of the tax amount originally due, tax;

(b) costs incurred as a consequence of the operational risk event, including external expenses with a direct link to the operational risk event and costs of repair or replacement, incurred to restore the position that was prevailing before the operational risk event occurred;

(c) provisions or reserves accounted for in the profit and loss accounts against the potential operational loss impact, including those from misconduct events;

(d) losses stemming from operational risk events with a definitive financial impact which are temporarily booked in transitory or suspense accounts and are not yet reflected in the profit and loss accounts ('pending losses');

(e) negative economic impacts booked in a financial year and which are due to operational risk events impacting the cash flows or financial statements of previous financial years ('timing losses').

For the purposes of point (d), material pending losses shall be included in the loss data set within a time period commensurate with the size and age of the pending item.

For the purposes of point (e), the institution shall include in the loss data set material timing losses where those losses are due to operational risk events that span more than one financial year and give rise to legal risk. Institutions shall include in the recorded loss amount of the operational risk item of a financial year losses that are due to the correction of booking errors that occurred in a previous financial year, even where those losses do not directly affect third parties. Where there are material timing losses and the operational risk event affects directly third parties, including customers, providers and employees of the institution, the institution shall also include the official restatement of previously issued financial reports.

3. For the purposes of paragraph 1, the following items shall be excluded from the gross loss computation:

(a) costs of general maintenance of contracts on property, plant or equipment;

(b) internal or external expenditures to enhance the business after the operational risk losses, including upgrades, improvements, risk assessment initiatives and enhancements;

(c) insurance premiums.

4. For the purposes of paragraph 1, recoveries shall be used to reduce gross losses only where the institution has received payment. Receivables shall not be considered as recoveries.

Upon request from the competent authority, the institution shall provide all the documentation needed to perform verification of payments received and factored in the calculation of the net loss of an operational risk event.

Article 319
Loss data thresholds

1. To calculate an annual operational risk loss as required by Article 316(1), institutions shall take into account from the loss data set operational risk events with a net loss, calculated in accordance with Article 318, that are equal to or above EUR 20 000.

2. Without prejudice to paragraph 1, and for the purposes of Article 446, institutions shall also calculate the annual operational risk loss referred to in Article 316(1), taking into account from the loss data set operational risk events with a net loss, calculated in accordance with Article 318, that are equal to or above EUR 100 000.

3. In case of an operational risk event that leads to losses during more than one financial year, as referred to in Article 318(1), second subparagraph, the net loss to be taken into account for the thresholds referred to in paragraph 1 and 2 shall be the aggregated net loss.

Article 320
Exclusion of losses

1. Competent authorities may permit an institution to exclude from the calculation of the institution's annual operational risk losses exceptional operational risk events that are no longer relevant to the institution's risk profile, where all of the following conditions are fulfilled:

(a) the institution can demonstrate to the satisfaction of the competent authority that ***the cause of*** the operational risk event at the origin of those operational risk losses will not occur again;

(b) the operational risk loss is either of the following:

  (i) equal to or above ***10*** % of the institution's average annual operational risk loss, calculated based on the threshold referred to in Article 319(1), where the operational risk loss event refers to activities that are still part of the business indicator;

  (ii) above 0 % of the institution's average annual operational risk loss, calculated based on the threshold referred to in Article 319(1), where the operational risk loss event refers to activities divested from the business indicator in accordance with Article 315(2);

(c) the operational risk loss was in the loss database for a minimum period of 1 year, unless the operational risk loss is related to activities divested from the business indicator in accordance with Article 315(2).

For the purposes of point (c), the minimum period of 1 year shall start from the date on which the operational risk event, included in the loss data set, first became greater than the materiality threshold referred to in Article 319(1).

2. An institution requesting the permission referred to in paragraph 1 shall provide the competent authority with documented justifications for the exclusion of an exceptional loss, including:

(a) a description of the operational risk event that is submitted for exclusion;

(b) proof that the loss from the operational risk event is above the materiality threshold for loss exclusion referred to in paragraph 1, point (b), including the date on which that operational risk event became greater than the materiality threshold;

(c) the date on which the operational risk event concerned would be excluded, considering the minimum retention period set out paragraph 1, point (c);

(d) the reason why the operational risk event is no longer deemed relevant to the institution's risk profile;

(e) the demonstration that there are no similar or residual legal exposures and that the operational risk event to be excluded has no relevance to other activities or products;

(f) reports of the institution's independent review or validation, confirming that the operational risk event is no longer relevant and that there are no similar or residual legal exposures;

(g) proof that competent bodies of the institution, through the institution's approval processes, have approved the request for exclusion of the operational risk event and the date of such approval;

(h) the impact of the exclusion of the operational risk event on the annual operational risk loss.

3. EBA shall develop draft regulatory technical standards to specify the conditions that the competent authority has to assess pursuant to paragraph 1, including how the average annual operational risk loss should be computed and the specifications on the information to be collected pursuant to paragraph 2 or any further information deemed necessary to perform the assessment.

EBA shall submit those draft regulatory technical standards to the Commission by [OP please insert the date = 18 months after entry into force of this Regulation].

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 321

Inclusion of losses from merged or acquired entities or activities

1. Losses stemming from merged or acquired entities or activities shall be included in the loss data set as soon as the business indicator items related to those entities or activities are included in the institution's business indicator calculation in accordance with Article 315(1). To that end, institutions shall include losses observed during a ten-year period prior to the acquisition or merger.

2. EBA shall develop draft regulatory technical standards to specify how institutions shall determine the adjustments to their loss data set following the inclusion of losses from merged or acquired entities or activities as referred to in paragraph 1.

EBA shall submit those draft regulatory technical standards to the Commission by [OP please insert the date = 18 months after entry into force of this Regulation].

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 322

***Comprehensiveness*, accuracy and quality of the loss data**

1. Institutions shall have in place the organisation and processes to ***ensure*** the comprehensiveness, accuracy and quality of the loss data ***and to review it*** independently.

2. Competent authorities shall ▌ review the quality of the loss data of an institution that calculates annual operational risk losses in accordance with Article 316(1).▌

Article 323

Operational risk management framework

1. Institutions shall have in place:

(a) a well-documented assessment and management system for operational risk which is closely integrated into the day-to-day risk management processes, forms an integral part of the process of monitoring and controlling the institution's operational risk profile, and for which clear responsibilities have been assigned. The assessment and management system for operational risk shall identify the institution's exposures to operational risk and track relevant operational risk data, including material loss data;

(b) an operational risk management function that is independent from the institution's business and operational units;

(c) a system of reporting to senior management that provides operational risk reports to relevant functions within the institution;

(d) a system of regular monitoring and reporting of operational risk exposures and loss experience, and procedures for taking appropriate corrective actions;

(e) routines for ensuring compliance, and policies for the treatment of non-compliance;

(f) regular reviews of the institution's operational risk assessment and management processes and systems, performed by internal or external auditors that possess the knowledge necessary to carry out such reviews;

(g) internal validation processes that operate in a sound and effective manner;

(h) transparent and accessible data flows and processes associated with the operational risk assessment system.

2. EBA shall develop draft regulatory technical standards to specify the obligations under paragraph 1, points (a) to (h), taking into consideration institutions' size and complexity.

EBA shall submit those draft regulatory technical standards to the Commission by [OP please insert the date = 18 months after entry into force of this Regulation].

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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*5 Commission Implementing Regulation (EU) 2021/451 of 17 December 2020 laying down implementing technical standards for the application of Regulation (EU) No 575/2013 of the European Parliament and of the Council with regard to supervisory reporting of institutions and repealing Implementing Regulation (EU) No 680/2014 (OJ L 97, 19.3.2021, p. 1).';

(132) Article 325 is amended as follows:

(a) paragraphs 1 to 5 are replaced by the following:

'1. An institution shall calculate the own funds requirements for market risk for all its trading book positions and all its non-trading book positions that are subject to foreign exchange risk or commodity risk in accordance with the following approaches:

(a) the alternative standardised approach set out in Chapter 1a;

(b) the alternative internal model approach set out in Chapter 1b for those positions assigned to trading desks for which the institution has been granted permission by competent authorities to use that alternative approach as set out in Article 325az(1);

(c) the simplified standardised approach referred to in in paragraph 2 of this Article, provided that the institution meets the conditions set out in Article 325a(1).

By way of derogation from the first subparagraph, an institution shall not calculate an own funds requirements for foreign exchange risk for trading book positions and non-trading book positions that are subject to foreign exchange risk where those positions are deducted from the institution's own funds. ***Institutions shall document the use of the provision set out in this paragraph, including its impact, and make the information available upon request of their competent authority.***

2. The own funds requirements for market risk calculated in accordance with the simplified standardised approach shall be the sum of the following own funds requirements, as applicable:

(a) the own funds requirements for position risk referred to in Chapter 2, multiplied by:

(i) 1,3, for the general and specific risks of positions in debt instruments, excluding securitisation instruments as referred to in Article 337;

(ii) 3,5, for the general and specific risks of positions in equity instruments.

(b) the own funds requirements for foreign exchange risk referred to in Chapter 3, multiplied by 1,2;

(c) the own funds requirements for commodity risk referred to in Chapter 4, multiplied by 1,9;

(d) the own funds requirements for securitisation instruments as referred to in Article 337.

3. An institution using the alternative internal model approach referred to in paragraph 1, point (b), to calculate the own funds requirements for market risk of trading book positions and non-trading book positions that are subject to foreign exchange risk or commodity risk shall report to the competent authorities the monthly calculation of the own funds requirements for market risk using the alternative standardised approach referred to in paragraph 1, point (a), for each trading desk to which those positions have been assigned to in accordance with Article 104b.

4. An institution may use a combination of the alternative standardised ***approach*** referred to in paragraph 1, point (a), and the alternative internal model approach referred to in paragraph 1, point (b), on a permanent basis within a group. The institution shall not use either of those approaches in combination with the simplified standardised approach referred to in paragraph 1, point (c).

5. An institution shall not use the alternative internal model approach set out in paragraph 1, point (b), for instruments in their trading book that are securitisation positions or positions included in the alternative correlation trading portfolio (ACTP) set out in paragraphs 6, 7 and 8.';

(b) paragraph 9 is replaced by the following:

'9. EBA shall develop draft regulatory technical standards to specify how institutions are to calculate the own funds requirements for market risk for non-trading book positions that are subject to foreign exchange risk or commodity risk in accordance with the approaches set out in paragraph 1, points (a) and (b) of this Article, taking into account the requirements set out in Article 104b, paragraphs 5 and 6, where applicable.

EBA shall submit those draft regulatory technical standards to the Commission by [OP please insert the date = 9 months after entry into force of this Regulation].

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

(133) Article 325a is amended as follows:

(a) the title is replaced by the following:

'**Conditions for using the Simplified Standardised Approach**';

(b) in paragraph 1, the first subparagraph is replaced by the following:

‘1. An institution may calculate the own funds requirements for market risk by using the simplified standardised approach referred to in Article 325(1), point (c), provided that the size of the institution's on- and off-balance-sheet business subject to market risk is equal to or less than each of the following thresholds, on the basis of an assessment carried out on a monthly basis using data as of the last day of the month:’;

(c) in paragraph 2, point (b) is replaced by the following:

‘(b) all non-trading book positions that are subject to foreign exchange risk or commodity risk shall be included, except those positions that are excluded from the calculation of own funds requirements for foreign exchange risk in accordance with Article 104c or that are deducted from the institution’s own funds’;

(d) in paragraph 5, the first subparagraph is replaced by the following:

‘5. Institutions shall cease to calculate the own funds requirements for market risk in accordance with the approach set out in Article 325(1), point (c), within three months of either of the following cases:’;

(e) paragraph 6 is replaced by the following:

‘6. An institution that has ceased to calculate the own funds requirements for market risk using the approach set out in Article 325(1), point (c), shall only be permitted to start calculating the own funds requirements for market risk using that approach where it demonstrates to the competent authority that all the conditions set out in paragraph 1 have been met for an uninterrupted full-year period.’;

(ea) paragraph 8 is deleted;

(134) in Article 325b, the following paragraph 4 is added:

‘4. Where a competent authority has not granted an institution the permission referred to in paragraph 2 for at least one institution or undertaking of the group, the following requirements shall apply for the calculation of the own funds requirements for market risk on a consolidated basis in accordance with this Title:

(a) the institution shall calculate net positions and own funds requirements in accordance with this Title for all positions in institutions or undertakings of the group for which the institution has been granted the permission referred to in paragraph 2, using the treatment set out in paragraph 1;

(b) the institution shall calculate net positions and own funds requirements in accordance with this Title individually for all the positions in each institution or undertaking of the group for which the institution has not been granted the permission referred to in paragraph 2;

(c) the institution shall calculate the total own funds requirements in accordance with this Title on a consolidated basis by adding the amounts calculated in points (a) and (b) of this paragraph.

For the purposes of the calculation referred to in points (a) and (b), institutions and undertakings referred to in points (a) and (b) shall use the same reporting currency as

the reporting currency used to calculate the own funds requirements for market risk in accordance with this Title on a consolidated basis for the group.';

(135) Article 325c is amended as follows:

(a) the title is replaced by the following:

'**Scope, structure of and qualitative requirements of the alternative standardised approach**'

(b) paragraph 1 is replaced by the following:

'1. Institutions shall have in place, and make available to the competent authorities, a documented set of internal policies, procedures and controls for monitoring and ensuring compliance with the requirements of this Chapter. Any changes to these policies, procedures and controls shall be notified to the competent authorities in due course.';

(c) the following paragraphs are added:

'3. Institutions shall have a risk control unit that is independent from business trading units and that reports directly to senior management. That risk control unit shall be responsible for designing and implementing the alternative standardised approach. It shall produce and analyse monthly reports on the output of the alternative standardised approach, as well as the appropriateness of the institution's trading limits.

4. Institutions shall independently review the alternative standardised approach they use for the purposes of this Chapter to the satisfaction of the competent authorities, either as part of their regular internal auditing process, or by mandating a third-party undertaking to conduct that review. ***The outcome of such a review shall be reported to the appropriate management bodies.***

For the purposes of the first subparagraph, a third-party undertaking means an undertaking that provides auditing or consulting services to institutions and that has staff that has sufficient skills in the area of market risk.

5. The review of the alternative standardised approach referred to in paragraph 4 shall cover both the activities of the business trading units and of the independent risk control unit and shall assess ***at least*** the following:

(a) the internal policies, procedures and controls for monitoring and ensuring compliance with the requirements referred to in paragraph 1;

(b) the adequacy of the documentation of the risk management system and processes and the organisation of the risk control unit referred to in paragraph 2;

(c) the accuracy of sensitivity computations and of the process used to derive these computations from the institution's pricing models that serve as a basis for reporting profit and loss to senior management, as referred to in Article 325t;

(d) the verification process that the institution employs to evaluate the consistency, timeliness and reliability of the data sources used in the calculation of the own funds requirements for market risk using the

alternative standardised approach, including the independence of those data sources.

An institution shall conduct the review referred to in the first subparagraph ▌ once ***every two years***, or on a ***more*** frequent basis ***up to once every year where*** the competent ***authority considers that the size and complexity of the institution justifies a more frequent review***.';

5a. Competent authorities shall verify that the calculation referred to in paragraph 2, including the implementation by an institution of the requirements set out in this Chapter and in Article 325a, is performed with integrity.

Competent authorities shall establish the frequency and intensity of the verification referred to in the previous subparagraph having regard to the size, systemic importance, nature, scale and complexity of the activities of the institution concerned and taking into account the principle of proportionality.

5b. EBA shall develop draft regulatory technical standards to specify the assessment methodology under which competent authorities conduct the verification referred to in paragraph 3.';

(136) Article 325j is amended as follows:

(a) paragraph 1 is replaced by the following:

'1. An institution shall calculate the own funds requirements for market risk of a position in a CIU using one of the following approaches:

(a) an institution that meets the condition set out in Article 104(7), point (a), shall calculate the own funds requirements for market risk of that position by looking through the underlying positions of the CIU, on a monthly basis, as if those positions were directly held by the institution;

(b) an institution that meets the condition set out in Article 104(7), point (b), shall calculate the own funds requirements for market risk of that position by using either of the following approaches:

(i) it shall calculate the own funds requirement for market risk of the CIU by considering the position in the CIU as a single equity position allocated to the bucket 'Other sector' in Article 325ap(1), Table 8;

(ii) it shall calculate the own funds requirement for market risk of the CIU in accordance with the limits set in the CIU's mandate and in the relevant law.

▌

For the purposes of the calculation referred to in point (ii), the institution may calculate the own funds requirements for counterparty credit risk and own funds requirements for credit valuation adjustment risk of derivative positions of the CIU using the simplified approach set out in Article 132a(3).';

(b) the following paragraph 1a is inserted:

‘1a. For the purposes of the approaches referred to in paragraph 1, point ▌ (b)(ii), the institution shall:

(a) apply the own funds requirements for the default risk set out in Section 5 and the residual risk add-on set out in Section 4 to a position in a CIU, where the mandate of that CIU allows it to invest in exposures that shall be subject to those own funds requirements; ***when using the calculation approach referred to in paragraph 1, point (b)(i), the institution shall consider the position in the CIU as a single unrated equity position allocated to the bucket “Unrated” in Article 325y(1), Table 2;***

(b) for all positions in the same CIU, use the same approach among the approaches set out in paragraph 1, point (b), to calculate the own funds requirements on a stand-alone basis as a separate portfolio.’;

(c) paragraph 4 is replaced by the following:

‘4. For the purposes of paragraph 1, point (b)(ii), an institution shall determine the calculation of the own funds requirements for market risk by determining the hypothetical portfolio that would attract the highest own funds requirements in accordance with Article 325c(2), point (a), based on the CIU’s mandate or relevant law, taking into account the leverage to the maximum extent, where applicable.

The institution shall use the same hypothetical portfolio as the one referred to in the first subparagraph to calculate, where applicable, the own funds requirements for the default risk set out in Section 5 and the residual risk add-on set out in Section 4 to a position in a CIU.

The methodology developed by the institution to determine the hypothetical portfolios of all positions in CIUs for which the calculations referred to in the first subparagraph are used shall be approved by its competent authority.’;

(d) the following paragraphs 6 and 7 are added:

‘6. ***To*** calculate the own funds requirements for market risk of a CIU position in accordance with the approach set out in paragraph 1, point (a), ***institutions*** may rely on a third party to perform such calculation, provided that all the following conditions are met:

(a) the third party is one of the following:

(i) the depository institution or the depository financial institution of the CIU, provided that the CIU exclusively invests in securities and deposits all securities at that depository institution or depository financial institution;

(ii) for CIUs not covered by point (i), the CIU management company, provided that the CIU management company meets the criteria set out in Article 132(3), point (a);

(iia) a third-party vendor on condition that the data, information or risk metrics are provided or calculated by the third parties referred to in points (i) or (ii) or by another such third-party vendor;

(b) the third party provides the institution with the ▌ data**,** information ***or risk metrics*** to calculate the own fund requirement for market risk of the CIU position in accordance with the approach referred to in in paragraph 1, point (a);

(c) an external auditor of the institution has confirmed the adequacy of the third party's data, ▌ information ***or risk metrics*** referred to in point (b) and the institution's competent authority has unrestricted access to these data**,** information ***or risk metrics*** upon request.

7. EBA shall develop draft regulatory technical standards to specify further the technical elements of the methodology to determine hypothetical portfolios for the purposes of the approach set out in paragraph 4, including the manner in which institutions shall take into account in the methodology, where applicable, leverage to the maximum extent.

EBA shall submit those draft regulatory technical standards to the Commission by [OP please insert the date = 12 months after the date of entry into force of this Regulation].

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

(137) in Article 325q, paragraph 2 is replaced by the following:

'2. The foreign exchange vega risk factors to be applied by institutions to options with underlyings that are sensitive to foreign exchange shall be the implied volatilities of exchange rates between currency pairs. Those implied volatilities shall be mapped to the following maturities in accordance with the maturities of the corresponding options subject to own funds requirements: 0,5 years, 1 year, 3 years, 5 years and 10 years.';

(138) in Article 325s(1), the formula for s_k is replaced by the following:

' $s_k = \frac{V_i(0{,}01 + vol_k, x, y) - V_i(vol_k, x, y)}{0{,}01} \cdot vol_k$ ';

(139) Article 325t is amended as follows:

(a) in paragraph 1, the second subparagraph is replaced by the following:

'By way of derogation from the first subparagraph, competent authorities may require an institution that has been granted permission to use the alternative internal model approach set out in Chapter 1b to use the pricing functions of the risk-measurement system of their internal model approach in the calculation of sensitivities under this Chapter for the purposes of the calculation and reporting requirements set out in Article 325(3).';

(b) in paragraph 5, point (a) is replaced by the following:

'(a) those alternative definitions are used for internal risk management purposes or for the reporting of profits and losses to senior management by an independent risk control unit within the institution;';

(c) in paragraph 6, point (a) is replaced by the following:

‘(a) those alternative definitions are used for internal risk management purposes or for the reporting of profits and losses to senior management by an independent risk control unit within the institution;’;

(139a) Article 325u is amended as follows:

(a) in paragraph 4, the following point is added:

‘(ca) the instrument aims solely at hedging the market risks of the trading book that generate own funds requirement for residual risks, provided that the institution has demonstrated to the satisfaction of the competent authority that the instrument should be treated as a hedging position.’;

(b) the following paragraph is added:

‘5a. For the purposes of paragraph 4, point (ca), EBA shall develop draft regulatory technical standards to specify the conditions that the competent authority has to assess to determine that an instrument is a hedging position.

EBA shall submit those draft regulatory technical standards to the Commission by 31 December 2024.

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

(140) in Article 325v, the following paragraph 3 is added:

‘3. For traded non-securitisation credit and equity derivatives, JTD amounts by individual constituents shall be determined by applying a look-through approach.’;

(141) in Article 325y, the following ***paragraphs are*** added:

‘6. For the purposes of this Article, an exposure shall be assigned the credit quality category corresponding to the credit quality category that it would be assigned under the Standardised Approach for credit risk set out in Title II, Chapter 2.

6a. Long and short positions in institution’s own debt should be excluded from the calculation of own funds requirements for default risk.’;

(142) in Article 325ab, paragraph 2 is deleted.

(143) in Article 325ae, paragraph 3 is replaced by the following:

‘3. The risk weights of risk factors based on the currencies included in the most liquid currency sub-category as referred to in Article 325bd(7), point (b), and the domestic currency of the institution shall be the following:

(a) for risk-free rate risk factors, the risk weights referred to in paragraph 1, Table 3 divided by $\sqrt{2}$;

(b) for inflation risk factor and cross currency basis risk factors, the risk weights referred to in paragraph 2 divided by $\sqrt{2}$.’;

(144) Article 325ah is amended as follows:

(a) paragraph 1 is amended as follows:

(i) in Table 4, the sector of bucket 13 is replaced by the following:

‘Financial sector entities including credit institutions incorporated or established by a central government, a regional government or a local authority, promotional lenders and covered bonds.’;

(ii) the following subparagraph is added:

‘For the purposes of this Article, an exposure shall be assigned the credit quality category corresponding to the credit quality category that it would be assigned under the Standardised Approach for credit risk set out in Title II, Chapter 2.’;

(b) the following paragraph 3 is added:

‘3. By way of derogation from paragraph 2, institutions may assign a risk exposure of an unrated covered bond to bucket 4 where the institution that issued the covered bond has a credit quality step 1 to 3.’;

(145) in Article 325ai(1), the definition of the term ρkl (name) is replaced by the following:

‘ρ_{kl} (name) shall be equal to 1 where the two names of sensitivities k and l are identical; it shall be equal to 35 % where the two names of sensitivities k and l are in buckets 1 to 18 in Article 325ah(1), Table 4, otherwise it shall be equal to 80 %’;

(146) in Article 325aj, the definition of γbc (rating) is replaced by the following:

‘γ_{bc} (rating) shall be equal to:

(a) 1, where buckets b and c are buckets 1 to 17 and both buckets have the same credit quality category (either ‘credit quality step 1 to 3’ or ‘credit quality step 4 to 6’); otherwise it shall be equal to 50 %; for the purposes of that calculation, bucket 1 shall be considered as belonging to the same credit quality category as buckets that have credit quality step 1 to 3

(b) 1, where either bucket b or c is bucket 18;

(c) 1, where bucket b or c is bucket 19 and the other bucket has credit quality step 1 to 3; otherwise it shall be equal to 50 %;

(d) 1, where bucket b or c is bucket 20 and the other bucket has credit quality step 4 to 6; otherwise it shall be equal to 50 %;’;

(147) Article 325ak is amended as follows:

(a) in Table 6, the sector of bucket 13 is replaced by the following:

‘Financial sector entities including credit institutions incorporated or established by a central government, a regional government or a local authority, promotional lenders and covered bonds’;

(b) the following paragraphs are added:

‘For the purposes of this Article, an exposure shall be assigned the credit quality category corresponding to the credit quality category that it would be assigned under the Standardised Approach for credit risk set out in Title II, Chapter 2.

By way of derogation from the second paragraph, institutions may assign a risk exposure of an unrated covered bond to bucket 4 where the institution that issues the covered bond has a credit quality step 1 to 3.’;

(148) in Article 325am(1), the following paragraph 3 is added:

'3. For the purposes of this Article, an exposure shall be assigned the credit quality category corresponding to the credit quality category that it would be assigned under the Standardised Approach for credit risk set out in Title II, Chapter 2.';

(149) in Article 325as, Table 9 is amended as follows:

(a) the bucket name of bucket 3 is replaced by the following:

'Energy - electricity';

(b) the following field is inserted:

3a	Energy – carbon trading	40 %

';

(150) Article 325ax is amended as follows:

(a) paragraphs 1 and 2 are replaced by the following:

'1. Buckets for vega risk factors shall be similar to the buckets established for delta risk factors in accordance with, this Chapter, Section 3, Subsection 1.

2. Risk weights for sensitivities to vega risk factors shall be assigned in accordance with the risk class of the risk factors, as follows:

Table 11

Risk class	Risk weights
GIRR	100%
CSR non-securitisations	100%
CSR securitisations (ACTP)	100%
CSR securitisations (non-ACTP)	100%
Equity (large cap and indices)	77,78%
Equity (small cap and other sector)	100%
Commodity	100%
Foreign exchange	100%

(b) paragraph 3 is deleted.';

(ba) paragraph 6 is replaced by the following:

'***6. For general interest rate, credit spread and commodity curvature risk factors, the curvature risk weight shall be the parallel shift of all the vertices for each curve on the basis of the highest prescribed delta risk weight referred to in Subsection 1 for the relevant risk bucket.*** ';

(151) Article 325az is amended as follows:

(a) paragraph 1 is replaced by the following:

'1. The alternative internal model approach may be used by an institution to calculate its own funds requirements for market risk provided that the institution meets all the requirements set out in this Chapter.';

(c) paragraph 2, first subparagraph, is amended as follows:

(i) points (c) and (d) are replaced by the following:

'(c) the trading desks have met the back-testing requirements referred to in Article 325bf(3);

(d) the trading desks have met the profit and loss attribution ('P&L attribution') requirements referred to in Article 325bg;';

(ii) the following point (g) is added:

'(g) no positions in CIUs that meet the condition set out in Article 104(7), point (b), have been assigned to the trading desks.';

(c) paragraph 3 is replaced by the following:

'3. Institutions that have received the permission to use the alternative internal model approach shall also meet the reporting requirement set out in Article 325(3).';

(ca) in paragraph 8, point (b) is replaced by the following:

'(b) the assessment methodology under which competent authorities verify an institution's compliance with the requirements set out in this Chapter.';

(d) paragraph 9, first subparagraph, is amended as follows:

(i) point (b) is replaced by the following:

'(b) to limit the calculation of the add-on to that resulting from overshootings under the back-testing of hypothetical changes as referred to in Article 325bf(6);';

(ii) the following point (c) is added:

'(c) to exclude the overshootings evidenced by the back-testing of hypothetical or actual changes from the calculation of the add-on as referred to in Article 325bf(6);';

(152) in Article 325ba, the following paragraph 3 is added:

'3. An institution using an alternative internal model shall calculate the total own funds requirements for market risk for all trading book positions and all non-trading book positions generating foreign exchange or commodity risks in accordance with the following formula:

$$AIMA_{total} = \min\left(AIMA + PLA_{addon} + ASA_{non-aima}; ASA_{all\ portfolio}\right) + \max\left(AIMA - ASA_{aima}; 0\right)$$

where:

AIMA = the sum of the own funds requirements referred in to paragraphs 1 and 2;

PLA_{addon} = the additional own funds requirement referred in to Article 325bg(2);

$ASA_{all\ portfolio}$ = the own funds requirements for market risk as calculated under the alternative standardised approach referred to in Article 325(1), point (a), for the portfolio of all trading book positions and all non-trading book positions generating foreign exchange or commodity risks;

$ASA_{non-aima}$ = the own funds requirements for market risk as calculated under the alternative standardised approach referred to in Article 325(1), point (a), for the portfolio of trading book positions and non-trading book positions generating foreign exchange or commodity risks for which the institution ***uses*** the ***alternative standardised*** approach to calculate the own funds requirements for market risk;

AS = the own funds requirements for market risk as calculated under the alternative standardised approach referred to in Article 325(1), point (a), for the portfolio of trading book positions and non-trading book positions generating foreign exchange or commodity risks for which the institution used the approach referred to in Article 325(1), point (b) to calculate the own funds requirements for market risk;

(153) in Article 325bc, the following paragraph 6 is added:

'6. EBA shall develop draft regulatory technical standards to specify the criteria for the use of data inputs in the risk-measurement model referred to in this Article, including criteria on data accuracy and criteria on the calibration of the data inputs where market data is insufficient.

EBA shall submit those draft regulatory technical standards to the Commission by [9 months after the entry in force of this Regulation].

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

(154) Article 325be is amended as follows:

(a) in paragraph 1, the following subparagraph is added:

'For the purposes of the assessment referred to in paragraph 1, competent authorities may allow institutions to use market data provided by third-party vendors.';

(b) the following paragraph 1a is inserted:

'1a. Competent authorities may require an institution to consider not modellable a risk factor that has been assessed as modellable by the institution in accordance with paragraph 1, where the data inputs used to determine the scenarios of future shocks applied to the risk factor do not meet, to the satisfaction of the competent authorities, the requirements referred to in Article 325bc(6).';

(c) the following paragraph 2a is inserted:

'2a. In extraordinary circumstances, occurring during periods of significant reduction in certain trading activities across financial markets, competent authorities may allow all institutions using the approach set out in this Chapter

to consider as modellable some risk factors that have been assessed as not modellable by these institutions in accordance with paragraph 1, provided that the following conditions are fulfilled:

(a) the risk factors subject to the treatment correspond to the trading activities which are significantly reduced across financial markets;

(b) the treatment is applied temporarily, and not for more than six months within one financial year;

(c) the treatment referred to in the first subparagraph does not significantly reduce the total own funds requirements for market risk of the institutions applying it;

(d) competent authorities immediately notify EBA of any decision to allow institutions to apply the approach set out in this Chapter to consider as modellable some risk factors that have been assessed as non-modellable, as well as of the trading activities concerned, and substantiate that decision.';

(d) paragraph 3 is replaced by the following:

'3. EBA shall develop draft regulatory technical standards to specify the criteria to assess the modellability of risk factors in accordance with paragraph 1, including where market data ***provided by third-party vendors*** are used, and the frequency of that assessment.

EBA shall submit those draft regulatory technical standards to the Commission by [OP please insert date = 9 months after the date of entry into force of this Regulation].

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

(155) Article 325bf is amended as follows:

(a) paragraph 6 is amended as follows:

(i) in the first subparagraph, the introductory sentence is replaced by the following:

'The multiplication factor (mc) shall be equal to at least the sum of 1,5 and an add-on determined in accordance with Table 3. For the portfolio referred to in paragraph 5, the add-on shall be calculated on the basis of the number of overshootings that occurred over the most recent 250 business days as evidenced by the institution's back-testing of the value-at-risk number calculated in accordance with point (a) of this subparagraph. The calculation of the add-on shall be subject to the following requirements:';

(ii) the last subparagraph is replaced by the following:

'In extraordinary circumstances, competent authorities may permit an institution to:

(a) limit the calculation of the add-on to that resulting from overshootings under the back-testing of hypothetical changes where the number of overshootings under the back-testing of actual changes does not result from deficiencies in the institution's alternative internal model;

(b) exclude the overshootings evidenced by the back-testing of hypothetical or actual changes from the calculation of the add-on where those overshootings do not result from deficiencies in the institution's alternative internal model.';

(iii) the following subparagraph is added:

'For the purposes of the first subparagraph, competent authorities may increase the value of mc above the sum referred to in that subparagraph, where an institution's alternative internal model shows deficiencies to appropriately measure the own funds requirements for market risk.';

(b) paragraph 8 is replaced by the following:

'8. By way of derogation from paragraphs 2 and 6 of this Article, competent authorities may permit an institution not to count an overshooting where a one-day change in the value of its portfolio that exceeds the related value-at-risk number calculated by that institution's internal model is attributable to a non-modellable risk factor.'

(c) the following paragraph 10 is added:

'10. EBA shall develop draft regulatory technical standards to specify the conditions and the criteria according to which an institution may be allowed not to count an overshooting where the one-day change in the value of its portfolio that exceeds the related value-at-risk number calculated by that institution's internal model is attributable to a non-modellable risk factor.

EBA shall submit those draft regulatory technical standards to the Commission by [OP please insert date = 18 months after the date of entry into force of this Regulation].

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

(156) Article 325bg is amended as follows:

(a) paragraphs 1 to ***2*** are replaced by the following:

'1. An institution's trading desk meets the P&L attribution requirements where the theoretical changes in the value of that trading desk's portfolio, based on the institution's risk-measurement model, are either close or sufficiently close to the hypothetical changes in the value of that trading desk's portfolio, based on the institution's pricing model.

2. Notwithstanding paragraph 1, where the theoretical changes in the value of a trading desk's portfolio, based on the institution's risk-measurement model are sufficiently close to the hypothetical changes in the value of that trading desk's portfolio, based on the institution's pricing model, the institution shall calculate,

for all the positions assigned to that trading desk, an additional own funds requirement to the own funds requirements referred to in Article 325ba, paragraphs 1 and 2.

▌;

(b) paragraph 4 is amended as follows:

(i) points (a) and (b) are replaced by the following:

‘(a) the criteria specifying whether the theoretical changes in the value of a trading desk's portfolio are either close or sufficiently close to the hypothetical changes in the value of a trading desk's portfolio for the purposes of paragraph 1, taking into account international regulatory developments;

(b) the additional own funds requirement referred to in paragraph 2;’;

(ii) point (e) is deleted;

(iii) the last two subparagraphs are replaced by the following:

EBA shall submit those draft regulatory technical standards to the Commission by [9 months after the entry in force of this Regulation].

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

(157) Article 325bh is amended as follows:

(a) in paragraph 1, the following point (i) is added:

‘(i) for positions in CIUs, institutions shall look through the underlying positions of the CIUs at least on a weekly basis to calculate their own funds requirements in accordance with this Chapter; ***if an institution looks through less regularly than daily, it shall identify, measure and monitor any risk occurring from its less than daily look through and avoid any significant risk underestimation;*** institutions that do not have adequate data inputs or information to calculate the own fund requirement for market risk of a CIU position in accordance with the look-through approach may rely on a third party to obtain those data inputs or information, provided that all the following conditions are met:

(i) the third party is one of the following:

– the depository institution or the depository financial institution of the CIU, provided that the CIU exclusively invests in securities and deposits all the securities at that depository institution or depository financial institution;

– for CIUs not covered by the first indent of this point(i), the CIU management company, provided that the CIU management company meets the criteria set out in Article 132(3), point (a)***;***

– ***a third-party vendor on condition that the data, information or risk metrics are provided by or calculated from the third parties of subparagraphs (i) or (ii) or another such third-party vendor.***

(ii) the third party provides the institution with the ▌ data***,*** information ***or risk metrics*** to calculate the own funds requirement for market risk of the CIU position in accordance with the approach referred to in the first subparagraph;

(iii) an external auditor of the institution has confirmed the adequacy of the third party's data***,*** information ***or risk metrics*** referred to in point (ii) and the institution's competent authority has unrestricted access to these data***,*** information ***or risk metrics*** upon request.';

(b) paragraph 2 is replaced by the following:

'2. An institution may use empirical correlations within broad categories of risk factors and, for the purpose of calculating the unconstrained expected shortfall measure UESt as referred to in Article 325bb(1) across broad categories of risk factors only where the institution's approach for measuring those correlations is sound, consistent with either the applicable liquidity horizons or, upon the satisfaction of the institution's competent authority, with the base time horizon of 10 days set out in Article 325bc(1) and implemented with integrity.';

(c) paragraph 3 is deleted;

(158) in Article 325bi(1), point (b) is amended as follows:

'(b) an institution shall have a risk control unit that is independent from business trading units and that reports directly to senior management. That unit shall:

(i) be responsible for designing and implementing any internal risk-measurement model used in the alternative internal model approach for the purposes of this Chapter;

(ii) be responsible for the overall risk management system;

(iii) produce and analyse daily reports on the output of any internal model used to calculate capital requirements for market risks, and on the appropriateness of measures to be taken in terms of trading limits.

A separate validation unit from the risk control unit shall conduct the initial and ongoing validation of any internal risk-measurement model used in the alternative internal model approach for the purposes of this Chapter.';

(158a) in Article 325bl(1), the following subparagraph is added:

'Long and short positions in institution's own debt should be excluded from the calculation of own funds requirements for default risk.';

(159) Article 325bp is amended as follows:

(a) paragraph 5 is amended as follows:

(-i) point (a) is replaced by the following:

'(a) the default probabilities shall be floored at 0,01% for covered bond issuers and at 0,03 % for all other issuers; exposures that would receive a 0 % risk-weight under the Standardised Approach for credit risk in accordance with Chapter 2 of Title II shall not be floored;';

(i) points (d) and (e) are replaced by the following:

‘(d) an institution that has been granted permission to estimate default probabilities in accordance with Title II, Chapter 3, Section 1 for the exposure class and the rating system corresponding to a given issuer shall use the methodology set out therein to calculate the default probabilities of that issuer, provided that data for such estimation are available;

(e) an institution that has not been granted permission to estimate default probabilities referred to in point (d) shall develop an internal methodology or use external sources to estimate these default probabilities consistently with the requirements applying to estimates of default probability under this Article.’;

(ii) the following subparagraph is added:

‘For the purposes of point (d), the data to perform the estimation of the default probabilities of a given issuer of a trading book position are available where, at the calculation date, the institution has a non-trading book position on the same obligor for which it estimates default probabilities in accordance with Title II, Chapter 3, Section 1 to calculate its own funds requirements set out in that Chapter.’;

(b) paragraph 6 is amended as follows:

(i) points (c) and (d) are replaced by the following:

‘(c) an institution that has been granted permission to estimate loss given default in accordance with Title II, Chapter 3, Section 1 for the exposure class and the rating system corresponding to a given exposure shall use the methodology set out therein to calculate loss given default estimates of that issuer, provided that data for such estimation are available;

(d) an institution that has not been granted permission to estimate loss given default referred to in point (c) shall develop an internal methodology or use external sources to estimate loss given default consistently with the requirements applying to estimates of loss given default under this Article.’;

(ii) the following subparagraph is added:

‘For the purposes of point (c), the data to perform the estimation of the loss given default a given issuer of a trading book position are available where, at the calculation date, the institution has a non-trading book position on the same exposure for which it estimates loss given default in accordance with Title II, Chapter 3, Section 1 to calculate its own funds requirements set out in that Chapter.’;

(160) in Article 337, paragraph 2 is replaced by the following:

‘2. When determining risk weights for the purposes of paragraph 1, institutions shall use exclusively the approach set out in Title II, Chapter 5, Section 3.’;

(161) in Article 338, paragraphs 1 and 2 are replaced by the following:

‘1. For the purposes of this Article, an institution shall determine its correlation trading portfolio in accordance with the provisions set out in Article 325, paragraphs 6, 7 and 8.

2. 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.';

(162) in Article 352, paragraph 2 is deleted;

(163) ▌Article 361 ***is amended as follows:***

(a) point (c) is deleted;

(b) the second paragraph is replaced by the following:

'Institutions shall notify the use they make of this Article to their competent authorities.';

(164) in Part Three, Title IV, Chapter 5 is deleted;

(165) in Article 381 , the following paragraph is added:

'For the purposes of this Title, 'CVA risk' means the risk of losses arising from changes in the value of CVA, calculated for the portfolio of transactions with a counterparty as set out in the first paragraph, due to movements in a counterparty's credit spreads risk factors and in other risk factors embedded in the portfolio of transactions.';

(166) Article 382 is amended as follows:

(a) paragraph 2 is replaced by the following:

'2. An institution shall include in the calculation of own funds required by paragraph 1 securities financing transactions that are fair-valued under the accounting framework applicable to the institution where the institution's CVA risk exposures arising from those transactions are material.';

(b) the following paragraphs 4a and 4b are inserted:

'4a. By way of derogation from paragraph 4, an institution may choose to calculate an own funds requirements for CVA risk, using any of the applicable approaches referred to in Article 382a, for those transactions that are excluded in accordance with paragraph 4, where the institution uses eligible hedges determined in accordance with Article 386 to mitigate the CVA risk of those transactions. Institutions shall establish policies to specify where they choose to satisfy their own funds requirements for CVA risk for such transactions.

4b. Institutions shall report to their competent authorities the results of the calculations of the own funds requirements for CVA risk for all the transactions referred to in paragraph 4. For the purposes of that reporting requirement, institutions shall calculate the own funds requirements for CVA risk using the relevant approaches set out in Article 382a(1), that they would have used to satisfy an own funds requirement for CVA risk if those transactions were not excluded from the scope in accordance with paragraph 4.'

(c) the following paragraph 6 is added:

‘6. EBA shall develop draft regulatory technical standards to specify the conditions and the criteria that the ***institutions*** shall use to assess whether the CVA risk exposures arising from fair-valued securities financing transactions are material, as well as the frequency of that assessment.

EBA shall submit those draft regulatory technical standards to the Commission by [OP please insert the date = 2 years after the entry into force of this Regulation].

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

(167) the following Article 382a is inserted:

‘Article 382a
Approaches for calculating the own funds requirements for CVA risk

1. An institution shall calculate the own funds requirements for CVA risk for all the transactions referred to in Article 382 in accordance with the following approaches:

(a) the standardised approach set out in Article 383, where the institution has been granted permission to use that approach by the competent authorities;

(b) the basic approach set out in Article 384;

(c) the simplified approach set out in Article 385, provided that the institution meets the conditions set out in paragraph 1 of that Article.

2. An institution shall not use the approach referred to in paragraph 1, point (c), in combination with the approaches referred to in paragraph 1, points (a) or (b).

3. An institution may use a combination of the approaches referred to in paragraph 1, points (a) and (b), to calculate the own funds requirements for CVA risk on a permanent basis in the following situations:

(a) for different counterparties;

(b) for different eligible netting sets with the same counterparty;

(c) for different transactions of the same eligible netting set, provided that the following conditions are met:

(i) the institution shall split the netting set into two hypothetical netting sets, and allocate all the transactions subject to the approach referred to in paragraph 1, point (a), to the same hypothetical netting set and all the transactions subject to the approach referred to in paragraph 1, point (b) to the other hypothetical netting set to calculate to the own funds requirements for CVA risk;

(ii) the split referred to in point (a) shall be consistent with the manner in which the institution determines the legal netting of the CVA calculated for accounting purposes;

(iii) the permission granted by competent authorities to use the approach referred to in paragraph 1, point (a), shall be limited to the hypothetical

netting set for which the institution uses the approach referred to in paragraph 1, point (a), to calculate to the own funds requirements for CVA risk.

Institutions shall establish policies to explain how they use a combination of the approaches referred to in paragraph 1, points (a) and (b), and as set out in this paragraph, to calculate the own funds requirements for CVA risk on a permanent basis.';

(168) Article 383 is replaced by the following:

'Article 383
Standardised approach

1. Competent authorities shall grant an institution permission to calculate its own funds requirements for CVA risk for a portfolio of transactions with one or more counterparties by using the standardised approach in accordance with paragraph 3, after having assessed whether the institution complies with the following requirements:

(a) the institution has established a distinct unit which is responsible for the institution's overall risk management and hedging of CVA risk;

(b) for each counterparty concerned, the institution has developed a regulatory CVA model to calculate the CVA of that counterparty in accordance with Article 383a;

(c) for each counterparty concerned, the institution is able to calculate, at least on a monthly basis, the sensitivities of its CVA to the risk factors concerned as determined in accordance with Article 383b;

(d) for all positions in eligible hedges recognised in accordance with Article 386 for the purposes of calculating the institution's own funds requirements for CVA risk using the standardised approach, the institution is able to calculate, and at least on a monthly basis, thee sensitivities of those positions to the relevant risk factors determined in accordance with Article 383b.

For the purposes of point (c), the sensitivity of a counterparty's CVA to a risk factor means the relative change in the value of that CVA, as a result of a change in the value of one of the relevant risk factors of that CVA, calculated using the institution's regulatory CVA model in accordance with Articles 383i to 383j.

For the purposes of point (d), the sensitivity of a positions in an eligible hedge to a risk factor means the relative change in the value of that position, as a result of a change in the value of one of the relevant risk factors of that position, calculated using the institution's pricing model in accordance with Articles 383i to 383j.

2. For the purposes of calculating the own funds requirements for CVA risk, the following definitions shall apply:

(a) 'risk class' means any of the following categories:

(i) interest rate risk;

(ii) counterparty credit spread risk;

(iii) reference credit spread risk;

(iv) equity risk;

(v) commodity risk;

(vi) foreign exchange risk;

(b) 'CVA portfolio' means the portfolio composed of the aggregate CVA and all the eligible hedges referred to in paragraph 1, point (d);

(c) 'aggregate CVA' means the sum of the CVAs calculated using the regulatory CVA model for all counterparties referred to in paragraph 1, first subparagraph.

3. Institutions shall determine the own funds requirements for CVA risk using the standardised approach as the sum of the following two own funds requirements calculated in accordance with Article 383b:

(a) the own funds requirements for delta risk which capture the risk of changes in the institution's CVA portfolio due to movements in the relevant non-volatility related risk factors;

(b) the own funds requirements for vega risk which capture the risk of changes in the institution's CVA portfolio due to movements in the relevant volatility related risk factors.';

(169) the following Articles 383a to 383w are inserted:

'Article 383a

Regulatory CVA model

1. A regulatory CVA model used for the calculation of the own funds requirements for CVA risk in accordance with Article ***383*** shall be conceptually sound, shall be implemented with integrity, and shall comply with all of the following requirements:

(a) the regulatory CVA model shall be capable of modelling the CVA of a given counterparty, recognising netting and margin agreement at netting set level, where relevant, in accordance with this Article;

(b) the institution estimates the counterparty's probabilities of default referred to in point (a) from the counterparty's credit spreads and market-***consensus expected*** loss-given-default for that counterparty.

(c) the expected loss-given-default referred to in point (a) shall be the same as the market-***consensus expected*** loss-given-default referred to in point (b), unless the institution can justify that the seniority of the portfolio of transactions with that counterparty differs from the seniority of senior unsecured bonds issued by that counterparty;

(d) at each future time point, the simulated discounted future exposure of the portfolio of transactions with a counterparty is calculated with an exposure model by repricing all the transactions in that portfolio, based on the simulated joint changes of the market risk factors that are material to those transactions using an appropriate number of scenarios, and discounting the prices to the date of calculation using risk-free interest rates;

(*e*) the regulatory CVA model is capable of modelling significant dependency between the simulated discounted future exposure of the portfolio of transactions with the counterparty's credit spreads;

(*f*) where the transactions of the portfolio are included in a netting set subject to a margin agreement and daily mark-to-market valuation, the collateral posted and received as part of that agreement is recognised as a risk mitigant in the simulated discounted future exposure, where all of the following conditions are met:

(i) the institution determines the ▌margin period of risk relevant for that netting set in accordance with the requirements set out in Article 285, paragraphs 2 and 5, and reflects that margin period in the calculation of the simulated discounted future exposure;

(ii) all the applicable features of the margin agreement, including the frequency of margin calls, the type of contractually eligible collateral, the threshold amounts, the minimum transfer amounts, the independent amounts and the initial margins for both the institution and the counterparty are appropriately reflected in the calculation of the simulated discounted future exposure;

(iii) the institution has established a collateral management unit that complies with the Article 287 for all the collateral recognised for the calculation of the own funds requirements for CVA risk using the standardised approach.

For the purposes of point (a), CVA shall have a positive sign and shall be calculated as a function of the counterparty's expected loss-given-default, an appropriate set of the counterparty's probabilities of default at future time points and an appropriate set of simulated discounted future exposures of the portfolio of transactions with that counterparty at future time points until the maturity of the longest transaction in that portfolio.

For the purposes of point (b), where the credit default swap spreads of the counterparty are observable in the market, an institution shall use those spreads. Where such credit default swap spreads are not available, an institution shall use one of the following approaches:

(i) credit spreads from other instruments issued by the counterparty reflecting current market conditions;

(ii) proxy spreads that are appropriate considering to the rating, industry and region of the counterparty.

For the purposes of the justification referred to point (d), collateral received from the counterparty shall not change the seniority of the exposure.

For the purposes of point (f)(iii), where the institution has already established such unit for using the internal model method referred to in Article 283, the institution shall not be required to establish an additional collateral management unit where that institution demonstrates to its competent authorities that such unit complies with the requirements set out in Article 287 for all the collateral recognised for calculating the own funds requirements for CVA risks using the standardised approach.

2. An institution using a regulatory CVA model shall comply with all the following qualitative requirements:

(a) the exposure model referred to in paragraph 1, point (d), is part of the institution's internal CVA risk management system that includes the identification, measurement, management, approval and internal reporting of CVA and CVA risk for accounting purposes;

(b) the institution shall have a process in place for ensuring compliance with a documented set of internal policies, controls, assessment of model performance and procedures concerning the exposure model referred to in paragraph 1, point (d);

(c) the institution shall have an independent control unit that is responsible for the effective initial and ongoing validation of the exposure model referred to in paragraph 1, point (d). This unit shall be independent from business credit and from trading units, including the unit referred to in Article 383(1), point (a), and shall report directly to senior management; it shall have a sufficient number of staff with a level of skills that is appropriate to fulfil this purpose;

(d) the institution's senior management shall be actively involved in the risk control process and shall regard CVA risk control as an essential aspect of the business, to which appropriate resources need to be devoted;

(e) the institution shall document the process for initial and ongoing validation of its exposure model referred to in paragraph 1, point (d), to a level of detail that would enable a third party to understand how the models operate, their limitations, and their key assumptions, and recreate the analysis. This documentation shall set out the minimum frequency with which ongoing validation will be conducted, as well as other circumstances (such as a sudden change in market behaviour) under which additional validation shall be conducted; it shall describe how the validation is conducted with respect to data flows and portfolios, what analyses are used and how representative counterparty portfolios are constructed;

(f) the pricing models used in the exposure model referred to in paragraph 1, point (a), for a given scenario of simulated market risk factors shall be tested against appropriate independent benchmarks for a wide range of market states as part of the initial and ongoing model validation process. Pricing models for options shall account for the non-linearity of option value with respect to market risk factors;

(g) an independent review of the institution's internal CVA risk management system referred to in point (a) of this paragraph shall be carried out by the institution's internal auditing process on a regular basis. This review should include both the activities of the unit referred to in Article 383(1), point (a), and of the independent risk control unit referred to in point (c) of this paragraph;

(h) the model used by the institution for calculating the simulated discounted future exposure referred to in paragraph 1, point (a), shall reflect transaction terms and specifications and margin arrangements in a timely, complete, and conservative fashion. The terms and specifications shall reside in a secure database subject to formal and periodic audit. The transmission of transaction terms and specifications data and margin arrangements to the exposure model shall also be

subject to internal audit, and formal reconciliation processes shall be in place between the internal model and source data systems to verify on an ongoing basis that transaction terms, specifications and margin arrangements are being reflected in the exposure system correctly or, at least, conservatively;

(i) the current and historical market data inputs used in the model used by the institution for calculating the simulated discounted future exposure referred to in paragraph 1, point (a), shall be acquired independently of the ▌ business ***lines***. They shall be fed into the model used by the institution for calculating the simulated discounted future exposure referred to in paragraph 1, point (a), in a timely and complete fashion, and maintained in a secure database subject to formal and periodic audit. An institution shall have a well-developed data integrity process to handle inappropriate data observations. In the case where the model relies on proxy market data, an institution shall design internal policies to identify suitable proxies and shall demonstrate empirically on an ongoing basis that the proxies provide a conservative representation of the underlying risk;

(j) the exposure model shall capture the transaction specific and contractual information necessary to be able to aggregate exposures at the level of the netting set. An institution shall verify that transactions are assigned to the appropriate netting set within the model.

For the purposes of the calculation of the own funds requirement for CVA risks referred to in point (a), the exposure model may have different specifications and assumptions in order to meet all the requirements set out in Article 383a, except that its market input data and netting recognition shall remain the same as the ones used for accounting purposes.

3. EBA shall develop draft regulatory technical standards to specify how proxy spreads referred to in paragraph 1, point (b)(ii), are to be determined by the institution for the purposes of calculating default probabilities.

4. EBA shall develop draft regulatory technical standards to specify:

(a) further technical elements that institution shall take into account when calculating the counterparty's expected loss-given-default, the counterparty's probabilities of default and the simulated discounted future exposure of the portfolio of transactions with that counterparty and CVA, as referred to in paragraph 1, point (a);

(b) which other instruments referred to in paragraph 1, point (b)(i), are appropriate to estimate the counterparty's probabilities of default and how institutions shall perform this estimation.

EBA shall submit those draft regulatory technical standards referred to in paragraphs 3 and 4 to the Commission by [OP please insert date = 24 months after the date of entry into force of that Regulation].

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

4. EBA shall develop draft regulatory technical standards to specify:

(a) the conditions for assessing the materiality of extensions and changes to the use of the standardised approach as referred to in Article 383(3);

(b) the assessment methodology under which competent authorities shall verify an institution's compliance with the requirements set out in Articles 383 and 383a.

EBA shall submit those draft regulatory technical standards to the Commission 36 *months* [after the entry into force of that Regulation].

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

Article 383b

Own funds requirements for delta and vega risks

1. Institutions shall apply the delta and vega risk factors described in Articles 383c to 383h, and the process set out in paragraphs 2 to 8, to calculate the own funds requirements for delta and vega risks.

2. For each risk class referred to in Article 383(2), the sensitivity of the aggregate CVAs and the sensitivity of all the positions in eligible hedges falling within the scope of the own funds requirements for delta or vega risks to each of the applicable delta or vega risk factors included in that risk class shall be calculated by using the corresponding formulas laid down in Articles 383i and 383j. Where the value of an instrument depends on several risk factors, the sensitivity shall be determined separately for each risk factor.

For the calculation of the vega risk sensitivities of the aggregate CVAs, sensitivities both to volatilities used in the exposure model to simulate risk factors and to volatilities used to reprice option transactions in the portfolio with the counterparty shall be included.

By way of derogation from paragraph 1, subject to the permission of the competent authorities, an institution may use alternative definitions of delta and vega risk sensitivities in the calculation of the own funds requirements of a trading book position under this Chapter, provided that the institution meets all the following conditions:

(a) those alternative definitions are used for internal risk management purposes and for the reporting of profits and losses to senior management by an independent risk control unit within the institution;

(b) the institution demonstrates that those alternative definitions are more appropriate for capturing the sensitivities of the position than the formulas set out in Articles 383i and 383j, and that the resulting sensitivities do not materially differ from those formulas.

3. Where an eligible hedge is an index instrument, institutions shall calculate the sensitivities of that eligible hedge to all the relevant risk factors by applying the shift of one of the relevant risk factor to each of the index constituents.

4. An institution may introduce additional risk classes to the ones referred to in Article 383(2) that correspond to qualified index instruments. For the purposes of delta risks, an index instrument shall be considered to be qualified where it meets the conditions

set out in Article 325i . For vega risks, all index instruments shall be considered qualified.

An institution shall calculate delta and vega sensitivities to a qualified index risk factor as a single sensitivity to the underlying qualified index. Where 75% of the constituents of a qualified index are mapped to the same sector as set out in Articles 383o, 383r and 383t, the institution shall map the qualified index to that same sector. Otherwise, the institution shall map the sensitivity to the applicable qualified index bucket.

5. The weighted sensitivities of the aggregate CVA and of the market value of all eligible hedges to each risk factor shall be calculated by multiplying the respective net sensitivities by the corresponding risk weight, in accordance with the following formulae:

$$WS_k^{CVA} = RW_k \cdot S_k^{CVA}$$

$$WS_k^{hedges} = RW_k \cdot S_k^{hedges}$$

where:

k = the index that denotes the risk factor k;

RW_k = the risk weight applicable to the risk factor k;

WS_k^{CVA} = the weighted sensitivity of the aggregate CVA to risk factor k;

S_k^{CVA} = the net sensitivity of the aggregate CVA to risk factor k;

WS_k^{hedges} = the weighted sensitivity of the market value of all the eligible hedges in the CVA portfolio to risk factor k;

S_k^{hedges} = the net sensitivity of the market value of all the eligible hedges in the CVA portfolio to risk factor k.

6. Institutions shall calculated the net weighted sensitivity WS_k of the CVA portfolio to risk factor k in accordance with the following formula:

$$WS_k = WS_k^{CVA} - WS_k^{hedges}$$

7. The net weighted sensitivities within the same bucket shall be aggregated in accordance with the following formula, using the corresponding correlations ρ_{kl} for weighted sensitivities within the same bucket set out in Articles 383l, 383s and 383p giving rise to the bucket-specific sensitivity K_b:

$$K_b = \sqrt{\sum_k WS_k^2 + \sum_{k \epsilon b} \sum_{l \epsilon b, k \neq l} \rho_{kl} WS_k WS_l + R \cdot \sum_{k \epsilon b} \left(\left(WS_k^{hedges} \right)^2 \right)}$$

where:

K_b = the bucket-specific sensitivity of bucket b;

ρ_{kl} = the corresponding intra-bucket correlation parameters;

R = the hedging disallowance parameter equal to 0.01;

WS_k = the net weighted sensitivities.

8. The bucket-specific sensitivity shall be calculated in accordance with paragraphs 5, 6 and 7 for each bucket within a risk class. Once the bucket-specific sensitivity has been calculated for all buckets, weighted sensitivities to all risk factors across buckets shall be aggregated in accordance with the following formula, using the corresponding correlations γ_{bc} for weighted sensitivities in different buckets set out in Articles 383l, ***383n,*** 383q, ***383s, 383u and 383w*** giving rise to the risk-class specific own funds requirements for delta or vega risk:

$$Risk - class\ specific\ own\ funds\ requirement\ for\ delta\ or\ vega\ risk = m_{CVA}\sqrt{\sum_{b} K_b^2 + \sum_{b}\sum_{b \neq c} \gamma_{bc} S_b S_c}$$

where:

m_{CVA} = a multiplier factor which is equal to 1; competent authorities may increase the value of m_{CVA} where the institution's regulatory CVA model shows deficiencies to appropriately measure the own funds requirements for CVA risk;

K_b = the bucket-specific sensitivity of bucket b;

γ_{bc} = the correlation parameter between buckets b and c;

$S_b = max\{-K_b; min(\sum_{k \in b} WS_k; K_b)\}$ for all risk factors in bucket b;

$S_c = max\{-K_c; min(\sum_{k \in b} WS_k; K_c)\}$ for all risk factors in bucket c.

Article 383c

Interest rate risk factors

1. For the interest rate delta risk factors, including inflation rate risk, there shall be one bucket per currency, with each bucket containing different types of risk factors.

The interest rate delta risk factors that are applicable to interest-rate sensitive instruments in the CVA portfolio shall be the risk-free rates per currency concerned and per each of the following maturities: 1 year, 2 years, 5 years, 10 years and 30 years.

The interest rate delta risk factors applicable to inflation-rate sensitive instruments in the CVA portfolio shall be the inflation rates per currency concerned and per each of the following maturities: 1 year, 2 years, 5 years, 10 years and 30 years.

2. The currencies for which an institution shall apply the interest rate delta risk factors in accordance with paragraph 1 shall be USD, EUR, GBP, AUD, CAD, SEK, JPY and the institution's reporting currency.

3. For currencies not specified in paragraph 2, the interest rate delta risk factors shall be the absolute change of the inflation rate and the parallel shift of the entire risk-free curve for a given currency.

4. Institutions shall obtain the risk-free rates per currency from money market instruments held in their trading book that have the lowest credit risk, including overnight index swaps.

5. Where institutions cannot apply the approach referred to in paragraph 4, the risk-free rates shall be based on one or more market-implied swap curves used by the institutions to mark positions to market, such as the interbank offered rate swap curves.

Where the data on market-implied swap curves described in the first subparagraph of this paragraph are insufficient, the risk-free rates may be derived from the most appropriate sovereign bond curve for a given currency.

Article 383d

Foreign exchange risk factors

1. The foreign exchange delta risk factors to be applied by institutions to instruments in the CVA portfolio sensitive to foreign exchange spot rates shall be the spot foreign exchange rates between the currency in which an instrument is denominated and the institution's reporting currency ***or the institution's base currency where the institution is using a base currency in accordance with Article 325q(7)***. There shall be one bucket per currency pair, containing a single risk factor and a single net sensitivity.

2. The foreign exchange vega risk factors to be applied by institutions to instruments in the CVA portfolio sensitive to foreign exchange volatility shall be the implied volatilities of foreign exchange rates between the currency pairs referred to in paragraph 1. There shall be one bucket for all currencies and maturities, containing all foreign exchange vega risk factors and a single net sensitivity.

3. Institutions shall not be required to distinguish between onshore and offshore variants of a currency for foreign exchange delta and vega risk factors.

Article 383e

Counterparty credit spread risk factors

1. The counterparty credit spread delta risk factor applicable to counterparty credit spread sensitive instruments in the CVA portfolio shall be the credit spreads of individual counterparties and reference names and qualified indices for the following maturities: 0,5 years, 1 year, 3 years, 5 years and 10 years.

▌

2a. The counterparty credit spread risk class is not subject to vega risk own funds requirements.

Article 383f

Reference credit spread risk factors

1. The reference credit spread delta risk factor applicable to reference credit spread sensitive instruments in the CVA portfolio shall be the credit spreads of all maturities for all reference names within a bucket. There shall be one net sensitivity computed for each bucket.

2. The reference credit spread vega risk factor applicable to instruments in the CVA portolio sensitive to reference credit spread volatility shall be the volatilities of the credit spreads of all tenors for all reference names within a bucket. There shall be one net sensitivity computed for each bucket.

Article 383g

Equity risk factors

1. The buckets for all equity risk factors shall be the buckets referred to in Article 383s.

2. The equity delta risk factors to be applied by institutions to instruments in the CVA portfolio sensitive to equity spot prices shall be the spot prices of all equities mapped to the same bucket referred to in paragraph 1. There shall be one net sensitivity computed for each bucket.

3. The equity vega risk factors to be applied by institutions to instruments in the CVA portfolio sensitive to equity volatility shall be the implied volatilities of all the equities mapped to the same bucket referred to in paragraph 1. There shall be one net sensitivity computed for each bucket.

Article 383h
Commodity risk factors

1. The buckets for all commodity risk factors shall be the sectorial buckets referred to in Article 383v.

2. The commodity delta risk factors to be applied by institutions to instruments in the CVA portfolio sensitive to commodity spot prices shall be the spot prices of all commodities mapped to the same sectorial bucket referred to in paragraph 1. There shall be one net sensitivity computed for each sectorial bucket.

3. The commodity vega risk factors to be applied by institutions to instruments in the CVA portfolio sensitive to commodity price volatility shall be the implied volatilities of all the commodities mapped to the same sectorial bucket referred to in paragraph 1. There shall be one net sensitivity computed for each sectorial bucket.

Article 383i
Delta risk sensitivities

1. Institutions shall calculate delta sensitivities consisting of interest rate risk factors as follows:

(a) the delta sensitivities of the aggregate CVA to risk factors consisting of risk-free rates, as well as of an eligible hedge to those risk factors, shall be calculated as follows:

$$S_{r_{kt}}^{CVA} = \frac{V_{CVA}(r_{kt} + 0.0001, x,y...) - V_{CVA}(r_{kt}, x,y...)}{0.0001}$$

$$S_{r_{kt}}^{hedge_i} = \frac{V_i(r_{kt} + 0.0001, w,z...) - V_i(r_{kt}, w,z...)}{0.0001}$$

where:

$S_{r_{kt}}^{CVA}$ = the sensitivities of the aggregate CVA to a risk-free rate risk factor;

r_{kt} = the value of the risk-free rate risk factor k with maturity t;

V_{CVA} = the aggregate CVA calculated by the regulatory CVA model;

x,y = risk factors other than r_{kt} in V_{CVA};

$S_{r_{kt}}^{hedge_i}$ = the sensitivities of the eligible hedge i to a risk-free rate risk factor;

V_i = the pricing function of the eligible hedge i;

w,z = risk factors other than r_{kt} in the pricing function V_i.

(b) the delta sensitivities to risk factors consisting of inflation rates as well as of an eligible hedge to those risk factor, shall be calculated as follows:

$$S^{CVA}_{infl_{kt}} = \frac{V_{CVA}(infl_{kt} + 0.0001, x,y...) - V_{CVA}(infl_{kt}, x,y...)}{0.0001}$$

$$S^{hedge_i}_{infl_{kt}} = \frac{V_i(infl_{kt} + 0.0001,w,z...) - V_i(infl_{kt}, w,z...)}{0.0001}$$

where:

$S^{CVA}_{infl_{kt}}$ = the sensitivities of the aggregate CVA to an inflation rate risk factor;

$infl_{kt}$ = the value of an inflation rate risk factor k with maturity t;

V_{CVA} = the aggregate CVA calculated by the regulatory CVA model;

x,y = risk factors other than $infl_{kt}$in V_{CVA};

$S^{hedge_i}_{infl_{kt}}$ = the sensitivities of the eligible hedge i to an inflation rate risk factor;

V_i = the pricing function of the eligible hedge i;

w,z = risk factors other than $infl_{kt}$in the pricing function V_i.

2. Institutions shall calculate the delta sensitivities of the aggregate CVA to risk factors consisting of foreign exchange spot rates, as well as of an eligible hedge instrument to those risk factors, as follows:

$$S^{CVA}_{FX_k} = \frac{V_{CVA}(FX_k\boldsymbol{x}\,\mathbf{1.01},x,y...) - V_{CVA}(FX_k, x,y...)}{0.01}$$

$$S^{hedge_i}_{FX_k} = \frac{V_i(FX_k\boldsymbol{x}\,\mathbf{1.01}, w,z...) - V_i(FX_k, w,z...)}{0.01}$$

where:

$S^{CVA}_{FX_k}$ = the sensitivities of the aggregate CVA to a foreign exchange spot rate risk factor;

FX_k = the value of the foreign exchange spot rate risk factor k;

V_{CVA} = the aggregate CVA calculated by the regulatory CVA model;

x,y = risk factors other than FX_kin V_{CVA};

$S^{hedge_i}_{FX_k}$ = the sensitivities of the eligible hedge i to a foreign exchange spot rate risk factor;

V_i = the pricing function of the eligible hedge i;

w,z = risk factors other than FX_k in the pricing function V_i.

3. Institutions shall calculate the delta sensitivities of the aggregate CVA to risk factors consisting of counterparty credit spread rates, as well as of an eligible hedge instrument to those risk factors, as follows:

$$S_{ccs_{kt}}^{CVA} = \frac{V_{CVA}(ccs_{kt} + 0.0001,x,y\dots) - V_{CVA}(ccs_{kt}, x,y\dots)}{0.0001}$$

$$S_{ccs_{kt}}^{hedge_i} = \frac{V_i(ccs_{kt} + 0.0001,w,z\dots) - V_i(ccs_{kt}, w,z\dots)}{\mathbf{0,0001}}$$

where:

$S_{ccs_{kt}}^{CVA}$ = the sensitivities of the aggregate CVA to a counterparty credit spread rate risk factor;

ccs_{kt} = the value of the counterparty credit spread rate risk factor k at maturity t;

V_{CVA} = the aggregate CVA calculated by the regulatory CVA model;

x,y = risk factors other than ccs_{kt} in V_{CVA};

$S_{ccs_{kt}}^{hedge_i}$ = the sensitivities of the eligible hedge i to a counterparty credit spread rate risk factor;

V_i = the pricing function of the eligible hedge i

w,z = risk factors other than ccs_{kt} in the pricing function V_i.

4. Institutions shall calculate the delta sensitivities of the aggregate CVA to risk factors consisting of reference credit spread rates, as well as of an eligible hedge instrument to those risk factors, as follows:

$$S_{rcs_{kt}}^{CVA} = \frac{V_{CVA}(ccs_{kt} + 0.0001,x,y\dots) - V_{CVA}(rcs_{kt}, x,y\dots)}{0.0001}$$

$$S_{rcs_{kt}}^{hedge_i} = \frac{V_i(rcs_{kt} + 0.0001,w,z\dots) - V_i(rcs_{kt}, w,z\dots)}{0.0001}$$

where:

$S_{rcs_{kt}}^{CVA}$ = the sensitivities of the aggregate CVA to a reference credit spread rate risk factor;

rcs_{kt} = the value of the reference credit spread rate risk factor k at maturity t;

V_{CVA} = the aggregate CVA calculated by the regulatory CVA model;

x,y = risk factors other than ccs_{kt} in V_{CVA};

$S_{rcs_{kt}}^{hedge_i}$ = the sensitivities of the eligible hedge i to a reference credit spread rate risk factor;

V_i = the pricing function of the eligible hedge i

w,z = risk factors other than ccs_{kt} in the pricing function V_i.

5. Institutions shall calculate the delta sensitivities of the aggregate CVA to risk factors consisting of equity spot prices, as well as of an eligible hedge instrument to those risk factors, as follows:

$$S_{EQ}^{CVA} = \frac{V_{CVA}(EQ\boldsymbol{x}\,\mathbf{1.01},x,y\dots) - V_{CVA}(EQ, x,y\dots)}{0.01}$$

$$S_{EQ}^{hedge_i} = \frac{V_i(EQ\ \boldsymbol{x}\ \mathbf{1.01}, w, z\ldots) - V_i(EQ, w, z\ldots)}{0.01}$$

where:

S_{EQ}^{CVA} = the sensitivities of the aggregate CVA to an equity spot price risk factor;

EQ = the value of the equity spot price;

V_{CVA} = the aggregate CVA calculated by the regulatory CVA model;

x,y = risk factors other than EQ in V_{CVA};

$S_{EQ}^{hedge_i}$ = the sensitivities of the eligible hedge i to an equity spot price risk factor;

V_i = the pricing function of the eligible hedge i;

w,z = risk factors other than EQ in the pricing function V_i.

6. Institutions shall calculate the delta sensitivities of the aggregate CVA to risk factors consisting of commodity spot prices, as well as of an eligible hedge instrument to those risk factors, as follows:

$$S_{CTY}^{CVA} = \frac{V_{CVA}(1.01CTY, x, y\ldots) - V_{CVA}(CTY, x, y\ldots)}{0.01}$$

$$S_{CTY}^{hedge_i} = \frac{V_i(1.01CTY, w, z\ldots) - V_i(CTY, w, z\ldots)}{0.01}$$

where:

S_{CTY}^{CVA} = the sensitivities of the aggregate CVA to a commodity spot price risk factor;

CTY = the value of the commodity spot price;

V_{CVA} = the aggregate CVA calculated by the regulatory CVA model;

x,y = risk factors other than CTY in V_{CVA};

$S_{CTY}^{hedge_i}$ = the sensitivities of the eligible hedge i to a commodity spot price risk factor;

V_i = the pricing function of the eligible hedge i;

w,z = risk factors other than CTY in the pricing function V_i.

Article 383j

Vega risk sensitivities

Institutions shall calculate the vega risk sensitivities of the aggregate CVA to risk factors consisting of implied volatility, as well as of an eligible hedge instrument to those risk factors, as follows:

$$S_{vol_{kt}}^{CVA} = \frac{V_{CVA}(vol_k + 0.01, x, y\ldots) - V_{CVA}(vol_k, x, y\ldots)}{0.01}$$

$$S_{vol_k}^{hedge_i} = \frac{V_i(vol_k + 0.01, w,z...) - V_i(vol_k, w,z...)}{0.01}$$

where:

$S_{vol_k}^{CVA}$ = the sensitivities of the aggregate CVA to an implied volatility risk factor;

vol_k = the value of the implied volatility risk factor, expressed as a percentage;

V_{CVA} = the aggregate CVA calculated by the regulatory CVA model;

x,y = risk factors other than vol_k in the pricing function V_{CVA};

$S_{vol_k}^{hedge_i}$ = the sensitivities of the eligible hedge instrument i to an implied volatility risk factor;

V_i = the pricing function of the eligible hedge i;

w,z = risk factors other than vol_k in the pricing function V_i.

Article 383k

Risk weights for interest rate risk

1. For currencies referred to in Article 383c(2), the risk weights of risk-free rate delta sensitivities for each bucket in Table 1 shall be the following:

Table 1

Bucket	Maturity	Risk Weight
1	1 year	1.11%
2	2 years	0.93%
3	5 years	0.74%
4	10 years	0.74%
5	30 years	0.74%

2. For currencies other than the currencies referred to in Article 383c(2), the risk weight of risk-free rate delta sensitivities shall be 1.58%.

3. For inflation rate risk denominated in one of the currencies referred to in Article 383c(2), the risk weight of the sensitivity to the inflation rate risk shall be 1.11%.

4. For inflation rate risk denominated in a currency other than the currencies referred to in Article 383c(2), the risk weight of the sensitivity to the inflation rate risk shall be 1.58%.

5. The risk weights to be applied to sensitivities to interest rate vega risk factors and to inflation rate ***vega*** risk factors for all currencies shall be 100%.

Article 383l

Intra-bucket correlations for interest rate risk

1. For the currencies referred to in Article 383c(2), the correlation parameters that institutions shall apply for the aggregation of the risk-free rate delta sensitivities between the different buckets set out in Table 2 shall be the following:

Table 2

Bucket	1	2	3	4	5
1	100%	91%	72%	55%	31%
2		100%	87%	72%	45%
3			100%	91%	68%
4				100%	83%
5					100%

2. The correlation parameter that institutions shall apply for the aggregation of inflation rate delta risk sensitivity and risk-free rate delta sensitivity denominated in the same currency shall be 40%.

3. The correlation parameter that institutions shall apply for the aggregation of inflation rate vega risk factor sensitivity and interest rate vega risk factor sensitivity denominated in the same currency shall be 40%.

Article 383m

Risk weights for foreign exchange risk

1. The risk weights for all delta sensitivities to foreign exchange risk factor between an institution's reporting currency and another currency shall be 11%.

2. The risk weights for all vega sensitivities to foreign exchange risk factor shall be 100%.

Article 383n

Correlations for foreign exchange risk

1. A uniform correlation parameter equal to 60% shall apply ***for*** the aggregation of sensitivities to delta ▌ foreign exchange risk ***factor across buckets***.

2. A uniform correlation parameter equal to 60% shall apply for the aggregation of sensitivities to vega foreign exchange risk factor across buckets.

Article 383o

Risk weights for counterparty credit spread risk

1. The risk weights for the delta sensitivities to credit spread risk factors shall be the same for all maturities (0,5 years, 1 year, 3 years, 5 years, 10 years) within each bucket in Table 3 and shall be the following:

Table 3

Bucket number	Credit quality	Sector	Risk weight (percentage points)
1	All	Central government, including central banks, of a Member State	0,5%
2	Credit quality step 1 to 3	Central government, including central banks, of a third country, multilateral development banks and international organisations referred to in Articles 117(2) and 118	0,5%
3		Regional or local authority and public sector entities	1,0%
4		Financial sector entities including credit institutions incorporated or established by a central government, a regional government or a local authority and promotional lenders	5,0%
5		Basic materials, energy, industrials, agriculture, manufacturing, mining and quarrying	3,0%
6		Consumer goods and services, transportation and storage, administrative and support service activities	***3,0***%
7		Technology, telecommunications	2,0%
8		Health care, utilities, professional and technical activities	1,5%
9		Other sector	5,0%
10		Qualified indices	1,5%
11	Credit quality step 4 to 6 and unrated	Central government, including central banks, of a third country, multilateral development banks and international organisations referred to in Articles 117(2) and 118	2,0%

12		Regional or local authority and public sector entities	4,0%
13		Financial sector entities including credit institutions incorporated or established by a central government, a regional government or a local authority and promotional lenders	12,0%
14		Basic materials, energy, industrials, agriculture, manufacturing, mining and quarrying	7,0%
15		Consumer goods and services, transportation and storage, administrative and support service activities	8,5%
16		Technology, telecommunications	5,5%
17		Health care, utilities, professional and technical activities	5,0%
18		Other sector	12,0%
19		Qualified indices	5,0%

2. To assign a risk exposure to a sector, institutions shall rely on a classification that is commonly used in the market for grouping issuers by sector. Institutions shall assign each issuer to only one of the sector buckets laid down in Table 3. Risk exposures from any issuer that an institution cannot assign to a sector in such a manner shall be assigned to either bucket 9 or bucket 18 in Table 3, depending on the credit quality of the issuer.

3. Institutions shall assign to buckets 10 and 19 in Table 3 only exposures that reference qualified indices as referred to in Article 383b(4).

4. Institutions shall use a look-through approach to determine the sensitivities of an exposure referencing a non-qualified index.

Article 383p

Intra-bucket correlations for counterparty credit spread risk

1. Between two sensitivities WS_k and WS_l, resulting from risk exposures assigned to sector buckets 1 to 9 and 11 to 18, as laid down in Article 383o(1), Table 3, the correlation parameter ρ_{kl} shall be set as follows:

$$\rho_{kl} = \rho_{kl}^{(tenor)} \cdot \rho_{kl}^{(name)} \cdot \rho_{kl}^{(quality)}$$

where:

$\rho_{kl}^{(tenor)}$ shall be equal to 1 where the two vertices of the sensitivities k and l are identical, otherwise it shall be equal to 90%;

$\rho_{kl}^{(name)}$ shall be equal to 1 where the two names of sensitivities k and l are identical, ***90% if the two names are distinct but legally related and*** otherwise it shall be equal to 50%;

$\rho_{kl}^{(quality)}$ shall be equal to 1 where the two names are both in buckets 1 to 9 or are both in buckets 11 to 18, otherwise it shall be equal to 80%.

2. Between two sensitivities WS_k and WS_l, resulting from risk exposures assigned to sector buckets 10 and 19, the correlation parameter ρ_{kl} shall be set as follows:

$$\rho_{kl} = \rho_{kl}^{(tenor)} \cdot \rho_{kl}^{(name)} \cdot \rho_{kl}^{(quality)}$$

where:

$\rho_{kl}^{(tenor)}$ shall be equal to 1 where the two vertices of the sensitivities k and l are identical, otherwise it shall be equal to 90%;

$\rho_{kl}^{(name)}$ shall be equal to 1 where the two names of sensitivities k and l are identical and the two indices are of the same series, ***90% if the two indices are the same but of distinct series and*** otherwise it shall be equal to 80%;

$\rho_{kl}^{(quality)}$ shall be equal to 1 where the two names are both in buckets 10 or both in bucket 19, otherwise it shall be equal to 80%.

Article 383q

Correlations across buckets for counterparty credit spread risk

The cross-bucket correlations for credit spread delta risk shall be the following:

Table 4

Bucket	1, 2, 3, 11 and 12	4 and 13	5 and 14	6 and 15	7 and 16	8 and 17	9 and 18	10 and 19
1, 2, 3, 11 and 12	100%	10%	20%	25%	20%	15%	0%	45%
4 and 13		100%	5%	15%	20%	5%	0%	45%
5 and 14			100%	***20%***	25%	5%	0%	45%
6 and 15				100%	***25%***	5%	0%	45%
7 and 16					100%	5%	0%	45%
8 and 17						100%	0%	45%
9 and 18							100%	0%

10 and 19								100%

Article 383r

Risk weights for reference credit spread risk

1. The risk weights for the delta sensitivities to reference credit spread risk factors shall be the same for all maturities (0,5 years, 1 year, 3 years, 5 years, 10 years) and all reference credit spread exposures within each bucket in Table 5 and shall be the following:

Table 5

Bucket number	Credit quality	Sector	Risk weight (percentage points)
1	All	Central government, including central banks, of a Member State	0,5%
2	Credit quality step 1 to 3	Central government, including central banks, of a third country, multilateral development banks and international organisations referred to in Articles 117(2) and 118	0,5%
3		Regional or local authority and public sector entities	1,0%
4		Financial sector entities including credit institutions incorporated or established by a central government, a regional government or a local authority and promotional lenders	5,0%
5		Basic materials, energy, industrials, agriculture, manufacturing, mining and quarrying	3,0%
6		Consumer goods and services, transportation and storage, administrative and support service activities	3,0%
7		Technology, telecommunications	2,0%
8		Health care, utilities, professional and technical activities	1,5%
10		Qualified indices	1,5%
11	Credit quality	Central government, including central banks, of a third country, multilateral development banks	2,0%

	step 4 to 6 and unrated	and international organisations referred to in Articles 117(2) and 118	
12		Regional or local authority and public sector entities	4,0%
13		Financial sector entities including credit institutions incorporated or established by a central government, a regional government or a local authority and promotional lenders	12,0%
14		Basic materials, energy, industrials, agriculture, manufacturing, mining and quarrying	7,0%
15		Consumer goods and services, transportation and storage, administrative and support service activities	8,5%
16		Technology, telecommunications	5,5%
17		Health care, utilities, professional and technical activities	5,0%
18		Qualified indices	5,0%
19	Other sector		12,0%

1a. Risk weights for reference credit spread volatilities shall be set at 100%.

2. To assign a risk exposure to a sector, institutions shall rely on a classification that is commonly used in the market for grouping issuers by sector. Institutions shall assign each issuer to only one of the sector buckets in Table 5. Risk exposures from any issuer that an institution can not assign to a sector in such a manner shall be assigned to bucket 19 in Table 5, depending on the credit quality of the issuer.

3. Institutions shall assign to buckets 10 and 18 only exposures that reference qualified indices as referred to in Article 383b(4).

4. Institutions shall use a look-through approach to determine the sensitivities of an exposure referencing a non-qualified index.

Article 383s

Intra-bucket correlations for reference credit spread risk

1. Between two sensitivities WS_k and WS_l, resulting from risk exposures assigned to sector buckets 1 to 9 and 11 to 18 of Article ***383r(1)***, Table 5, the correlation parameter ρ_{kl} shall be set as follows:

$$\rho_{kl} = \rho_{kl}^{(tenor)} \cdot \rho_{kl}^{(name)} \cdot \rho_{kl}^{(quality)}$$

where:

$\rho_{kl}^{(tenor)}$ shall be equal to 1 where the two vertices of the sensitivities k and l are identical, otherwise it shall be equal to 90%;

$\rho_{kl}^{(name)}$ shall be equal to 1 where the two names of sensitivities k and l are identical, ***90% if the two names are distinct but legally related and*** otherwise it shall be equal to 50%;

$\rho_{kl}^{(quality)}$ shall be equal to 1 where the two names are both in buckets 1 to 9 or are both in buckets 11 to 18, otherwise it shall be equal to 80%.

2. Between two sensitivities WS_k and WS_l, resulting from risk exposures assigned to sector buckets 10 and 19, the correlation parameter ρ_{kl} shall be set as follows:

$$\rho_{kl} = \rho_{kl}^{(tenor)} \cdot \rho_{kl}^{(name)} \cdot \rho_{kl}^{(quality)}$$

where:

$\rho_{kl}^{(tenor)}$ shall be equal to 1 where the two vertices of the sensitivities k and l are identical, otherwise it shall be equal to 90%;

$\rho_{kl}^{(name)}$ shall be equal to 1 where the two names of sensitivities k and l are identical and the two indices are of the same series, ***90% if the two names are distinct but legally related and*** otherwise it shall be equal to 80%;

$\rho_{kl}^{(quality)}$ shall be equal to 1 where the two names are both in buckets 10 or both in bucket 19, otherwise it shall be equal to 80%.

Article 383sa
Cross-bucket correlation for the reference credit spread risk

1. The cross-bucket correlations for the reference credit spread delta risk and reference credit spread vega risk shall be the same as the cross-bucket correlation for the counterparty credit spread delta risk, set out in Article 383q, Table 4.

2. By derogation from paragraph 1, the cross-bucket correlation values calculated in paragraph 1 shall be divided by 2 for buckets 1 to 8 and 11 to 17.

Article 383t
Risk weights buckets for equity risk

1. The risk weights for the delta sensitivities to equity spot price risk factors shall be the same for all equity risk exposures within each bucket in Table 6 and shall be the following:

Table 6

Bucket number	Market capitalisation	Economy	Sector	Risk weight for equity spot price (percentage points)
1	Large	Emerging market	Consumer goods and services, transportation and storage,	55%

		economy	administrative and support service activities, healthcare, utilities	
2			Telecommunications, industrials	60%
3			Basic materials, energy, agriculture, manufacturing, mining and quarrying	45%
4			Financials including government-backed financials, real estate activities, technology	55%
5		Advanced economy	Consumer goods and services, transportation and storage, administrative and support service activities, healthcare, utilities	30%
6			Telecommunications, industrials	35%
7			Basic materials, energy, agriculture, manufacturing, mining and quarrying	40%
8			Financials including government-backed financials, real estate activities, technology	50%
9	Small	Emerging market economy	All sectors described under bucket numbers 1, 2, 3, and 4	70
10		Advanced economy	All sectors described under bucket numbers 5, 6, 7, and 8	50%
11	Other sector			70%
12	Large	Advanced economy	Qualified indices	15%
13	Other		Qualified indices	25%

2. For the purposes of paragraph 1, what constitutes a small and a large capitalisation shall be specified in the regulatory technical standards referred to in Article 325bd(7).

3. For the purposes of paragraph 1, what constitutes an emerging market and an advanced economy shall be specified in the regulatory technical standards referred to in Article 325ap(3).

4. When assigning a risk exposure to a sector, institutions shall rely on a classification that is commonly used in the market for grouping issuers by industry sector. Institutions shall assign each issuer to one of the sector buckets in paragraph 1, Table 6, and shall assign all issuers from the same industry to the same sector. Risk exposures from any issuer that an institution cannot assign to a sector in that fashion shall be assigned to bucket 11. Multinational or multi-sector equity issuers shall be allocated to a particular bucket on the basis of the most material region and sector in which the equity issuer operates.

5. The risk weights for equity vega risk shall be set at 78% for buckets 1 to 8 and bucket 12, and to 100% for all other buckets.

Article 383u

Correlations across buckets for equity risk

The cross-bucket correlation parameter for equity delta and vega risk shall be set at:

(a) 15%, where the two buckets fall within buckets 1 to 10 of Article 383t(1), Table 6;

(b) 75%, where the two buckets are buckets 12 and 13 of Article 383t(1), Table 6;

(c) 45%, where one of the buckets is bucket 12 ***or*** 13 of Article 383t(1), Table 6, and the other bucket falls between buckets 1 ***to*** 10 of Article 383t(1), Table 6;

(d) 0%, where one of the two buckets is bucket 11 of Article 383t(1), Table 6.

Article 383v

Risk weights buckets for commodity risk

1. The risk weights for the delta sensitivities to commodity spot price risk factors shall be the same for all commodity risk exposures within each bucket in Table 7 and shall be the following:

Table 7

Bucket number	Bucket name	Risk weight for commodity spot price (percentage points)
1	Energy – Solid combustibles	30%
2	Energy – Liquid combustibles	35%
3	Energy - Electricity	60%

4	Energy – Carbon trading	40%
5	Freight	80%
6	Metals – non-precious	40%
7	Gaseous combustibles	45%
8	Precious metals (including gold)	20%
9	Grains & oilseed	35%
10	Livestock & diary	25%
11	Soft and other agriculturals	35%
12	Other commodity	50%

2. The risk weights for commodity vega risk shall be set at 100%.

Article 383w

Risk weights buckets for commodity risk

1. The cross-bucket correlation parameter for commodity delta risk shall be set at:

(a) 20%, where the two buckets fall within buckets 1 to 11 of Article 383v(1), Table 7;

(b) 0%, where one of the two buckets is bucket 12 of Article 383v(1), Table 7.

2. The cross-bucket correlation parameter for commodity vega risk shall be set at:

(a) 20%, where the two buckets fall within buckets 1 to 11 of Article 383v(1), Table 7;

(b) 0%, where one of the two buckets is bucket 12 of Article 383v(1), Table 7.';

(170) Articles 384, 385 and 386 are replaced by the following:

'Article 384

Basic approach

1. An institution shall calculate the own funds requirements for CVA risk in accordance with paragraphs 2 or 3, as applicable, for a portfolio of transactions with one or more counterparties by using one of the following formulae, as appropriate:

(a) the formula set out in paragraph 2, where the institution includes in the calculation one or more eligible hedges recognised in accordance with Article 386;

(b) the formula set out in paragraph 3, where the institution does not include in the calculation any eligible hedges recognised in accordance with Article 386.

The approaches set out in points (a) and (b) shall not be used in combination.

2. An institution that meets the condition referred to in paragraph 1, point (a), shall calculate the own funds requirements for CVA risks as follows:

$$BACVA^{total} = DS_{CVA} \cdot \left(\beta \cdot BACVA^{csr-unhedged} + (1-\beta) \cdot BACVA^{csr-hedged}\right)$$

where:

$BACVA^{total}$ = the own funds requirements for CVA risk under the basic approach;

$BACVA^{csr-unhedged}$ = the own funds requirements for CVA risk under the basic approach as calculated in accordance with paragraph 3 for an institution that meets the condition laid down in paragraph 1, point (b);

DS_{CVA} = 0,65;

β = 0,25;

$$BACVA^{csr-hedged} = \sqrt{\left(\rho \cdot \sum_c (SCVA_c - SNH_c) - IH\right)^2 + (1-\rho^2) \cdot \sum_c (SCVA_c - SNH_C)^2 + \sum_c HMA_c}$$

where:

$$SCVA_c = \frac{1}{a} \cdot RW_c \cdot \sum_{NS \in c} M_{NS}^c \cdot EAD_{NS}^c \cdot DF_{NS}^c$$

$$SNH_c = \sum_{h \in c} r_{hc} \cdot RW_h^{SN} \cdot M_h^{SN} \cdot B_h^{SN} \cdot DF_h^{SN}$$

$$IH = \sum_i RW_i^{ind} \cdot M_i^{ind} \cdot B_i^{ind} \cdot DF_i^{ind}$$

$$HMA_c = \sum_h \left(1 - r_{hc}^2\right) \cdot \left(RW_h . M_h^{SN} \cdot B_h^{SN} \cdot DF_h^{SN}\right)^2$$

a =1,4;

ρ =0,5;

c =the index that denotes all the counterparties for which the institution calculates the own funds requirements for CVA risk using the approach laid down in this Article;

NS = the index that denotes all the netting sets with a given counterparty for which the institution calculates the own funds requirements for CVA risk using the approach laid down in this Article;

h = the index that denotes all the single-name instruments recognised as eligible hedges in accordance with Article 386 for a given counterparty for which the institution calculates the own funds requirements for CVA risk using the approach laid down in this Article ;

i = the index that denotes all the index instruments recognised as eligible hedges in accordance with Article 386 for all the counterparties for which the institution calculates the own funds requirements for CVA risk using the approach laid down in this Article ;

RW_c = the risk weight applicable to counterparty 'c'. Counterparty 'c' shall be mapped to one of the risk weights based on a combination of sector and credit quality and determined in accordance with Table 1.

M_{NS}^c= the effective maturity for the netting set NS with counterparty c;

For an institution using the methods set out in Title II, Chapter 6, Section 6, M_{NS}^c shall be calculated in accordance with Article 162(2), point(g). However, for that calculation, M_{NS}^c shall not be capped at five years, but at the longest contractual remaining maturity in the netting set.

For an institution not using the methods set out in Title II, Chapter 6, Section 6, M_{NS}^c shall be the average notional weighted maturity as referred to in Article 162(2), point (b). However, for that calculation, M_{NS}^c shall not be capped at five years, but at the longest contractual remaining maturity in the netting set.

EAD_{NS}^c = the counterparty credit risk exposure value of the netting set NS with counterparty c, including the effect of collateral in accordance with the methods set out in Title II, Chapter 6, Sections 3 to 6, as applicable to the calculation of the own funds requirements for counterparty credit risk referred to in Article 92(4), points (a) and (f);

DF_{NS}^c = the supervisory discount factor for the netting set NS with counterparty c.

For an institution, using the methods set out in Title II, Chapter 6, Section 6, the supervisory discount factor shall be set at 1. In all other cases, the supervisory discount factor shall be calculated as follows:

$$\frac{1 - e^{-0.05 * M_{NS}^c}}{0.05 \cdot M_{NS}^c}$$

r_{hc} = the supervisory correlation between the credit spread risk of counterparty c and the credit spread risk of a single-name instrument recognised as an eligible hedge h for counterparty c, determined in accordance with Table 2;

M_h^{SN} = the ***residual*** maturity of a single-name instrument recognised as an eligible hedge;

B_h^{SN} = the notional of a single name instrument recognised as an eligible hedge;

DF_h^{SN} = the supervisory discount factor for a single name instrument recognised as an eligible hedge, calculated as follows:

$$\frac{1 - e^{-0.05 M_h^{SN}}}{0.05 \cdot M_h^{SN}}$$

RW_h^{SN} = the supervisory risk weight of a single-name instrument recognised as an eligible hedge. Those risk weights shall be based on a combination of sector and credit quality of the reference credit spread of the hedging instrument and determined in accordance with Table 1;

M_i^{ind} = the ***residual*** maturity of one or more positions in the same index instrument recognised as an eligible hedge. In the case of more than one positions in

the same index instrument, M_i^{ind} shall be the notional-weighted maturity of all those positions;

B_i^{ind} = the full notional of one or more positions in the same index instrument recognised as an eligible hedge. In the case of more than one positions in the same index instrument, B_i^{ind}shall be the notional-weighted maturity of all those positions;

DF_i^{ind}= the supervisory discount factor for one or more positions in the same index instrument recognised as an eligible hedge, calculated as follows:

$$\frac{1 - e^{-0.05M_i^{ind}}}{0.05 \cdot M_i^{ind}}$$

RW_i^{ind}= the supervisory risk weight of an index instrument recognised as an eligible hedge. RW_i^{ind} shall be based on a combination of sector and credit quality of all the index constituents, calculated as follows:

(a) where all the index constituents belong to the same sector and have the same credit quality, as determined in accordance with Table 1, RW_i^{ind} shall be calculated as the relevant risk weight of Table 1 for that sector and credit quality multiplied by 0,7;

(b) where all the index constituents do not belong to the same sector or do not have the same credit quality , RW_i^{ind} shall be calculated as a weighted average of the risk weights of all the index constituents, as determined in accordance with Table 1, multiplied by 0,7;

Table 1

Sector of counterparty	Credit quality	
	Credit quality step 1 to 3	Credit quality step 4 to 6 and not rated
Central government, including central banks, multilateral development banks ***of a third country*** and international organisations referred to in Articles 117(2) or Article 118	0,5 %	***2,0*** %
Regional or local authority and public sector entities	1,0 %	4,0 %
Financial sector entities including credit institutions incorporated or established by a central government, a regional government or a local authority and promotional lenders	5,0 %	12,0 %

Basic materials, energy, industrials, agriculture, manufacturing, mining and quarrying	3,0 %	7,0 %
Consumer goods and services, transportation and storage, administrative and support service activities	3,0 %	8,5%
Technology, telecommunications	2,0 %	5,5 %
Health care, utilities, professional and technical activities	1,5%	5,0 %
Other sector	5,0 %	12,0 %

Table 2

Correlations between credit spread of counterparty and single-name hedge	
Single-name hedge h of counterparty i	Value of r_{hc}
Counterparties referred to in Article 386(3)(a), point (i)	100 %
Counterparties referred to in Article 386(3)(a), point (ii)	80 %
Counterparties referred to in Article 386(3)(a), point (iii)	50 %

2. An institution that meets the condition referred in to paragraph 1, point (b), shall calculate the own funds requirements for CVA risk as follows:

$$BACVA^{csr-unhedged} = \sqrt{\left(\rho \cdot \sum_c SCVA_c\right)^2 + (1-\rho^2) \cdot \sum_c SCVA_c^2}$$

where all the terms are the ones set out in paragraph 2.

Article 385

Simplified approach

1. An institution that meets all the conditions set out in Article 273a(2), ***or has been permitted by its competent authorities in accordance with Article 273a(4) to apply the approach set out in Article 282***, may calculate the own funds requirements for

CVA risk as the risk-weighted exposure amounts for counterparty risk for non-trading book and trading book positions respectively, referred to in Article 92(3), points (a) and (f), divided by 12,5.

2. For the purposes of the calculation referred to in paragraph 1, the following requirements shall apply:

(a) only transactions subject to the own funds requirements for CVA risk laid down in Article 382 shall be subject to that calculation;

(b) credit derivatives that are recognised as internal hedges against counterparty risk exposures shall not be included in that calculation.

3. An institution that no longer meets one or more of the conditions set out in Article 273a(2) shall comply with the requirements set out in Article 273b.

Article 386

Eligible Hedges

1. Positions in hedging instruments shall be recognised as 'eligible hedges' for the calculation of own funds requirements for CVA risk in accordance with Articles 383 and 384 where those positions meet all of the following requirements:

(a) those positions are used for the purpose of mitigating CVA risk and are managed as such;

(b) those positions can be entered into with third parties or with the institution's trading book as an internal hedge, in which case they shall comply with the requirement set out in Article 106(7);

(c) only positions in hedging instruments as referred to in paragraphs 2 and 3 can be recognised as eligible hedges for the calculation of own funds requirements for CVA risks in accordance with Articles 383 and 384 respectively;

(d) a given hedging instrument forms a single position in an eligible hedge and cannot be split into more than one position in more than one eligible hedge.

2. For the calculation of the own funds requirements for CVA risk in accordance with Article 383, only positions in the following hedging instruments shall be recognised as eligible hedges:

(a) instruments that hedge variability of the counterparty credit spread, with the exception of instruments referred in to Article 325(5);

(b) instruments that hedge variability of the exposure component of CVA risk, with the exception of the instruments referred in to Article 325(5).

3. For the calculation of own funds requirements for CVA risk in accordance with Article 384, only positions in the following hedging instruments shall be recognised as eligible hedges:

(a) single-name credit default swaps and single-name contingent-credit default swaps, referencing:

(i) the counterparty directly;

(ii) an entity legally related to the counterparty, where legally related refers to cases where the reference name and the counterparty are either a parent and its subsidiary or two subsidiaries of a common parent;

(iii) an entity that belongs to the same sector and region as the counterparty;

(b) index credit default swaps.

4. Positions in hedging instruments entered into with third parties that are recognised as eligible hedges in accordance with paragraphs 1, 2 and 3 and included in the calculation of the own funds requirements for CVA risk shall not be subject to the own funds requirements for market risk set out in Title IV.

5. Positions in hedging instruments that are not recognised as eligible hedges in accordance with this Article shall subject to the own funds requirements for market risk set out in Title IV.';

(170a) the following Article 395a is inserted:

'Article 395a

Aggregate limit on exposures to shadow banking entities

By 30 June 2023 the Commission shall, in close collaboration with the EBA, assess the appropriateness and the impact of imposing limits on exposures to shadow banking entities. The Commission shall submit the report to the European Parliament and the Council, together, if appropriate, with a legislative proposal on exposure limits to shadow banking entities.';

(171) Article 402 is amended as follows:

(a) paragraph 1 is amended as follows:

(i) the first subparagraph is replaced by the following:

'For the calculation of exposure values for the purposes of Article 395, institutions may, except where prohibited by applicable national law, reduce the value of an exposure or any part of an exposure that is secured by residential property in accordance with Article 125(1) by the pledged amount of the property value, but by not more than 55 % of the property value, provided that all the following conditions are met:';

(ii) point (a) is replaced by the following:

'(a) the competent authorities of the Member States have not set a risk weight higher than 20 % for exposures or parts of exposures secured by residential property in accordance with Article 124(7);';

(b) paragraph 2 is amended as follows:

(i) the first subparagraph is replaced by the following:

'For the calculation of exposure values for the purposes of Article 395, institutions may, except where prohibited by applicable national law, reduce the value of an exposure or any part of an exposure that is secured by commercial ***immovable*** property in accordance with Article 126(1) by

the pledged amount of the property value, but by not more than 55 % of the property value, provided that all the following conditions are met:';

(ii) point (a) is replaced by the following:

'(a) the competent authorities of the Member States have not set a risk weight higher than 60 % for exposures or parts of exposures secured by ***commercial immovable*** property in accordance with Article 124(7);';

(172) in Article 429, paragraph 6 is replaced by the following:

'6. For the purposes of paragraph 4, point (e), of this Article and Article 429g, 'regular-way purchase or sale' means a purchase or a sale of a financial asset under contracts for which the terms require delivery of the financial asset within the period established generally by law or convention in the marketplace concerned.';

(172a) in Article 429a(1), the following point is added:

'(ca) where the institution is a member of the network referred to in Article 113(7), the exposures that are assigned a risk weight of 0% in accordance with Article 114 and arising from assets being an equivalent of deposits in the same currency of other members of that network stemming from legal or statutory minimum deposit in accordance with Article 422(3), point (b). In such a case exposures of other members of that network being legal or statutory minimum deposit are not subject to point (c).';

(173) Article 429c is amended as follows:

(a) in paragraph 3, point (a) is replaced by the following:

'(a) for trades not cleared through a QCCP, the cash received by the recipient counterparty is not segregated from the assets of the institution;';

(b) paragraph 4 is replaced by the following:

'4. For the purposes of paragraph 1 of this Article, institutions shall not include collateral received in the calculation of NICA as defined in Article 272, point (12a).';

(c) the following paragraph 4a is inserted:

'4a. By way of derogation from paragraphs 3 and 4, an institution may recognise any collateral received in accordance with Part Three, Title II, Chapter 6, Section 3 where all of the following conditions are met:

(a) the collateral is received from a client for a derivative contract cleared by the institution on behalf of that client;

(b) the contract referred to in point (a) is cleared through a QCCP;

(c) where the collateral has been received in the form of initial margin, that collateral is segregated from the assets of the institution.';

(d) in paragraph 6, the first subparagraph is replaced by the following:

'By way of derogation from paragraph 1 of this Article, institutions may use the method set out in Part Three, Title II, Chapter 6, Section 4 or 5 to determine the exposure value of derivative contracts listed in Annex II ***and credit derivatives***, but only where they also use that method for determining the exposure value of

those contracts for the purposes of meeting the own funds requirements set out in Article 92(1), points (a), (b) and (c).';

(174) Article 429f is amended as follows:

(a) paragraph 1 is replaced by the following:

'1. Institutions shall calculate, in accordance with Article 111(2), the exposure value of off-balance-sheet items, excluding the derivative contracts listed in Annex II, credit derivatives, securities financing transactions and the positions referred to in Article 429d.

Where a commitment refers to the extension of another commitment, Article 166(9) shall apply.';

(b) paragraph 3 is deleted;

(175) in Article 429g, paragraph 1 is replaced by the following:

'1. Institutions shall treat cash related to regular-way purchases and financial assets related to regular-way sales which remain on the balance sheet until the settlement date as assets in accordance with Article 429(4), point (a).';

(176) ▌Article 430 ***is amended as follows***:

(a) in paragraph 1, the following point (h) is added:

'(h) their exposures to ESG risks***, including:***

(i) their existing and new exposures to the fossil fuel sector entities;

(ii) their exposures to activities that are deemed to do significant harm to one of the environmental objectives laid down in Regulation (EU) 2020/852;

(iii) their exposure to physical risks and transition risks;

(iv) the relevant exposures of the pools of loans underlying covered bonds issued by institutions, whether directly or through the transfer of loans to a special purpose vehicle (SPV);';

(b) the following paragraph is inserted:

'8a. By 1 January 2024 and every year thereafter, EBA shall publish a progress report on the implementation of the mandate given in paragraph 8 of this Article. EBA shall specifically detail the progress made in relation to the objective specified in point (e) of paragraph 8. ';

(177) ▌Article 430a ***is amended as follows:***

(a) paragraph 1 is replaced by the following;

'1. Institutions shall report to their competent authorities on an annual basis the following aggregate data for each national immovable property market to which they are exposed:

(a) losses stemming from exposures for which an institution has recognised residential property as collateral, up to the lower of the pledged amount and 55 % of the property value, unless otherwise decided under Article 124(7);

(b) overall losses stemming from exposures for which an institution has recognised residential property as collateral, up to the part of the exposure that is secured by residential property in accordance with Article 124(2), point (a);

(c) the exposure value of all outstanding exposures for which an institution has recognised residential property as collateral limited to the part that is secured by residential property in accordance with Article 124(2), point (a);

(d) losses stemming from exposures for which an institution has recognised immovable commercial property as collateral, up to the lower of the pledged amount and 55 % of the property value, unless otherwise decided under Article 124(7);

(e) overall losses stemming from exposures for which an institution has recognised immovable commercial property as collateral, up to the part of the exposure that is secured by immovable commercial property in accordance with Article 124(2), point (c);

(f) the exposure value of all outstanding exposures for which an institution has recognised immovable commercial property as collateral limited to the part that is secured by immovable commercial property in accordance with Article 124(2), point (c).';

(b) paragraph 3 is replaced by the following:

'3. The competent authorities shall publish annually on an aggregated basis the data specified in points (a) to (f) of paragraph 1, together with historical data, where available, for each national immovable property market for which such data has been collected. A competent authority shall, upon the request of another competent authority in a Member State or EBA provide to that competent authority or EBA more detailed information on the condition of the residential property or commercial immovable property markets in that Member State.';

(178) Article 433 is replaced by the following:

'Article 433

Frequency and scope of disclosures

Institutions shall disclose the information required under Titles II and III in the manner set out in this Article, Articles 433a, 433b, 433c and 434.

EBA shall publish annual disclosures on its website on the same date as the date on which institutions publish their financial statements or as soon as possible thereafter.

EBA shall publish semi-annual and quarterly disclosures on its website on the same date as the date on which the institutions publish their financial reports for the corresponding period where applicable or as soon as possible thereafter.

Any delay between the date of publication of the disclosures required under this Part and the relevant financial statements shall be reasonable and, in any event, shall not exceed the timeframe set by competent authorities pursuant to Article 106 of Directive 2013/36/EU.';

(179) in Article 433a***, paragraph 1 is amended as follows:***

(a) in point (b), the following point is added:

'(xv) Article 449a. ';

(b) in point (c), point (i) is replaced by the following:

'(i) points (d), (da) and (h) of Article 438;';

(180) Article 433b ***is replaced by the following***:

'Article 433b

Disclosures by small and non-complex institutions

1. Small and non-complex institutions shall disclose the information outlined below on an annual basis:

(i) points (a), (e) and (f) of Article 435(1);

(ii) points (c), (d) and (da) of Article 438;

(iii) points (a) to (d), (h), (i), (j) of Article 450(1);

(iv) the key metrics referred to in Article 447;

(v) points (c) and (d) of Article 442;

(vi) Article 449a.

2. By way of derogation from paragraph 1 of this Article, small and non-complex institutions that are non-listed institutions shall disclose the key metrics referred to in Article 447 on a biennial basis.';

(181) in Article 433c, paragraph 2 is amended as follows:

(a) point (d) is replaced by the following:

'(d) points (c), (d) and (da) of Article 438:';

(b) the following ***points are*** added:

'(g) points (c) and (d) of Article 442.';

'(h) the information referred to in Article 449a on a semi-annual basis.';

(182) Article 434 is replaced by the following:

'Article 434
Means of disclosures

1. Institutions other than small and non-complex institutions shall submit all the information required under Titles II and III in electronic format to EBA no later than the date on which institutions publish their financial statements or financial reports for the corresponding period, where applicable, or as soon as possible thereafter. EBA shall also publish the submission date of this information.

EBA shall ensure that the disclosures made on the EBA website contain the information identical to what institutions submitted to EBA. Institutions shall have the right to resubmit to EBA the information in accordance with the technical standards referred to in Article 434a. EBA shall make available on its website the date when the resubmission took place.

EBA shall prepare and keep up-to-date the tool that specifies the mapping of the templates and tables for disclosures with those on supervisory reporting. The mapping tool shall be accessible to the public on the EBA website.

Institutions may continue to publish a standalone document that provides a readily accessible source of prudential information for users of that information or a distinctive section included in or appended to the institutions' financial statements or financial reports containing the required disclosures and being easily identifiable to those users. Institutions may include in their website a link to the EBA website where the prudential information is published on a centralised manner.

2. Large institutions and other institutions that are not large institutions or small and non-complex institutions shall submit to EBA the disclosures referred to in Article 433a and Article 433c respectively ***in an electronic format***, but not later than on the date of the publication of financial statements or financial reports for the corresponding period ***or as soon as possible thereafter. If the financial reports are published before the submission of supervisory reporting in accordance with Article 430 for the same period, disclosures can be submitted on the same date as supervisory reporting*** or as soon as possible thereafter. If disclosure is required to be made for a period when an institution does not prepare any financial report, the institution shall submit to EBA the information on disclosures as soon as practicable.

3. EBA shall publish on its website the disclosures of small and non-complex institutions on the basis of the information reported by those institutions to competent authorities in accordance with Article 430.

4. While ownership of the data and the responsibility for its accuracy remain with the institutions that produce it, EBA shall make available on its website the information required to be disclosed in accordance with this Part. That archive shall be kept accessible for a period of time that shall be no less than the storage period set by national law for information included in the institutions' financial reports.

5. EBA shall monitor the number of visits to its single access point on institutions' disclosures and include the related statistics in its annual reports.';

(183) Article 434a is amended as follows:

(a) the first sentence of the first paragraph is replaced by the following:

'EBA shall develop draft implementing technical standards to specify uniform disclosure formats, the associated instructions, information on the resubmission policy and IT solutions for disclosures required under Titles II and III.';

(b) the fourth sentence of the first paragraph is replaced by the following:

'EBA shall submit those draft implementing technical standards to the Commission by [OP please insert the date = one year after the entry into force of this Regulation]';

(184) Article 438 is amended as follows:

(a) point (b) is replaced by the following:

'(b) the amount of the additional own funds requirements based on the supervisory review process as referred to in Article 104(1), point (a), of Directive

2013/36/EU to address risks other than the risk of excessive leverage and its composition;';

(***b***) point (d) is replaced by the following:

'(d) the total risk exposure amounts as calculated in accordance with Article 92(3) and the corresponding own funds requirements as determined in accordance with Article 92(2), to be broken down by the different risk ▌categories ***or risk exposure classes***, as applicable, set out in Part Three and, where applicable, an explanation of the effect on the calculation of own funds and risk-weighted exposure amounts that results from applying capital floors and not deducting items from own funds;';

(c) the following point (da) is added:

'(da) where required to calculate the following amounts, the un-floored total risk exposure amount as calculated in accordance with Article 92(4), and the standardised total risk exposure amount as calculated in accordance with Article 92(5), to be broken down by the different risk categories and sub-categories, as applicable, set out in Part Three and, where applicable, an explanation of the effect on the calculation of own funds and risk-weighted exposure amounts that results from applying capital floors and not deducting items from own funds;';

(ca) point (e) is replaced by the following:

'(e) the on- and off-balance-sheet exposures, the risk-weighted exposure amounts and associated expected losses for each category of specialised lending referred to in Table 1 of Article 153(5) and the on- and off-balance-sheet exposures and risk-weighted exposure amounts for the categories of equity exposures set out in Article 133(3) to (6) and Article 495a(3).';

(185) Article 445 is replaced as follows:

'Article 445

Disclosure of exposures to market risk under the standardised approach

1. Institutions that have not been granted a permission by competent authorities to use the alternative internal market risk model approach as set out in Article 325az, and that use the Simplified Standardised Approach in accordance with Article 325a or Part Three, Title IV, Chapter 1a, shall disclose a general overview of their trading book positions.

2. Institutions calculating their own funds requirements in accordance with Part Three, Title IV, Chapter 1a, shall disclose their total own funds requirements, their own funds requirements for the sensitivities-based methods, their default risk charge and their own funds requirements for residual risks. The disclosure of own funds requirements for the measures of the sensitivities-based methods and for the default risk shall be broken down for the following instruments:

(a) financial instruments other than securitisation instruments held in the trading book, with a breakdown by risk class, and a separate identification of the default risk own funds requirements;

(b) securitisation instruments not held in the ACTP, with a separate identification of the own funds requirements for credit spread risk and of the own funds requirements for default risk;

(c) securitisation instruments held in the ACTP, with a separate identification of the own funds requirements for credit spread risk and of the own funds requirements for default risk.';

(186) The following Article 445a is inserted:

'Article 445a
Disclosure of CVA risk

1. Institutions subject to the own fund requirements for CVA risk shall disclose the following information:

(a) a general overview of their processes to identify, measure, hedge and monitor their CVA risk;

(b) whether institutions meet all the conditions set out in Article 273a(2); where those conditions are met, whether institutions have chosen to calculate the own funds requirements for CVA risk using the simplified approach set out in Article 385; where institutions have chosen to calculate the own funds requirements for CVA risk using the simplified approach, the own funds requirements for CVA risk in accordance with that approach;

(c) the total number of counterparties for which the standardised approach is used, with a breakdown by counterparty types.

2. Institutions using the standardised approach as defined in Article 383 for the calculation of own funds requirements for CVA risk shall disclose, in addition to the information referred to in paragraph 1, the following information:

(a) the structure and the organisation of the their internal CVA risk management function and governance;

(b) their total own funds requirements for CVA risk under the standardised approach with a breakdown by risk class;

(c) an overview of the eligible hedges used in that calculation, with a breakdown per types as defined in Article 386(2).

3. Institutions using the basic approach as defined in Article 384 for the calculation of own funds requirements for CVA risk shall also disclose, in addition to the information referred to in paragraph 1, the following information:

(a) their total own funds requirements for CVA risk under the basic approach, and the components $BACVA^{total}$ and $BACVA^{csr-hedged}$;

(b) an overview of the eligible hedges used in this calculation, with a breakdown per types as defined in Article 386(3).';

(187) Article 446 is replaced by the following:

'Article 446
Disclosure of operational risk

1. Institutions shall disclose the following information:

(a) the main characteristics and elements of their operational risk management framework;

(b) their own funds requirement for operational risk;

(c) the business indicator component calculated in accordance with Article 313;

(d) the business indicator, calculated in accordance with Article 314(1), and the amounts of each of the business indicator ***components and their sub-components*** for each of the three years relevant for the calculation of the business indicator;

(e) the number and amounts of business indicator items that were excluded from the calculation of the business indicator in accordance with Article 315(2), as well as the corresponding justifications for the exclusion.

2. Institutions that calculate their annual operational risk losses in accordance with Article 316(1) shall disclose the following information in addition to the information listed in paragraph 1:

(a) their annual operational risk losses for each of the last ten years, calculated in accordance with Article 316(1);

(b) the number and amounts of operational risk losses that were excluded from the calculation of the annual operational risk loss in accordance with Article 320(1), ***for each of the last ten years*** and the corresponding justifications for that exclusion.';

(188) Article 447 is amended as follows:

(a) point (a) is replaced by the following:

'(a) the composition of their own funds and their risk-based capital ratios as calculated in accordance with Article 92(2);';

(b) the following point (aa) is ***inserted***:

'(aa) where applicable, the risk-based capital ratios as calculated in accordance with Article 92(2), by using un-floored total risk exposure amounts instead of total risk exposure amounts;';

(c) point (b) is replaced by the following:

'(b) the total risk exposure amounts as calculated in accordance with Article 92(3) and, where applicable, the un-floored total risk exposure amounts as calculated in accordance with Article 92(4);';

(d) point (d) is replaced by the following:

'(d) the combined buffer requirement which the institutions are required to hold in accordance with Chapter 4 of Title VII of Directive 2013/36/EU;';

(189) Article 449a is replaced by the following:

'*Article 449a*
Disclosure of environmental, social and governance risks (ESG risks)

Institutions shall disclose***:***

(a) information on ESG risks, including physical risks and transition risks***, and the total amount of exposures to fossil fuel sector entities as defined in Article 4, point (152a);***

(b) climate targets and transition plans, including absolute carbon emission reduction targets, submitted in accordance with Article 76(2) of Directive 2013/36/EU, and the progress made towards implementing them;

(c) how the institution's business model and strategy take account of ESG risks faced by the undertaking.

The information referred to in the first paragraph shall be disclosed on an annual basis by small and non-complex institutions and on a semi-annual basis by other institutions.

EBA shall develop draft implementing technical standards specifying uniform disclosure formats for ESG risks, as laid down in Article 434a, ensuring that they are consistent with and uphold the principle of proportionality.' For small and non-complex institutions, the formats shall not require disclosure of information beyond the information required to be reported to competent authorities in accordance with Article 430(1), ***points*** (h) ***and (i).***';

(189a) the following Article is inserted:

'Article 449b

Disclosure of exposures to shadow banking entities

1. Credit institutions shall disclose information concerning their individual exposures to shadow banking entities, including all potential risks to the institution arising from those exposures, and the potential impact of those risks, as well as the supervisory regime applicable to their non-bank financial intermediaries counterparties.

2. EBA shall develop draft regulatory technical standards to specify the information that institutions are required to disclose, as referred to in paragraph 1, to avoid duplication of the disclosure obligations.

EBA shall submit those draft regulatory technical standards to the Commission by [12 months after the entry into force of this Regulation].

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.';

(190) in Article 451(1), the following point (f) is added:

'(f) the amount of the additional own funds requirements based on the supervisory review process as referred to in Article 104(1), point (a), of Directive 2013/36/EU to address the risk of excessive leverage and its composition.';

(190a) the following Article is inserted:

'Article 451b

Disclosure of exposures to crypto-assets and related activities

1. Institutions shall disclose the following information on crypto-assets and crypto-asset services as well as any activities related to crypto-assets:

(a) the direct and indirect exposure amounts in relation to crypto-assets including the gross long and short components of net exposures;(b) the risk weighted exposure amounts for each crypto-asset, to be complemented by a break down by category and the related capital demand;

(c) the total risk exposure amount for operational risk broken down by business lines as set out in Table 2 of Article 317;

(d) the accounting classification for crypto-asset exposures;

(e) a description of the business activities related to crypto-assets, and their impact on the risk profile of the institution; institutions shall provide more detailed information for material business activities, including the issuance of significant asset-referenced tokens within the meaning of Articles 43 and 44 of MiCA Regulation, significant e-money tokens within the meaning of Articles 56 and 57 of MiCA Regulation and the provision of services [under Art. 9(c)(d) of MiCA Regulation];

(f) a specific description of their risk management policies related to crypto-asset exposures and services related to crypto-assets.

2. Institutions shall not apply the exception laid down in Article 432 for the purposes of the disclosure requirements in paragraph 1.'

(191) Article 455 is replaced as follows:

'*Article 455*
Use of internal models for market risk

1. An institution using the internal models referred to in Article 325az for the calculation of own funds requirements for market risk shall disclose:

(a) the institution's objectives in undertaking trading activities and the processes implemented to identify, measure, monitor and control the institution's market risks;

(b) the policies referred to in Article 104(1) for determining which position is to be included in the trading book;

(c) a general description of the structure of the trading desks covered by the internal models referred to in Article 325az, including for each desk a broad description of the desk's business strategy, the instruments permitted therein and the main risk types in relation to that desk;

(d) a general overview of the trading book positions not covered by the internal models referred to in Article 325az, including a general description of the desk structure and of type of instruments included in the desks or in the desks categories in accordance with Article 104b;

(e) the structure and organisation of the market risk management function and governance;

(f) the scope, the main characteristics and the key modelling choices of the different internal models referred to in Article 325az used to calculate the risk exposure amounts for the main models used at the consolidated level, and a description to what extent those internal models represent all the models used at the consolidated level, including where applicable:

(i) a broad description of the modelling approach used to calculate the expected shortfall referred to in Article 325ba(1), point (a), including the frequency of data update;

(ii) a broad description of the methodology used to calculate the stress scenario risk measure referred to in Article 325ba(1), point (b), other than the specifications provided for in Article 325bk(3);

(iii) a broad description of the modelling approach used to calculate the default risk charge referred to in Article 325ba(2), including the frequency of data update.

2. Institutions shall disclose on an aggregate basis for all the trading desks covered by the internal models referred to in Article 325az the following components, where applicable:

(a) the most recent value as well as the highest, lowest and mean value for the previous 60 business days of:

(i) the unconstrained expected shortfall measure as defined in Article 325bb(1);

(ii) the unconstrained expected shortfall measure as defined in Article 325bb(1) for each regulatory broad risk factor category;

(b) the most recent value as well as the mean value for the previous 60 business days of:

(i) the expected shortfall risk measure as defined in Article 325bb(1);

(ii) the stress scenario risk measure as defined in Article 325ba(1), point (b);

(iii) the own funds requirement for default risk as defined in Article 325ba(2);

(iv) the sum of the own funds requirements as defined in Articles 325ba(1) and 325ba(2), including the applicable multiplier factor;

(c) the number of backtesting overshootings over the last 250 business days at the 99th percentile as referred to in Article 325bf(1), points (a) and (b), separately.

4. Institutions shall disclose on an aggregate basis for all trading desks the own funds requirements for market risks that would be calculated in accordance with this Title, Chapter 1a, had the institutions not been granted any permission to use their internal models for those trading desks.';

(192) Article 458 is amended as follows:

(a) paragraph 6 is replaced by the following:

'6. Where Member States recognise the measures set in accordance with this Article, they shall notify the ESRB. The ESRB shall forward such notifications without delay to the Council, the Commission, the EBA ▌ and the Member State authorised to apply the measures.';

(b) paragraph 9 is replaced by the following:

'9. Before the expiry of the authorisation issued in accordance with paragraphs ***2*** and 4, the Member State concerned shall, in consultation with the ESRB, ▌ the EBA and the Commission, review the situation and may adopt, in accordance

with the procedure referred to in paragraphs 2 and 4, a new decision for the extension of the period of application of national measures for up to two additional years each time.';

(193) Article 461a is replaced by the following:

'Article 461a
Own funds requirement for market risks

'The Commission shall monitor the ***differences between the Union*** implementation of the international standards on own funds requirements for market risk ▌ and third countries' implementation of those international standards ▌, including as regards the impact of the rules in terms of own funds requirements and as regards their entry into application***.***

Where significant differences are observed, the Commission shall be empowered to adopt a delegated act in accordance with Article 462 to amend this Regulation by:

(a) applying, ***until the entry into force of the legisaltive proposal referred to in the fourth paragraph or for up to three years in the absence of such a proposal, and*** where necessary to deliver a level playing field, ***multipliers*** equal to or greater than 0 and lower than 1 to the institutions' own funds requirements for market risk, calculated for specific risk classes and specific risk factors using one of the approaches referred to in Article 325(1), and laid out in:

(i) Articles 325c to 325ay, specifying the alternative standardised approach;

(ii) Articles 325az to 325bp, specifying the alternative internal model approach;

(iii) Articles 326 to 361, specifying the simplified standardised approach, to offset those observed differences between the third countries rules and Union law;

(b) postponing by ***up to*** two years the date from which institutions shall apply the own funds requirements for market risk set out in Part Three, Title IV, or any of the approaches to calculate the own funds requirements for market risk referred to in Article 325(1).';

By 31 December 2025 the EBA shall submit a report to the European Parliament, to the Council and to the Commission, on the implementation of the international standards on own funds requirements for market risk in third countries.

On the basis of that report, the Commission shall, if appropriate, submit to the European Parliament and the Council a legislative proposal, in order to ensure a global level playing field.

(194) the following Article 461b is inserted:

'Article 461b
Prudential treatment of crypto assets

1. The Commission shall, where appropriate, submit a legislative proposal to the European Parliament and the Council, by 30 June 2023, to implement a dedicated prudential treatment for exposures to crypto-assets, taking due account of the recently published international standards, and the requirements set up by the

[insert reference to MiCA Regulation]. That legislative proposal shall include, but not be limited to, the following:

(a) criteria for assigning crypto-assets to different crypto-asset categories based on their risk characteristics and compliance with specific conditions;

(b) specific own funds requirements for all the risks entailed by each crypto-asset category;

(c) specific supervisory powers as regards crypto-asset exposure assignment, monitoring and calculation of own funds requirements;

(d) specific liquidity requirements for exposures to crypto-assets;

(e) disclosure requirements.

2. Until 30 December 2024, institutions shall apply a 1250% risk weight to their exposures to crypto-assets in the calculation of their own funds requirements. Institutions shall not apply the deduction in Article 36(1), point (b), for the calculation of their own funds requirements.'

(195) Article 462 is amended as follows:

(a) paragraphs 2 and 3 are replaced by the following:

'2. The power to adopt delegated acts referred to in Articles ***47a,*** 244(6) and 245(6), in Articles 456 to 460***,*** in Articles 461a and 461b ***and in Article 500*** shall be conferred on the Commission for an indeterminate period of time from 28 June 2013.

3. The delegation of power referred to in Articles ***47a,*** 244(6) and 245(6), in Articles 456 to 460**,** in Article 461a and 461b ***and in Article 500*** may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of the delegated acts already in force.';

(b) paragraph 6 is replaced by the following:

'6. A delegated act adopted pursuant to Articles ***47a,*** 244(6) and 245(6), Articles 456 to 460***,*** Articles 461a and 461b ***and in Article 500*** shall enter into force only if no objection has been expressed by the European Parliament or the Council within a period of three months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by three months at the initiative of the European Parliament or of the Council.';

(196) Article 465 is replaced by the following:

'Article 465

Transitional arrangements for the output floor

1. By way of derogation from Article 92(3), parent institutions, parent financial holding companies, parent mixed financial holding companies, stand-alone institutions

in the EU or stand-alone subsidiary institutions in Member States may apply the following factor ‘x’ where calculating TREA:

(a) 50 % during the period from 1 January 2025 to 31 December 2025;

(b) 55 % during the period from 1 January 2026 to 31 December 2026;

(c) 60 % during the period from 1 January 2027 to 31 December 2027;

(d) 65 % during the period from 1 January 2028 to 31 December 2028;

(e) 70 % during the period from 1 January 2029 to 31 December 2029;

2. By way of derogation from Article 92(3), point (a), EU parent institutions, EU parent financial holding companies or an EU parent mixed financial holding companies, stand-alone institutions in the EU or stand-alone subsidiary institutions in Member States may, until 31 December 2029, apply the following formula when calculating TREA:

$$\text{TREA} = \min\{\max\{\text{U - TREA}; x \cdot \text{S - TREA}\}; 125\% \cdot \text{U - TREA}\}$$

For the purposes of that calculation, EU parent institutions, EU parent financial holding companies or an EU parent mixed financial holding companies shall take into account the relevant factors ‘x’ referred to in paragraph 1.

3. By way of derogation from Article 92(5)(a), point (i), parent institutions, parent financial holding companies or parent mixed financial holding companies, stand-alone institutions in the EU or stand-alone subsidiary institutions in Member States may***:***

– until 31 December ***2030***, assign a risk weight of 65 % to exposures to corporates ***and*** for which no credit assessment by a nominated ECAI is available provided that that entity estimates the PD of those exposures, calculated in accordance with Part Three, Title II, Chapter 3, is no higher than 0,5 %;

- during the period from 1 January 2031 to 31 December 2032 assign a risk weight of 70 % to exposures to corporates for which no credit assessment by a nominated ECAI is available provided that that entity estimates the PD of those exposures, calculated in accordance with Part Three, Title II, Chapter 3, is no higher than 0,5 %.

EBA***, EIOPA and ESMA,*** shall monitor the use of the transitional treatment laid down in the first subparagraph and ***assess, in particular:***

(i) the availability of credit assessments by nominated ECAIs for exposures to corporates.***;***

(ii) the development of credit rating agencies, barriers of entry to the market of new European credit rating agencies, rate of uptake of European corporates choosing to be rated by one or multiple of these agencies;

(iii) the development of private or publicly led solutions such as credit scoring and central bank ratings to provide credit assessments;

(iv) the appropriateness of the risk weighting of exposures and implications in terms of financial stability;

(v) the approaches of other jurisdictions concerning the application of the output floor to unrated corporate exposures and long-term level playing field considerations that could arise as a result;

(vi) compliance with international standards and potential implications on the compliance assessment scale of the Basel Committee of Banking Supervision.

EBA***, EIOPA and ESMA*** shall report its findings to the Commission by 31 December 2028***.***

On the basis of that report and taking due account of the related internationally agreed standards developed by the BCBS, the Commission shall, where appropriate, submit to the European Parliament and to the Council a legislative proposal by 31 December 2031 ***to extend the application of the treatment referred to in paragraph 3, subparagraph 3 by 4 years at the most***.

4. By way of derogation from Article 92(5)(a), point (iv), parent institutions, parent financial holding companies or parent mixed financial holding companies, stand-alone institutions in the EU or stand-alone subsidiary institutions in Member States shall, until 31 December 2029, replace alpha by 1 in the calculation of the exposure value for the contracts listed in Annex II in accordance with the approaches set out in Part Three, Title II, Chapter 6, Sections 3 and 4, where the same exposure values are calculated in accordance with the approach set out in Part Three, Title II, Chapter 3, Section 6 for the purposes of the total un-floored risk exposure amount.

The Commission may, ***while taking*** into account the EBA report referred to in Article 514, adopt a ***legislative proposal*** in accordance with Article 462 to ▌ modify the value of alpha, where appropriate.

5. By way of derogation from Article 92(5)(a), point (i), Member States may, allow parent institutions, parent financial holding companies or parent mixed financial holding companies, stand-alone institutions in the EU or stand-alone subsidiary institutions in Member States to assign the following risk weights provided that all the conditions in the second subparagraph are met***:***

(a) until 31 December 2032, a risk weight of 10 % to the part of the exposures secured by mortgages on residential property up to 55 % of the property value remaining after any senior or pari passu ranking liens not held by the institution have been deducted,

(b) until 31 December 2029, a risk weight of 45% to any remaining part of the exposures secured by mortgages on residential property up to 80 % of the property value remaining after any senior or *pari passu* ranking liens not held by the institution have been deducted, provided that the adjustment to own funds requirements for credit risk referred to in Article 501 is not applied.

For the purposes of assigning the risk weights in accordance with the first subparagraph, all of the following conditions shall be met:

(a) the qualifying exposures are located in the Member State that has exercised the discretion;

(b) over the last ***eight*** years the institution's losses on the part of such exposures up to 55 % of the property value do not exceed on average 0,25 % of the total

amount, across all such exposures, of credit obligations outstanding in a given year;

(c) for the qualifying exposures the institution has both the following claims in the event of the default or non-payment of the obligor:

(i) a claim on the residential immovable property securing the exposure;

(ii) a claim on the other assets and income of the obligor;

(d) the competent authority has verified that the conditions in points (a), (b) and (c) are met.

Where the discretion referred to in the first subparagraph has been exercised and all the associated conditions in the second subparagraph are met, institutions may assign the following risk weights to the remaining part of the exposures referred to in the second subparagraph, point (b), until 31 December 2032:

(a) 52,5 % during the period from 1 January 2030 to 31 December 2030;

(b) 60 % during the period from 1 January 2031 to 31 December 2031;

(c) 67,5 % during the period from 1 January 2032 to 31 December 2032.

When Member States exercise that discretion, they shall notify EBA and substantiate their decision. Competent authorities shall notify the details of all the verifications referred to in the first subparagraph, point (c), to EBA.

EBA shall monitor the use of the transitional treatment in the first subparagraph and report to the Commission by 31 December 2028 on the appropriateness of the associated risk weights.

On the basis of that report and taking due account of the related internationally agreed standards developed by the BCBS, the Commission shall, where appropriate, submit to the European Parliament and to the Council a legislative proposal by 31 December ***2030, to extend the application of the treatment referred to in paragraph 5, by four years at the most***;

5 a. By way of derogation from Article 92(5), when the standardised risk-weighted exposure amounts for credit risk and dilution risk referred to in paragraph 4, point (a), and for counterparty risk arising from the trading book business as referred to in point (f) of that paragraph shall be calculated using the SEC-SA following Article 261 or Article 262, parent institutions, parent financial holding companies or parent mixed financial holding companies, stand-alone institutions in the Union shall be permitted, until the completion of the comprehensive review of the Union securitisation framework as part of the Capital Markets Union Action Plan, to apply the following modifications:

(a) p = 0,25 for a position in an STS securitisation;

(b) p = 0,5 for a position in a non-STS securitisation.';

(197) the following Article 494d is inserted:

'Article 494d

Reversal from the IRB Approach to the Standardised Approach

By way of derogation from Article 149, paragraphs 1, 2 and 3, an institution may from ***[OP: insert date of entry into force of this regulation]*** until 31 December 2027, revert to the Standardised Approach for one or more of the exposure classes provided for in Article 147(2), where all the following conditions are met:

(a) the institution was already on [OP please insert date = one day before the date of entry into force of this amending Regulation] in existence and authorised by its competent authority to treat those exposure classes under the IRB Approach;

(b) the institution requests a reversal to the Standardised Approach only once during ***the*** period ***set out in this Article***;

(c) the request to revert to the Standardised Approach is not made with a view to engage in regulatory arbitrage;

(d) the institution has formally notified the competent authority that it wishes to revert to the Standardised Approach for those exposure classes at least six months before it effectively does revert to that approach;

(e) the competent authority has not objected to the institution's request to such reversal within three months from the reception of the notification referred to in point (d).';

(198) Article 495 is replaced by the following:

'Article 495

Treatment of equity exposures under the IRB Approach

1. By way of derogation from Article 107(1)▌, institutions that have received the permission to apply the Internal Ratings Based Approach to calculate the risk weighted exposure amount for equity exposures shall, until 31 December 2029 ***and without prejudice to Article 495a(3),*** calculate the risk weighted exposure amount for each equity exposure for which they have received the permission to apply the Internal Ratings Based Approach as the higher of the following:

(a) the risk weighted exposure amount calculated in accordance with Article 495a, paragraphs 1 and 2;

(b) the risk weighted exposure amount calculated under this Regulation as it stood prior to [OP please insert the date = date of entry into force of this amending Regulation]

2. Instead of applying the treatment laid down in paragraph 1, institutions that have received the permission to apply the Internal Ratings Based Approach to calculate the risk weighted exposure amount for equity exposures may ***alternatively*** choose to apply the treatment set out in Article 133 and the transitional arrangements in Article 495a to all of their equity exposures at any time until 31 December 2029.

For the purposes of this paragraph, the conditions to revert to the use of less sophisticated approaches laid down in Article 149 shall not apply.

3. Institutions applying the treatment laid down in paragraph 1 shall calculate EL in accordance with Article 158, paragraphs 7, 8 or 9, as applicable, as those paragraphs stood on ... ***[day before the date of entry into force of this Regulation].***

Expected loss amounts calculated in accordance with Article 158(7), (8) or (9), as applicable, as those paragraphs stood on ... [day before the date of entry into force of this amending Regulation] shall be deducted from Common Equity Tier 1 items under Article 36(1), point (d).

4. Where institutions request the permission to apply the IRB Approach to calculate the risk weighted exposure amount for equity exposures, competent authorities shall not grant such permission after [OP please insert the date = date of application of this Regulation].';

(199) the following Articles are inserted:

'Article 495a

Transitional arrangements for equity exposures

1. By way of derogation from the treatment laid down in Article 133(3), equity exposures shall be assigned the ***higher of the risk-weight applicable on ... [one day before the date of entry into force of this amending Regulation], capped at 250%, and the*** following risk-weights:

(a) 100 % during the period from 1 January 2025 to 31 December 2025;

(b) 130 % during the period from 1 January 2026 to 31 December 2026;

(c) 160 % during the period from 1 January 2027 to 31 December 2027;

(d) 190 % during the period from 1 January 2028 to 31 December 2028;

(e) 220 % during the period from 1 January 2029 to 31 December 2029.

2. By way of derogation from the treatment laid down in Article 133(4), equity exposures shall be assigned ***the higher of the risk weight applicable on [one day before the date of entry into force of this amending Regulation] and*** the following risk-weights:

(a) 100 % during the period from 1 January 2025 to 31 December 2025;

(b) 160 % during the period from 1 January 2026 to 31 December 2026;

(c) 220 % during the period from 1 January 2027 to 31 December 2027;

(d) 280 % during the period from 1 January 2028 to 31 December 2028;

(e) 340 % during the period from 1 January 2029 to 31 December 2029.

3. By way of derogation from Article 133, institutions may continue to assign the same risk weight that was applicable as of ... [OP please insert the date = one day before the date of entry into force of this amending Regulation] to equity exposures***, including the part of the exposures not deducted from own funds in accordance with Article 471,*** to entities of which they have been a shareholder on [adoption date] for six consecutive years and over which they ***- or together with the network the institutions belong to -*** exercise significant influence ***or control*** in the meaning of Directive 2013/34/EU, or the accounting standards to which an institution is subject under Regulation (EC) No 1606/2002, or a similar relationship between any natural or legal

person ***or network of institutions*** and an undertaking ***or where an institution is in the capacity to appoint at least one member of the management body of the entity***.

Article 495b

Transitional arrangements for specialised lending exposures

1. By way of derogation from Article 161(4), the LGD input floors applicable to specialised lending exposures treated under the IRB Approach where own estimates of LGDs are used, shall be the applicable LGD input floors provided for in Article 161(4), multiplied by the following factors:

(a) 50 % during the period from 1 January 2025 to 31 December 2027;

(b) 80 % during the period from 1 January 2028 to 31 December 2028;

(c) 100 % during the period from 1 January 2029 to 31 December 2029.

2. EBA shall prepare a report on the appropriate calibration of risk parameters***, including the haircut parameter,*** applicable to specialised lending exposures under the IRB Approach, and in particular on own estimates of LGD and LGD input floors ***for each specific category of specialised lending as defined in Article 122a(3), points (a), (b) and (c)***. EBA shall in particular include in its report data on average numbers of defaults and realised losses observed in the Union for different samples of institutions with different business and risk profiles. ***EBA shall recommend specific calibrations of risk parameters, including the haircut parameter, that would reflect the specific and different risk profile of each of the aforementioned categories of specialised lending exposures***.

EBA shall submit the report on its findings to the European Parliament, to the Council, and to the Commission, by 31 December 2025.

On the basis of that report ***and taking due account of the related internationally agreed standards developed by the BCBS***, the Commission shall ▌, where appropriate ***submit to the European Parliament and to the Council a legislative proposal by 31 December 2027***, ▌ to ***extend the derogation referred to in paragraph 1 for four years at mos***t.

Article 495c

Transitional arrangements for leasing exposures as a CRM technique

1. By way of derogation from Article 230, the applicable value of H_c corresponding to 'other physical collateral' for the exposures referred to in Article 199(7) where the ***asset*** leased corresponds to the 'other physical collateral' type of funded credit protection, shall be the value of H_c for 'other physical collateral' provided for in Article 230(2), Table 1, multiplied by the following factors:

(a) 50 % during the period from 1 January 2025 to 31 December 2027;

(b) 80 % during the period from 1 January 2028 to 31 December 2028;

(c) 100 % during the period from 1 January 2029 to 31 December 2029.

2. EBA shall prepare a report on the appropriate calibrations of risk parameters associated with leasing exposures under the IRB Approach, and ***of risk weights under the Standardised Approach, and*** in particular on the LGD_s and H_c provided for in Article 230. EBA shall in particular include in its report data on average numbers of defaults and realised losses observed in the Union for exposures associated with

different types of properties ***leased*** and different types of institutions practicing leasing activities.

EBA shall submit the report on its finding to the European Parliament, to the Council, and to the Commission, by 30 June 2026.

On the basis of that report, ***and taking into account the internationally agreed standards developed by the BCBS,*** the Commission shall , where appropriate, ***submit to the European Parliament and to the Council a legislative proposal by 31 December 2027,*** to ***extend the derogation referred to in paragraph 1 for four years at most.***

Article 495d

Transitional arrangements for unconditional cancellable commitments

1. By way of derogation from Article 111(2), institutions shall calculate the exposure value of an off-balance sheet item in the form of unconditionally cancellable commitment by multiplying the percentage provided for in that Article by the following factors:

(a) 0 % during the period from 1 January 2025 to 31 December 2029;

(b) 25 % during the period from 1 January 2030 to 31 December 2030;

(c) 50 % during the period from 1 January 2031 to 31 December 2031;

(d) 75 % during the period from 1 January 2032 to 31 December 2032.

2. EBA shall prepare a report to assess whether the derogation referred to in paragraph 1, point (a), should be extended beyond 31 December 2032 and ***detail***, where necessary, the conditions under which that derogation should be maintained.

EBA shall submit the report on its finding to the European Parliament, to the Council, and to the Commission, by 31 December 2028.

On the basis of that report and taking due account of the related internationally agreed standards developed by the BCBS ***and the financial stability impact of these measures***, the Commission shall, where appropriate, submit to the European Parliament and to the Council a legislative proposal by 31 December 2031 ***to extend at most by four years the treatment referred to in paragraph 2 of this Article***.';

(199a) Article 500 is amended as follows:

(a) paragraph 1 is amended as follows:

(i) point (b) is replaced by the following:

'(b) the dates of the disposals of defaulted exposures are after 23 November 2016 but not later than 31 December 2024.';

(ii) subparagraph 2, is replaced by the following:

'The adjustment referred to in the first subparagraph may only be carried out until 31 December 2024 and its effects may last for as long as the corresponding exposures are included in the institution's own LGD estimates.';

(b) the following paragraph is added:

'2a. The Commission shall, by 31 December 2026, and every two years thereafter, assess if the level of defaulted exposures in the balance sheets of the institutions has increased significantly, or it expects a significant deterioration in the institutions' asset quality, or if the degree of development of secondary markets for defaulted exposures is not adequate to ensure efficient disposals of defaulted exposures by institutions, also taking into consideration the regulatory developments on securitisation.

The Commission shall review the appropriateness of the derogation set out in paragraph 1 and it shall, where appropriate, adopt delegated acts in accordance with Article 462 to extend, reintroduce, or amend, as needed, the adjustment provided in this Article.';

(200) in Article 501(2), point (b) is replaced by the following:

'(b) an SME shall have the meaning laid down in Article 5, point (8);';

(201) Article 501a(1) is amended as follows:

(a) point (a) is replaced by the following:

'(a) the exposure is assigned to the corporate exposure class referred to either in Article 112, point (g), or in Article 147(2), point (c), with the exclusion of exposures in default;';

(b) point (f) is replaced by the following:

'(f) the ***obligor's*** refinancing risk ▌ is low or adequately mitigated, taking into account any subsidies, grants or funding provided by one or more of the entities listed in paragraph 2, points (b)(i) and (b)(ii);';

(ba) point (o) is replaced by the following:

'(o) for exposures originated after ... [the date of publication of this Regulation], ***the obligor has carried out a positive assessment that the assets being financed contribute to one or more environmental objectives set out in Article 9 of Regulation (EU) 2020/852;';***

(202) Article 501c, is replaced by the following:

'Article 501c

Prudential treatment of exposures to environmental and/or social factors

EBA, after consulting the ESRB, shall, on the basis of available data ▌ assess whether ***the*** dedicated prudential treatment of exposures related to assets ***or liabilities***, subject to impacts from environmental and/or social factors ***should*** be ***adjusted***. In particular, EBA shall assess:

(a) ***the availability and accessibility of reliable and consistent ESG data for each exposure class determined in accordance with Title II of Part III***;

(b) ***the feasibility of introducing a classification system to identify and qualify the exposures, for each exposure class determined in accordance with Title II of Part III, based on a common set of principles to ESG risk classification, using the information on transition and physical risk indicators made available by sustainability disclosure reporting frameworks adopted in the Union and***

where available internationally, the guidance and conclusions coming from the supervisory stress-testing or scenario analysis of climate-related financial risks conducted by the EBA or the competent authorities and if appropriately reflecting the ESG risks, the relevant ESG score of the ECAI credit risks rating by a nominated ECAI;

(c) ***the effective riskiness of exposures related to assets and activities subject to impacts from environmental and/or social factors compared to the riskiness of other exposure;***

(d) the potential short, medium and long-term effects of an adjusted dedicated prudential treatment of exposures related to assets and activities subject to impacts from environmental and/or social factors on financial stability and bank lending in the Union;

(e) the targeted enhancements that could be considered within the current prudential framework and the possible additional and more comprehensive revisions to the framework that should be considered, taking into consideration the developments agreed at international level by the Basel Committee.

EBA shall submit a report on its findings to the European Parliament, to the Council and to the Commission by ***31 December 2024***.

On the basis of that report, the Commission shall, if appropriate, submit to the European Parliament and to the Council a legislative proposal within one year of the publication of the EBA report.';

(203) Articles 505 and 506 are replaced by the following:

'Article 505
Review of agricultural financing

By 31 December 2030, EBA shall report to the Commission on the impact of the requirements of this Regulation on agricultural financing ***including:***

(a) the appropriateness of a dedicated risk weight for own funds requirements for credit risk calculated in accordance with Title II of Part III for exposures to an agricultural enterprise;

(b) if applicable, prudentially justified criteria for the application of a dedicated risk weight including farming practices as well as the inclusion of exposures in the corporate, retail or immovable property exposures class;

(c) the alignment with the "farm to fork" strategy and the respective environmental impact within the meaning of Regulation (EU) 2020/852, notably with the indicators as collected in the Union's Farm Accountancy Data Network, showing contribution scores with regard to:

(i) net greenhouse gas emissions per hectare;

(ii) pesticides and fertilizers usage per hectare;

(iii) soil's minerals efficiency ratios including carbon, ammonia, phosphate and nitrogen per hectare;

(iv) water use efficiency;

(v) a confirmation of positive impact on these four indicators with an EU-label for organic agriculture as meant in Council Regulation (EC) No 834/2007*.

The Commission shall submit a report thereon to the European Parliament and to the Council. Where appropriate, that report shall be accompanied by a legislative proposal to amend this Regulation in order to mitigate its negative effects on agricultural financing.

Article 506
Credit risk – credit insurance

By ***30 June 2024***, EBA shall ***in close collaboration with EIOPA,*** report to the Commission on the eligibility and use of policy insurance as credit risk mitigation techniques ***including:***

(a) the appropriateness of the associated risk parameters referred to in Part Three, Title II, Chapter 3 and 4***;***

(b) an analysis of the effective and observed riskiness of credit risk exposures where a credit insurance was recognised as a credit risk mitigation technique;

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

On the basis of that report, the Commission shall***, where appropriate, submit to the European Parliament and to the Council a legislative proposal,*** to amend the treatment applicable to credit insurance referred to in Part Three, Title II.

**** Council Regulation (EC) No 834/2007 of 28 June 2007 on organic production and labelling of organic products and repealing Regulation (EEC) No 2092/91 (OJ L 189, 20.7.2007, p. 1).***';

(204) the following Article 506c is inserted:

'Article 506c
Credit risk – interaction between Common equity Tier 1 reductions and credit risk parameters

By 31 December 2026, EBA shall report to the Commission on the consistency between the current measurement of credit risk and the individual credit risk parameters and on the treatment of any adjustments for the purpose of the computation of the IRB shortfall or excess as referred to in Article 159, and on its consistency with the determination of the exposure value in accordance with Article 166 of this Regulation and with the LGD estimation. The report shall consider the maximum possible economic loss arising from a default event along with its achieved coverage in terms of Common equity Tier 1 capital reductions, taking into account any accounting-based Common equity Tier 1 capital reductions, including from expected credit losses or fair value adjustments, and any discounts on received exposures, and their implications for regulatory deductions.';

(204a) the following Articles are inserted:

'Article 506ca

Prudential treatment of securitisation

By 31 December 2025, EBA, in close collaboration with ESMA, shall report to the Commission on the prudential treatment of securitisation transactions, differentiating between different types of securitisation, including synthetic securitisation. In particular, the EBA shall assess the extent to which the application of the output floor to securitisation exposures would affect the capital reduction obtained by originating banks in transactions for which a significant risk transfer has been recognized, would excessively reduce the risk-sensitivity and would affect the economic viability of new transactions. In such cases, of a reduction of risk sensitivities, the EBA may consider proposing a downward recalibration of the non-neutrality factors for transaction for which a significant risk transfer has been recognised.

On the basis of that report, the Commission shall, where appropriate, submit to the European Parliament and to the Council a legislative proposal by 31 December 2026.';

Article 506cb

Prudential treatment of securities financing transactions

By 31 December 2025, EBA, in close collaboration with ESMA, shall report to the Commission on the impact of the new framework for securities financing transactions in terms of capital requirements. EBA shall assess whether a recalibration of the associated risk weights in the Standardised Approach is appropriate, given the associated risks with respect to short term maturities, specifically for residual maturities below one year.

On the basis of that report, the Commission shall, where appropriate, submit to the European Parliament and to the Council a legislative proposal by 31 December 2027.';

(204b) the following Article is inserted:

'Article 518c

Review of the application of the output floor

1. By 31 December 2027 the EBA shall assess, and issue an opinion on, the level of compliance with Article 92-a(2) in light of potential financial stability concerns and the developments in the banking union, as regards a more uniform degree of deposit insurance coverage across Member States and the pooling of resources at Union level.

2. Upon the EBA's publishing the opinion referred to in paragraph 1, the Commission shall, where appropriate, submit to the European Parliament and to the Council a legislative proposal to amend the level of application set out in Article 92-a(1) of this Regulation, taking into consideration the opinion referred to in paragraph 1 of this Article.';

(205) the following Articles 519c and 519d are inserted:

‘*Article 519c*

Minimum haircut floors framework for SFTs

EBA, in close cooperation with ESMA, shall, by [OP please insert the date = 12 months after entry into force of this Regulation], report to the Commission on the appropriateness of implementing in Union law the minimum haircut floors framework applicable to SFTs to address the potential build-up of leverage outside the banking sector.

The report referred to in the first sub-paragraph shall consider all of the following:

(a) the degree of leverage outside the banking system in the Union and to which extent the minimum haircut floors framework could reduce that leverage if that leverage would become excessive;

(b) the materiality of the SFTs held by EU institutions and subject to the minimum haircut floors framework, including the breakdown of those SFTs which do not comply with the minimum haircut floors;

(c) the estimated impact of the minimum haircut floors framework for EU institutions under the two implementation approaches recommended by the FSB that is a market regulation or a more punitive own funds requirement under this Regulation, under a scenario under which EU institutions would not adjust the haircuts of their SFTs to comply with the minimum haircut floors and an alternative scenario under which they would adjust those haircuts to comply with the minimum haircut floors;

(d) the main drivers behind those estimated impacts, as well as potential unintended consequences of introducing the minimum haircut floors framework on the functioning of the EU SFT markets;

(e) the implementation approach that would be the most effective to meet the regulatory objectives of the minimum haircut floor framework, in light of the considerations laid down in points (a) to (d) and taking into account the level playing field across the financial sector in the Union.

On the basis of that report and taking due account of the FSB recommendation to implement the minimum haircut floors framework applicable to SFTs, as well as the related internationally agreed standards developed by the BCBS, the Commission shall, where appropriate, submit to the European Parliament and to the Council a legislative proposal by [OP please insert the date = 24 months after entry into force of this Regulation].

Article 519d

Operational risk

By [OP please insert the date = ***24*** months after date of application of Part Three, Title III], the EBA shall report to the Commission on all of the following:

(a) the use of insurance in the context of the calculation of the own funds requirements for operational risk;

(b) whether the recognition of insurance recoveries may allow for regulatory arbitrage by reducing the annual operational risk loss without a commensurate reduction in the actual operational loss exposure;

(c) whether the recognition of insurance recoveries has a different impact on the appropriate coverage of recurring losses and of potential tail losses, respectively.

(ca) the availability and quality of data used by institutions when calculating their own funds requirements for operational risk.

On the basis of that report, the Commission shall, where appropriate, submit to the European Parliament and to the Council a legislative proposal by [OP please insert the date = ***36*** months after date of application of Part Three, Title III].';

(205a) the following Article is inserted:

'Article 519da

Proportionality

EBA shall prepare a report assessing options to introduce in the prudential framework specific prudential, governance and transparency requirements for small and non-complex institutions with a view to increase the proportionality of the prudential framework, including:

(a) the relevance of small and non-complex institutions at institution level and by region for maintaining financial stability;

(b) if appropriate, recommendations as to how the prudential framework can better reflect the differing degrees of financial stability relevance of categories of small and non-complex institutions.

EBA shall report its findings to the Commission by 31 December 2027.'; (206) Annex I is replaced by the Annex to this Regulation.

Article 2

Entry into force and date of application

1. This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

2. This Regulation shall apply from 1 January 2025, with the following exceptions:

(a) the provisions in points (1)(a), (b) and(c), (e) to (h), (j), (u), (v) and (x) concerning certain definitions, the provisions in point (6) concerning the scope of prudential consolidation as well as the provisions in points (8), (10) to (12), and (14) to (23) concerning own funds and eligible liabilities, which shall apply from [OP please insert date = 6 months after date of entry into force of this Regulation];

(b) the provisions in points (1)(d) and (4) concerning amendments in accordance with Regulation (EU) 2019/2033, and the provisions in point (47) concerning to the treatment of exposures in default, which shall apply from the date of entry into force of this Regulation;

(c) the provisions in points (9), (26)(a), (27), (28)(a), (29), (34), (41), (42), (44), (47), (54), (59)(c) (60)(c), (61)(g) and (h), (64)(c), 66(d), (69), (81), (85)(b), (90)(c), (91)(c), (92)(c), (131), (132)(b), (136)(d), (153), (154)(d), (155)(c), (156)(b), (166)(c), (169), (178), (182), (183), (189), (192), (194), (196), (199), (201) to (205) that require European Supervisory Authorities or the ESRB to

submit to the Commission draft regulatory or implementing technical standards and reports, the provisions that require the Commission to produce reports, the provisions that empower the Commission to adopt delegated acts or implementing acts, the provisions on review and the provisions that require the European Supervisory Authorities to issue guidelines, which shall apply from the date of entry into force of this Regulation.

3. In Article 3 of Regulation (EU) 2019/876, paragraph 6 is replaced by the following:

6. Point (53), as regards Article 104a of Regulation (EU) No 575/2013, and points (55) and (69) of Article 1 of this Regulation, containing the provisions on the introduction of the new own funds requirements for market risk, shall apply from 1 January 2025.

This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties.

Done at Brussels,

For the European Parliament	*For the Council*
The President	*The President*

ANNEX

Classification of Off-Balance Sheet Items

Bucket	Items
1	• General guarantees of indebtedness, including standby letters of credit serving as financial guarantees for loans and securities, and acceptances, including endorsements with the character of acceptances, as well as [any] other direct credit substitutes; • Sale and repurchase agreements and asset sales with recourse where the credit risk remains with the institution; • Securities lent by the institution or securities posted by the institution as collateral, including instances where these arise out of repo-style transactions; • Forward asset purchases, forward deposits and partly paid shares and securities, which represent commitments with certain drawdown; • Off-balance sheet items constituting a credit substitute where not explicitly included in any other category. • Other off-balance sheet items carrying similar risk and as communicated to EBA.
2	• Note issuance facilities (NIFs) and revolving underwriting facilities (RUFs) regardless of the maturity of the underlying facility; • Performance bonds, bid bonds, warranties and standby letters of credit related to particular transactions and similar transaction-related contingent items ***, excluding trade finance off-balance sheet items referred to in bucket 4***; • Off-balance sheet items not constituting a credit substitute where not explicitly included in any other category. • Other off-balance sheet items carrying similar risk, as communicated to EBA.
3	• Commitments, regardless of the maturity of the underlying facility, unless they fall under another category; • Other off-balance sheet items carrying similar risk, as communicated to EBA.
4	• ***Trade finance off-balance sheet items:*** ***- documentary credits in which underlying shipment acts as collateral and other self-liquidating transactions;*** ***-warranties(including tender and performance bonds and associated advance payment and retention guarantees) and guarantees not having the character of credit substitutes;*** ***- irrevocable standby letters of credit not having the character of credit substitutes;*** • Short-term, self-liquidating trade letters of credit arising from the movement of goods, in particular documentary credits collateralised by the underlying shipment, in case of an issuing institution or a confirming institution; • Other off-balance sheet items carrying similar risk, as communicated to EBA.
5	• Unconditionally cancellable commitments; • The undrawn amount of retail credit lines for which the terms permit the institution to cancel them to the full extent allowable under consumer protection and related legislation; • Undrawn credit facilities for tender and performance guarantees which may be cancelled unconditionally at any time without prior notice, or that do effectively provide for automatic cancellation due to deterioration in a borrower's creditworthiness;

	• Other off-balance sheet items carrying similar risk, as communicated to EBA.

PROCEDURE – COMMITTEE RESPONSIBLE

Title	Amending Regulation (EU) No 575/2013 as regards requirements for credit risk, credit valuation adjustment risk, operational risk, market risk and the output floor
References	COM(2021)0664 – C9-0397/2021 – 2021/0342(COD)
Date submitted to Parliament	28.10.2021
Committee responsible Date announced in plenary	ECON 17.1.2022
Rapporteurs Date appointed	Jonás Fernández 25.10.2021
Discussed in committee	31.3.2022 20.4.2022 13.6.2022 31.8.2022
Date adopted	24.1.2023
Result of final vote	+: 41 –: 14 0: 1
Members present for the final vote	Rasmus Andresen, Anna-Michelle Asimakopoulou, Marek Belka, Isabel Benjumea Benjumea, Stefan Berger, Gilles Boyer, Engin Eroglu, Markus Ferber, Jonás Fernández, Giuseppe Ferrandino, Frances Fitzgerald, José Manuel García-Margallo y Marfil, Valentino Grant, José Gusmão, Eero Heinäluoma, Michiel Hoogeveen, Danuta Maria Hübner, Stasys Jakeliūnas, France Jamet, Othmar Karas, Billy Kelleher, Georgios Kyrtsos, Philippe Lamberts, Aušra Maldeikienė, Pedro Marques, Csaba Molnár, Denis Nesci, Lefteris Nikolaou-Alavanos, Dimitrios Papadimoulis, Piernicola Pedicini, Sirpa Pietikäinen, Eva Maria Poptcheva, Evelyn Regner, Dorien Rookmaker, Joachim Schuster, Ralf Seekatz, Paul Tang, Irene Tinagli, Ernest Urtasun, Inese Vaidere, Johan Van Overtveldt, Stéphanie Yon-Courtin, Marco Zanni
Substitutes present for the final vote	Karima Delli, Herbert Dorfmann, Eider Gardiazabal Rubial, Valérie Hayer, Eugen Jurzyca, Chris MacManus, Ville Niinistö, Erik Poulsen, René Repasi
Substitutes under Rule 209(7) present for the final vote	Susanna Ceccardi, José Manuel Fernandes, Pierre Larrouturou, Alessandro Panza
Date tabled	10.2.2023

FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE

41	+
ECR	Denis Nesci
ID	Susanna Ceccardi, Valentino Grant, France Jamet, Alessandro Panza, Marco Zanni
PPE	Anna-Michelle Asimakopoulou, Isabel Benjumea Benjumea, Stefan Berger, Herbert Dorfmann, Markus Ferber, José Manuel Fernandes, Frances Fitzgerald, José Manuel García-Margallo y Marfil, Danuta Maria Hübner, Othmar Karas, Aušra Maldeikienė, Sirpa Pietikäinen, Ralf Seekatz, Inese Vaidere
Renew	Gilles Boyer, Engin Eroglu, Giuseppe Ferrandino, Valérie Hayer, Billy Kelleher, Georgios Kyrtsos, Eva Maria Poptcheva, Erik Poulsen, Stéphanie Yon-Courtin
S&D	Marek Belka, Jonás Fernández, Eider Gardiazabal Rubial, Eero Heinäluoma, Pierre Larrouturou, Pedro Marques, Csaba Molnár, Evelyn Regner, René Repasi, Joachim Schuster, Paul Tang, Irene Tinagli

14	-
ECR	Michiel Hoogeveen, Eugen Jurzyca, Dorien Rookmaker, Johan Van Overtveldt
NI	Andor Deli, Lefteris Nikolaou-Alavanos
The Left	José Gusmão, Chris MacManus
Verts/ALE	Rasmus Andresen, Stasys Jakeliūnas, Philippe Lamberts, Ville Niinistö, Piernicola Pedicini, Ernest Urtasun

1	0
The Left	Dimitrios Papadimoulis

Key to symbols:
+ : in favour
- : against
0 : abstention