



EUROPEAN PARLIAMENT

2009 - 2014

Committee on Economic and Monetary Affairs

2011/0202(COD)

16.12.2011

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DRAFT REPORT

on the proposal for a regulation of the European Parliament and of the Council
on prudential requirements for credit institutions and investment firms
(COM(2011)0452 – C7-0417/2011 – 2011/0202(COD))

Committee on Economic and Monetary Affairs

Rapporteur: Othmar Karas

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

In amendments by Parliament, amendments to draft acts are highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the draft act which may require correction when the final text is prepared – for instance, obvious errors or omissions in a language version. Suggested corrections of this kind are subject to the agreement of the departments concerned.

The heading for any amendment to an existing act that the draft act seeks to amend includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend. Passages in an existing act that Parliament wishes to amend, but that the draft act has left unchanged, are highlighted in **bold**. Any deletions that Parliament wishes to make in such passages are indicated thus: [...].

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a regulation of the European Parliament and of the Council on prudential requirements for credit institutions and investment firms (COM(2011)0452 – C7-0417/2011 – 2011/0202(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2011)0452),
 - 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 (C7-0417/2011),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the reasoned opinion submitted, within the framework of the Protocol (No 2) on the application of the principles of subsidiarity and proportionality, by the United Kingdom House of Commons, asserting that the draft legislative act does not comply with the principle of subsidiarity,
 - having regard to Rule 55 of its Rules of Procedure,
 - having regard to the report of the Committee on Economic and Monetary Affairs (A7-0000/2011),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Amendment 1

Proposal for a regulation
Recital 7 a (new)

Text proposed by the Commission

Amendment

(7a) International cooperation and coordination is vital in order to achieve an international level playing field and avoid regulatory arbitrage. In the context of the

reluctant implementation of Basel III by the United States of America (USA), it is necessary to ensure that the economy and the banking system in the Union are not be placed at a competitive disadvantage. The Commission should therefore establish, by March 2012, which provisions in this Regulation cannot be implemented in the Union without a simultaneous implementation in the USA.

Or. en

Amendment 2

Proposal for a regulation Recital 7 b (new)

Text proposed by the Commission

Amendment

(7b) For reasons of legal certainty and because of the need for a level playing field within the Union, a single set of regulations for all market participants is a key element for the functioning of the internal market. In order to avoid market distortions and regulatory arbitrage, Pillar 1 measures should therefore ensure maximum harmonisation. As a consequence, the transitional periods provided for in this Regulation are essential for the smooth implementation of this Regulation and to avoid uncertainty for the markets. Member States and competent authorities should avoid adopting any diverging or front-running rules that impact or weaken the principle of maximum harmonisation under Pillar 1. Competent authorities should be able to evaluate, under the applicable Pillar 2 processes, whether supervisory action is needed with regard to a certain credit institution or a group of credit institutions.

Or. en

Amendment 3

Proposal for a regulation Recital 27 a (new)

Text proposed by the Commission

Amendment

(27a) It is appropriate for Common Equity Tier 1 (CET1) instruments to rank below all other capital instruments as it is appropriate for Additional Tier 1 (AT1) instruments to rank below Tier 2 instruments. However, capital instruments which were issued before the cut-off date and which were included in own funds under the rules in force until 31 December 2012 could, after the entry into force of this Regulation, be included in a class of own funds that is lower than the corresponding class for which they have been eligible before. Such instruments could, due to their contractual terms, still rank below CET1 or AT1 instruments in the event of insolvency, while being included in a lower category of own funds. Since the ability of institutions to raise new capital should not be unduly limited, the rank in insolvency of those reclassified instruments should be treated as equal to the rank of instruments in the same class of own funds which are issued after the cut-off date for the purpose of the provisions on CET1 and AT1 instruments in this Regulation.

Or. en

Amendment 4

Proposal for a regulation Recital 53 a (new)

Text proposed by the Commission

Amendment

(53a) Trade finance exposures are diverse in nature but share characteristics such as being small in value and short in duration and having an identifiable source of repayment. They are underpinned by movements of goods and services that support the real economy and in most cases help small companies in their day-to-day needs, thereby creating economic growth and job opportunities. Inflows and outflows are usually matched and liquidity risk is therefore limited.

Or. en

Amendment 5

Proposal for a regulation Recital 55

Text proposed by the Commission

Amendment

(55) The new definition of capital and regulatory capital requirements should be introduced in a manner that takes account of the fact that there are different national starting points and circumstances, with initial variance around the new standards reducing over the transition period. In order to ensure the appropriate continuity in the level of own funds, existing public sector capital injections will be grandfathered for the extent of the *transition* period.

(55) The new definition of capital and regulatory capital requirements should be introduced in a manner that takes account of the fact that there are different national starting points and circumstances, with initial variance around the new standards reducing over the transition period. In order to ensure the appropriate continuity in the level of own funds, existing public sector capital injections will be grandfathered for the extent of the *transitional* period. ***In addition, it cannot be excluded that similar injections of public sector capital are necessary in the future to preserve financial stability. In such a situation, competent authorities should have as many options available as***

possible, including capital instruments which may not fulfil all criteria of CET1 instruments issued in normal times. While full capacity to absorb losses would seem particularly relevant, it may also be appropriate to equip such instruments with, for example, fixed, preferential or enhanced distributions to compensate for the risk of crisis intervention. Permanence on the other hand may be a less relevant criterion. Considering the particular requirements of and circumstances during a crisis situation, it should be possible for EBA, upon reasoned request and in cooperation with the relevant competent authorities to consider such instruments equivalent to core Tier 1 instruments for the purpose of this Regulation.

Or. en

Amendment 6

Proposal for a regulation Recital 56 a (new)

Text proposed by the Commission

Amendment

(56a) As background to the introduction of the new capital framework the recommendation of EBA to require major banks in the Union to establish an exceptional and temporary buffer such that the core Tier 1 capital ratio reaches a level of 9 % by the end of June 2012 should be noted. This should be welcomed as a measure to support confidence in the stability of the Union's banking market. However, there is a need to find a coherent approach between this measure, which only applies to a group of European banks, and the overall introduction of the new capital framework. At the same time, the objective of strengthening the counter-

cyclical character of the supervisory framework should be taken into account. The Commission should therefore come forward with appropriate measure to align these measures as soon as possible and in any event [before the final adoption of this Regulation].

Or. en

Amendment 7

Proposal for a regulation

Recital 67

Text proposed by the Commission

(67) In December 2010, the BCBS published guidelines defining the methodology for calculating the leverage ratio. These rules foresee an observation period that will run from 1 January 2013 until 1 January 2017 during which the leverage ratio, its components and its behaviour relative to the risk-based requirement will be monitored. Based on the results of the observation period the BCBS intends to make any final adjustments to the definition and calibration of the leverage ratio in the first half of 2017, with a view to migrating to a binding requirement on 1 January 2018 based on appropriate review and calibration. ***The BCBS guidelines also foresee the disclosure of the leverage ratio and its components starting from 1 January 2015.***

Amendment

(67) In December 2010, the BCBS published guidelines defining the methodology for calculating the leverage ratio. These rules foresee an observation period that will run from 1 January 2013 until 1 January 2017 during which the leverage ratio, its components and its behaviour relative to the risk-based requirement will be monitored. Based on the results of the observation period the BCBS intends to make any final adjustments to the definition and calibration of the leverage ratio in the first half of 2017, with a view to migrating to a binding requirement on 1 January 2018 based on appropriate review and calibration.

Or. en

Amendment 8

Proposal for a regulation Recital 69 a (new)

Text proposed by the Commission

Amendment

(69a) The counter-cyclical buffer should be focus on systemic risk that is associated with periods of excessive credit growth only. Systemic risk arising from other factors should be captured by other macro-prudential tools, which have yet to be developed.

Or. en

Amendment 9

Proposal for a regulation Recital 69 b (new)

Text proposed by the Commission

Amendment

(69b) The sovereign debt crisis and the statement of 26 October 2011 of the Heads of State or Government of Member States whose currency is the euro have demonstrated that a 0 % risk weight for government bonds no longer corresponds with economic reality. The Commission should submit a report to the European Parliament and the Council proposing options to adjust that risk weight accordingly as soon as possible, while taking into account potentially destabilising effects of tabling such proposals during periods of market stress.

Or. en

Amendment 10

Proposal for a regulation Recital 89

Text proposed by the Commission

(89) The Commission should adopt the draft regulatory technical standards developed by EBA in the areas of cooperative societies or similar institutions, certain own funds instruments, prudential adjustments, deductions from own funds, additional own funds instruments, minority interests, services ancillary to banking, the treatment of credit risk adjustment, probability of default, loss given default, corporate Governance, approaches to risk-weighting of assets, convergence of supervisory practices, liquidity, and transitional arrangements for own funds, by means of delegated acts pursuant to Article 290 TFEU and in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level.

Amendment

(89) The Commission should adopt the draft regulatory technical standards developed by EBA in the areas of cooperative societies or similar institutions, certain own funds instruments, prudential adjustments, deductions from own funds, additional own funds instruments, minority interests, services ancillary to banking, the treatment of credit risk adjustment, probability of default, loss given default, corporate Governance, approaches to risk-weighting of assets, convergence of supervisory practices, liquidity, and transitional arrangements for own funds, by means of delegated acts pursuant to Article 290 TFEU and in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. ***EBA and the Commission should ensure that those standards and requirements can be applied by all institutions concerned in a manner that is proportionate to the nature, scale and complexity of those institutions and their activities.***

Or. en

Amendment 11

Proposal for a regulation Recital 90 a (new)

Text proposed by the Commission

Amendment

(90a) In order to ensure a high degree of legal certainty, EBA should launch

consultations relating to the draft technical standards referred to in this Regulation and in particular those referred to in Article 24(3), Article 26(3), Article 49(2)(a) to (e), Article 379(8)(b), Article 403(3)(a), (b) and (c), Article 404(4), Article 408(3), Article 409(3), Article 411(3), Article 417(3), Article 461(4), and Article 465(3) as soon as possible [,and in any event as soon as this Regulation enters into force]. EBA and the Commission should also start preparing their reports on liquidity requirements and leverage, as provided for in this Regulation, as soon as possible.

Or. en

Amendment 12

Proposal for a regulation

Article 4 – paragraph 46 – point a

Text proposed by the Commission

(a) two or more natural or legal persons who, unless it is shown otherwise, constitute a single risk because one of them, directly or indirectly, has control over the other or others unless the treatment set out in point (c) applies;

Amendment

(a) two or more natural or legal persons who, unless it is shown otherwise, constitute a single risk because one of them, directly or indirectly, has control over the other or others unless the treatment set out in point (c) applies *save that where the lending credit institution is the group's parent undertaking each subsidiary and each subsidiary group is considered a distinct group of connected clients, provided there is no legal or economical relationship between the respective subsidiaries and subsidiary groups, that constitutes a single risk;*

Or. en

Amendment 13

Proposal for a regulation Article 7 – paragraph 1

Text proposed by the Commission

1. The competent authorities shall waive in full or in part the application of Article 401 to a parent institution and to all or some of its subsidiaries in the European Union and supervise them as a single liquidity sub-group so long as they fulfil all of the following conditions:

Amendment

1. The competent authorities shall waive in full or in part the application of Article 401 to a parent institution and to all or some of its subsidiaries in the European Union **as well as liquidity supervision with regard to branches of the parent institution and its subsidiaries in the European Union** and supervise them as a single liquidity sub-group so long as they fulfil all of the following conditions:

Or. en

Amendment 14

Proposal for a regulation Article 7 – paragraph 1 – point b

Text proposed by the Commission

(b) The parent institution 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;

Amendment

(b) The parent institution monitors and has oversight at all times over the liquidity positions of all institutions **and branches** within the group or sub-group, that are subject to the waiver;

Or. en

Amendment 15

Proposal for a regulation Article 7 – paragraph 1 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

By 31 December 2012 the Commission shall report to the European Parliament and the Council on any legal obstacles

which are capable of rendering impossible the application of point (c) of the first subparagraph and shall make appropriate legislative proposals for the removal of those obstacles by 31 December 2014.

Or. en

Amendment 16

Proposal for a regulation

Article 7 – paragraph 2 – subparagraph 2

Text proposed by the Commission

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 19 and only to the institutions whose competent authorities agree about the following elements:

Amendment

Where institutions of the single liquidity sub-group are authorised, ***or branches of a single liquidity sub-group are operated***, in several Member States, paragraph 1 shall only be applied after following the procedure laid down in Article 19 and only to the institutions ***and branches*** whose competent authorities agree about the following elements:

Or. en

Amendment 17

Proposal for a regulation

Article 7 – paragraph 2 – subparagraph 2 – point c

Text proposed by the Commission

(c) minimum amounts of liquid assets to be held by institutions for which the application of Article 401 has been waived;

Amendment

(c) minimum amounts of liquid assets to be held by institutions ***or branches*** for which the application of Article 401 has been waived;

Or. en

Amendment 18

Proposal for a regulation

Article 7 – paragraph 2 – subparagraph 3

Text proposed by the Commission

Competent authorities may also apply paragraph 1 *also* to institutions which that are members of the same institutional protection scheme referred to in 108(7)(b), provided that they meet all the conditions laid down in Article 108(7). Competent authorities shall in that case determine one of the institutions subject to the waiver to meet Article 401 on the basis of the consolidated situation of all institutions of the single liquidity sub-group.

Amendment

Competent authorities may also apply paragraph 1 to institutions which that are members of the same institutional protection scheme referred to in Article 108(7)(b), provided that they meet all the conditions laid down ***therein, and to other institutions linked by a relationship referred to in Article 108(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 Article 401 on the basis of the consolidated situation of all institutions of the single liquidity sub-group.

Or. en

Amendment 19

Proposal for a regulation

Article 22 – point 30 a (new)

Text proposed by the Commission

Amendment

(30a) ‘cross-guarantee scheme’ means:
(a) the institutions fall within the same institutional protection scheme as referred to in Article 108(7);
(b) the institutions are fully consolidated according to Article 1(1)(b), (c), (d) or (2) of the Seventh Council Directive 83/349/EEC on consolidated accounts* and are included in the supervision on a consolidated basis of the institution which is the parent institution in a Member State according to Chapter 2 of Title II of Part One and subject to an own-funds

requirement;

(c) the parent institution in a Member State and the subsidiaries are established in the same Member State and are subject to authorisation and supervision by the same competent authority;

(d) the parent institution in a Member State and the subsidiaries have entered into a contractual or statutory liability arrangement which protects those institutions and in particular ensures their liquidity and solvency, in order to avoid bankruptcy in the case that it becomes necessary;

(e) arrangements are in place to ensure the prompt provision of financial means in terms of capital and liquidity if required under the contractual or statutory liability arrangement referred to in point (d);

(f) the adequacy of the arrangements referred to in points (c) and (d) is monitored at regular basis by the competent authority;

(g) the minimum period of notice for a voluntary exit of a subsidiary from the liability arrangement is 10 years;

(h) the competent authority is empowered to prohibit a voluntary exit of a subsidiary from the liability arrangement.

** OJ L 193, 18.7.1983, p. 1.*

Or. en

Amendment 20

Proposal for a regulation Article 25 – paragraph 1 – point a

Text proposed by the Commission

Amendment

(a) the institution is of a type that is defined

(a) the institution is of a type that is defined

under applicable national law and which competent authorities consider to qualify as a mutual, cooperative society or a similar institution for the purposes of this Part;

under applicable national law and which competent authorities consider to qualify as a mutual, cooperative society, **savings banks** or a similar institution for the purposes of this Part;

Or. en

Amendment 21

Proposal for a regulation

Article 25 – paragraph 1 – point b

Text proposed by the Commission

(b) the conditions laid down in Articles 26 and 27 are met;

Amendment

(b) the conditions laid down in Article 26, and **the amending conditions in Article 27** are met;

Or. en

Amendment 22

Proposal for a regulation

Article 25 – paragraph 2 – subparagraph 1 – introductory part

Text proposed by the Commission

2. EBA shall develop draft regulatory technical **standards** to specify the **following**:

Amendment

2. EBA shall develop **a** draft regulatory technical standard to specify the **conditions in accordance with which competent authorities may determine that a type of undertaking recognised under applicable national law qualifies as a mutual, cooperative society or similar institution for the purposes of this Part.**

Or. en

Amendment 23

Proposal for a regulation

Article 25 – paragraph 2 – subparagraph 1 – point a

Text proposed by the Commission

Amendment

(a) the conditions according to which competent authorities may determine that a type of undertaking recognised under applicable national law qualifies as a mutual, cooperative society or similar institution for the purposes of this Part; *deleted*

Or. en

Amendment 24

Proposal for a regulation

Article 25 – paragraph 2 – subparagraph 1 – point b

Text proposed by the Commission

Amendment

(b) the nature and extent of the following: *deleted*
(i) the features that could cause the condition of an institution to be weakened as a going concern during periods of market stress;
(ii) the market stress under which such features could cause the condition of the institution to be weakened as a going concern.

Or. en

Amendment 25

Proposal for a regulation

Article 25 – paragraph 2 – subparagraph 2

Text proposed by the Commission

Amendment

EBA shall submit ***those*** draft regulatory technical ***standards*** to the Commission by

EBA shall submit ***that*** draft regulatory technical ***standard*** to the Commission by

1 January 2013.

30 June 2016.

Or. en

Amendment 26

Proposal for a regulation

Article 26 – paragraph 1 – point h – point iii

Text proposed by the Commission

(iii) the conditions governing the instruments do not include a cap or other restriction on the maximum level of distributions, except in the case of the instruments referred to in Article 25;

Amendment

(iii) the conditions governing the instruments do not include a cap or other restriction on the maximum level of distributions, except in the case of the instruments referred to in Article 25 ***and a multiple of the dividend paid on ordinary shares or instruments referred to in Article 25 does not constitute preferential distribution, a cap or other restrictions on the maximum level of distributions;***

Or. en

Amendment 27

Proposal for a regulation

Article 26 – paragraph 1 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

The condition set out in point (j) of the first subparagraph shall be deemed to be met notwithstanding the instrument ranking pari passu with capital referred to in Article 463(3) which have been issued before 20 July 2011 and are included in Additional Tier 1 or Tier 2 in accordance with this Regulation.

Or. en

Amendment 28

**Proposal for a regulation
Article 28 a (new)**

Text proposed by the Commission

Amendment

***Capital instruments used by public
authorities in crisis situations***

***In crisis situations and if deemed
necessary for the stability of financial
markets Member States may decide to
inject capital into individual or a group of
credit institutions. Under the particular
economic and political conditions of a
crisis situation, it may be appropriate for
the capital instruments used for this kind
of operation not to fulfill all of the criteria
set out in Articles 26 and 27. Nevertheless,
upon reasoned request by and in
cooperation with the relevant competent
authority, EBA shall consider these
capital instruments equivalent to
Common Equity Tier 1 instruments for
the purpose of this Regulation.***

Or. en

Amendment 29

**Proposal for a regulation
Article 31 – paragraph 1 – subparagraph 2**

Text proposed by the Commission

Amendment

EBA shall submit those draft regulatory
technical standards to the Commission by ***1
January 2013.***

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

Or. en

Amendment 30

Proposal for a regulation

Article 35 – paragraph 3 – point a

Text proposed by the Commission

(a) *those deferred tax assets and associated deferred tax liabilities both arise from the tax law of one Member State or third country;*

Amendment

(a) *the entity has the legally enforceable right to set off current tax assets against current tax liabilities; and*

Or. en

Amendment 31

Proposal for a regulation

Article 35 – paragraph 3 – point b and subparagraph 1 a (new)

Text proposed by the Commission

(b) *the taxation authority of that Member State or third country permits the offsetting of deferred tax assets and the associated deferred tax liabilities.*

Amendment

(b) *the deferred tax assets and the deferred tax liabilities relate to income taxes levied by the same taxation authority and on the same taxable entity.*

The entity shall, where appropriate, have a legal right to set off a current tax asset against a current tax liability where they relate to income taxes levied by the same tax authority and the tax authority permits the entity to make or receive a single net payment.

Or. en

Amendment 32

Proposal for a regulation

Article 36 – paragraph 2 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

Deferred tax assets referred to in point (c) of the first subparagraph shall not be

based on future profitability where it is probable that taxable profits will be available as a result of the reversing of taxable temporary difference (deferred tax liabilities) relating to the same taxation authority and the same taxable entity.

Or. en

Amendment 33

Proposal for a regulation Article 46 – paragraph 5

Text proposed by the Commission

Amendment

5. EBA shall develop draft regulatory technical standards to specify the conditions of application of point (b) of paragraph 3.

deleted

EBA shall submit those draft regulatory technical standards to the Commission by 1 January 2013.

Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first sub-paragraph in accordance with the procedure laid down in Articles 10 to 14 of Regulation (EU) No 1093/2010.

Or. en

Amendment 34

Proposal for a regulation Article 49 – paragraph 1 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

*The condition set out in point (d) of the first subparagraph shall be deemed to be met notwithstanding the instrument ranking *pari passu* or above instruments*

referred to in Article 463(3) or (4) which have been issued before 20 July 2011 and which are included in Tier 2 in accordance with this Regulation.

Or. en

Amendment 35

Proposal for a regulation

Article 49 – paragraph 2 – point a

Text proposed by the Commission

(a) the form and nature of incentives to redeem;

Amendment

(b) the form and nature of incentives to redeem;

Or. en

Amendment 36

Proposal for a regulation

Article 49 – paragraph 2 – point b

Text proposed by the Commission

(b) the nature of the write down of the principal amount;

Amendment

(c) the nature of the write down of the principal amount;

Or. en

Amendment 37

Proposal for a regulation

Article 49 – paragraph 2 – point c – introductory part

Text proposed by the Commission

(c) the procedures and timing for the following:

Amendment

(a) the procedures and timing for the following:

Or. en

Amendment 38

Proposal for a regulation

Article 79 – paragraph 1 – point a – point i

Text proposed by the Commission

(i) the amount of Common Equity Tier 1 capital of that subsidiary required to meet the sum of the requirement laid down in point (a) of Article 87(1) **and** the combined buffer referred to in Article 122(2) of Directive [inserted by OP];

Amendment

(i) the amount of Common Equity Tier 1 capital of that subsidiary required to meet the sum of the requirement laid down in point (a) of Article 87(1), the combined buffer referred to in Article 122(2) of Directive [inserted by OP] **and specific own funds requirements referred to in Article 100 of Directive [inserted by OP] insofar as those requirements are to be met by Common Equity Tier 1 capital;**

Or. en

Amendment 39

Proposal for a regulation

Article 79 – paragraph 1 – point a – point ii

Text proposed by the Commission

(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 point (a) of Article 87(1) **and** the combined buffer referred to in Article 122(2) of Directive [inserted by OP];

Amendment

(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 point (a) of Article 87(1), the combined buffer referred to in Article 122(2) of Directive [inserted by OP] **and specific own-funds requirements referred to in Article 100 of Directive [inserted by OP] insofar as those requirements are to be met by Common Equity Tier 1 capital;**

Or. en

Amendment 40

Proposal for a regulation

Article 79 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Competent authorities may permit institutions not to subtract from the minority interests of a cross-guarantee scheme the result of multiplying the amount referred to in paragraph 1(a) by the percentage referred to in paragraph 1(b) subject to the conditions laid down in Article 108(7).

Or. en

Amendment 41

Proposal for a regulation

Article 80 – paragraph 1 – point a – point i

Text proposed by the Commission

Amendment

(i) the amount of Tier 1 capital of the subsidiary required to meet the sum of the requirement laid down in point (b) of Article 87(1) and the combined buffer referred to in Article 122(2) of Directive [inserted by OP];

(i) the amount of Tier 1 capital of the subsidiary required to meet the sum of the requirement laid down in point (b) of Article 87(1), the combined buffer referred to in Article 122(2) of Directive [inserted by OP] ***and specific own-funds requirements referred to in Article 100 of Directive [inserted by OP] insofar as those requirements are to be met by Tier 1 capital;***

Or. en

Amendment 42

Proposal for a regulation

Article 80 – paragraph 1 – point a – point ii

Text proposed by the Commission

(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 point (b) of Article 87(1) and the combined buffer referred to in Article 122(2) of Directive [inserted by OP];

Amendment

(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 point (b) of Article 87(1), the combined buffer referred to in Article 122(2) of Directive [inserted by OP] **and specific own-funds requirements referred to in Article 100 of Directive [inserted by OP] insofar as those requirements are to be met by Tier 1 capital;**

Or. en

Amendment 43

Proposal for a regulation

Article 82 – paragraph 1 – point a

Text proposed by the Commission

(a) the lower of the following:

Amendment

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

Or. en

Amendment 44

Proposal for a regulation

Article 82 – paragraph 1 – point a – point i

Text proposed by the Commission

(i) the amount of own funds of the subsidiary required to meet the sum of the requirement laid down in point (c) of Article 87(1) **and** the combined buffer referred to in Article 122(2) of Directive

Amendment

(i) the amount of own funds of the subsidiary required to meet the sum of the requirement laid down in point (c) of Article 87(1), the combined buffer referred to in Article 122(2) of Directive [inserted

[inserted by OP];

by OP] *and specific own-funds requirements referred to in Article 100 of Directive [inserted by OP];*

Or. en

Amendment 45

Proposal for a regulation Article 82 – paragraph 1 – point a – point ii

Text proposed by the Commission

(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 point (c) of Article 87(1) **and** the combined buffer referred to in Article 122(2) of Directive [inserted by OP];

Amendment

(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 point (c) of Article 87(1), the combined buffer referred to in Article 122(2) of Directive [inserted by OP] **and specific own-funds requirements referred to in Article 100 of Directive [inserted by OP];**

Or. en

Amendment 46

Proposal for a regulation Article 84 – paragraph 4

Text proposed by the Commission

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

(a) activities that are a direct extension of banking

(b) activities that concern services ancillary to banking;

(c) similar activities for the purposes of point (b)(iii) of paragraph 1.

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

Amendment

deleted

1 January 2013.

Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first sub-paragraph in accordance with the procedure laid down in Articles 10 to 14 of Regulation (EU) No 1093/2010.

Or. en

Amendment 47

Proposal for a regulation Article 92 – paragraph 4

Text proposed by the Commission

Amendment

4. EBA shall develop draft regulatory technical standards to specify in greater detail the following:

deleted

(a) the calculation of the requirement to hold eligible capital of at least one quarter of the fixed overheads of the previous year;

(b) the conditions for the adjustment by the competent authority of the requirement to hold eligible capital of at least one quarter of the fixed overheads of the previous year;

(c) the calculation of projected fixed overheads in the case of an investment firm that has not completed business for one year.

EBA shall submit those draft regulatory technical standards to the Commission by 1 January 2013.

Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first sub-paragraph in accordance with the procedure laid down in Articles 10 to 14 of Regulation (EU) No 1093/2010.

Amendment 48

Proposal for a regulation

Article 108 – paragraph 6 – subparagraph 2

Text proposed by the Commission

Where the institution, in accordance with this paragraph, **decides** not to apply the requirements of paragraph 1, it **shall** assign a risk weight of 0 %.

Amendment

Where the institution, in accordance with this paragraph, **is authorised** not to apply the requirements of paragraph 1, it **may** assign a risk weight of 0 %.

Amendment 49

Proposal for a regulation

Article 110 – paragraph 2 – subparagraphs 2 to 5

Text proposed by the Commission

EBA shall develop draft implementing technical standards to specify the exposures to regional governments and local authorities that shall be treated as exposures to central governments based on the criteria set out in the previous subparagraph.

EBA shall submit those draft technical standards to the Commission by 1 January 2014.

Power is conferred on the Commission to adopt the implementing technical standards referred to in the second subparagraph in accordance with the procedure laid down in Article 15 of Regulation (EU) No 1093/2010.

Before the entry into force of the technical standards referred to in the previous subparagraph, institutions may continue to apply the treatment set out in

Amendment

deleted

the first subparagraph, where the competent authorities have applied that treatment before 1 January 2013.

Or. en

Amendment 50

Proposal for a regulation Article 111 – paragraph 6

Text proposed by the Commission

Amendment

6. EBA shall develop draft implementing technical standards to specify the public sector entities that may be treated according to paragraphs 1 and 2. *deleted*

EBA shall submit those draft technical standards to the Commission by 1 January 2014.

Power is conferred on the Commission to adopt the implementing technical standards referred to in the first subparagraph in accordance with the procedure laid down in Article 15 of Regulation (EU) No 1093/2010.

Before the entry into force of the technical standards referred to in the first subparagraph, institutions may continue to apply the treatment set out in paragraph 1 that competent authorities have applied before 1 January 2013.

Or. en

Amendment 51

Proposal for a regulation

Article 119 – paragraph 2 – subparagraph 2 a (new)

Text proposed by the Commission

Amendment

When competent authorities set a stricter risk weight or stricter criteria, institutions shall have a 6-month transitional period before the new risk weight applies.

Or. en

Amendment 52

Proposal for a regulation

Article 139 – paragraph 2 – subparagraph 1

Text proposed by the Commission

Amendment

EBA shall develop regulatory technical standards to specify the ***processes competent authorities shall follow in assessing the compliance of an institution with the requirements to use the IRB Approach.***

EBA shall develop ***draft*** regulatory technical standards to specify the ***following:***

- (a) the assessment methodology under which the competent authorities permit institutions to use IRB Approach;***
- (b) the conditions for assessing the materiality of extensions and changes to the IRB Approach.***

Or. en

Amendment 53

Proposal for a regulation

Article 145 – paragraph 3 – subparagraph 2

Text proposed by the Commission

Amendment

EBA shall submit those draft regulatory

EBA shall submit those draft regulatory

technical standards to the Commission by
31 December 2013.

technical standards to the Commission by
31 December 2014.

Or. en

Amendment 54

Proposal for a regulation Article 147 – paragraph 5

Text proposed by the Commission

Amendment

5. EBA shall develop draft regulatory technical standards to specify the conditions according to which competent authorities may permit institutions to use Article 145(1) under point (b) of paragraph 2.

deleted

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

Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first sub-paragraph in accordance with the procedure laid down in Articles 10 to 14 of Regulation (EU) No 1093/2010.

Or. en

Amendment 55

Proposal for a regulation Article 149 – paragraph 1 – point iii – line 2

Text proposed by the Commission

$$RW = \left(LGD \cdot N \left(\frac{1}{\sqrt{1-R}} \cdot G(PD) + \sqrt{\frac{R}{1-R}} \cdot G(0.999) \right) - LGD \cdot PD \right) \cdot 12.5 \cdot 1.06$$

Amendment

$$RW = \left(LGD \cdot N \left(\frac{1}{\sqrt{1-R}} \cdot G(PD) + \sqrt{\frac{R}{1-R}} \cdot G(0.999) \right) - LGD \cdot PD \right) \cdot 12.5 \cdot 0.7619$$

Or. en

Amendment 56

Proposal for a regulation

Article 158 – paragraph 3 – subparagraph 2 – point b

Text proposed by the Commission

(b) self-liquidating short-term trade financing transactions, ***import and export letters of credit and similar transactions*** with a residual maturity of up to one year;

Amendment

(b) self-liquidating short-term trade financing transactions ***connected to the exchange of goods or services*** with a residual maturity of up to one year ***and defined as:***

(i) letters of credit issued or confirmed, and related undertakings and financing;

(ii) pre-shipment financing and post-shipment acceptances and/or financing;

(iii) trade loans;

(iv) performance guarantees, bid bonds and other guarantees, including standby letters of credit, that do not have the characteristics of a credit substitute;

Or. en

Amendment 57

Proposal for a regulation

Article 173 – paragraph 4 – subparagraph 2

Text proposed by the Commission

EBA shall submit those draft implementing technical standards to the Commission by ***1 January 2013***.

Amendment

EBA shall submit those draft implementing technical standards to the Commission by ***31 December 2014***.

Or. en

Amendment 58

**Proposal for a regulation
Article 193 – paragraph 9**

Text proposed by the Commission

Amendment

9. EBA shall develop draft regulatory technical standards to specify the methodology for the calculation of the amount of units or shares in a CIU that institutions may use as collateral referred to in paragraph 6 and in Article 194(2).

deleted

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

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

Or. en

Amendment 59

**Proposal for a regulation
Article 197 – paragraph 1 – point g – point i**

Text proposed by the Commission

Amendment

(i) those other corporate entities have a credit assessment by a recognised ECAI which has been determined by EBA to be associated with credit quality step 2 or above under the rules for the risk weighting of exposures to corporates under Chapter 2;

(i) those other corporate entities have a credit assessment by a recognised ECAI;

Or. en

Justification

Amendment 60

Proposal for a regulation

Article 197 – paragraph 1 – point g – point ii

Text proposed by the Commission

(ii) in the case of institutions calculating risk-weighted exposure amounts and expected loss amounts under the IRB Approach, those other corporate entities do not have a credit assessment by a recognised ECAI and are internally rated ***as having a PD equivalent to that associated with the credit assessments of ECAIs determined by EBA to be associated with credit quality step 2 or above the rules for risk weighting of exposures to corporates under Chapter 2.***

Amendment

(ii) in the case of institutions calculating risk-weighted exposure amounts and expected loss amounts under the IRB Approach, those other corporate entities do not have a credit assessment by a recognised ECAI and are internally rated.

Or. en

Amendment 61

Proposal for a regulation

Article 197 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Institutions may use as eligible providers of unfunded credit protection other financial institutions authorised and supervised by the competent authorities responsible for the authorisation and supervision of institutions and subject to prudential requirements equivalent to those applied to institutions.

Or. en

Amendment 62

Proposal for a regulation

Article 216 – paragraph 9 – subparagraph 2

Text proposed by the Commission

EBA shall submit those draft regulatory technical standards to the Commission by **31 December 2014**.

Amendment

EBA shall submit those draft regulatory technical standards to the Commission by **31 December 2015**.

Or. en

Amendment 63

Proposal for a regulation

Article 268 – paragraph 1 – subparagraph 2

Text proposed by the Commission

An institution which is not eligible for the treatment set out in Article 89 shall not use the Original Exposure Method. To determine the exposure value for the contracts listed in point 3 of Annex II an institution shall not use the Original Exposure Method.

Amendment

An institution which is not eligible for the treatment set out in Article 89 shall not use the Original Exposure Method. To determine the exposure value for the contracts listed in point 3 of Annex II an institution shall not use the Original Exposure Method **set out in Article 270**.

Or. en

Amendment 64

Proposal for a regulation

Article 301 – paragraph 3 – subparagraph 2

Text proposed by the Commission

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

Amendment

EBA shall submit those draft regulatory technical standards to the Commission by **31 December 2014**.

Or. en

Amendment 65

Proposal for a regulation

Article 305 – paragraph 3 – subparagraph 2

Text proposed by the Commission

EBA shall submit those draft regulatory technical standards to the Commission by **31 December 2016**.

Amendment

EBA shall submit those draft regulatory technical standards to the Commission by **31 December 2017**.

Or. en

Amendment 66

Proposal for a regulation

Article 308 – paragraph 3

Text proposed by the Commission

3. EBA shall develop regulatory technical standards to further specify the conditions for the use of the Alternative Standardised Approach referred to in paragraph 2.

EBA shall submit those draft regulatory technical standards to the Commission by 31 December 2016.

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

Amendment

deleted

Or. en

Amendment 67

Proposal for a regulation Article 311 – paragraph 7 – point a

Text proposed by the Commission

Amendment

(a) the conditions for assessing whether a system is sound and implemented with integrity for the purposes of point (d) of paragraph 2; *deleted*

Or. en

Amendment 68

Proposal for a regulation Article 318 – paragraph 3 – subparagraph 2

Text proposed by the Commission

Amendment

EBA shall submit those draft regulatory technical standards to the Commission by *1 January 2013*.

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

Or. en

Amendment 69

Proposal for a regulation Article 330 – paragraph 3 – subparagraph 2

Text proposed by the Commission

Amendment

EBA shall submit those draft regulatory technical standards to the Commission by *1 January 2013*.

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

Or. en

Amendment 70

Proposal for a regulation

Article 341 – paragraph 6 – subparagraph 2

Text proposed by the Commission

EBA shall submit those draft regulatory technical standards to the Commission by *1 January 2013*.

Amendment

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

Or. en

Amendment 71

Proposal for a regulation

Article 347 – paragraph 4 – subparagraph 2

Text proposed by the Commission

EBA shall submit those draft regulatory technical standards to the Commission by *1 January 2013*.

Amendment

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

Or. en

Amendment 72

Proposal for a regulation

Article 352 – paragraph 3 – subparagraph 2

Text proposed by the Commission

EBA shall submit those draft regulatory technical standards to the Commission by *1 January 2013*.

Amendment

EBA shall submit those draft regulatory technical standards to the Commission by *31 December 2014*.

Or. en

Amendment 73

Proposal for a regulation Article 372 – paragraph 3

Text proposed by the Commission

3. Transaction with a central counterparty are excluded from the own funds requirements for CVA risk.

Amendment

3. Transaction with a central counterparty **and transactions with non-financial counterparties referred to in Art. XX of EMIR [inserted by OP] , provided that these transactions are objectively measurable as reducing risks directly related to the commercial or treasury financing activities of the non-financial counterparty,** are excluded from the own funds requirements for CVA risk.

Or. en

Amendment 74

Proposal for a regulation Article 373 – paragraph 6 – subparagraph 2

Text proposed by the Commission

EBA shall submit those draft regulatory technical standards to the Commission by **1 January 2013**.

Amendment

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

Or. en

Amendment 75

Proposal for a regulation Article 389 – paragraph 2 – point c

Text proposed by the Commission

(c) exposures, including participations or other kinds of holdings, incurred by an institution to its parent undertaking, to other subsidiaries of that parent undertaking or to its own subsidiaries, in so

Amendment

(c) exposures, including participations or other kinds of holdings, incurred by an institution to its parent undertaking, to other subsidiaries of that parent undertaking or to its own subsidiaries, in so

far as those undertakings are covered by the supervision on a consolidated basis to which the institution itself is subject, in accordance with this Regulation or with equivalent standards in force in a third country; exposures that do not meet these criteria, whether or not exempted from Article 384(1) shall be treated as exposures to a third party;

far as those undertakings are covered by the supervision on a consolidated basis to which the institution itself is subject, in accordance with this Regulation, *with Directive 2002/87/EC* or with equivalent standards in force in a third country; exposures that do not meet these criteria, whether or not exempted from Article 384(1) shall be treated as exposures to a third party;

Or. en

Amendment 76

Proposal for a regulation Article 402

Text proposed by the Commission

Where *a credit* institution does not meet, or *is expected* not to meet the requirement set out in Article 401(1), it shall immediately notify the competent authorities and shall submit without undue delay to the competent *authority* a plan for the timely restoration of compliance with Article 401. Until such compliance has been restored, the credit institution shall report the items daily by the end of each business day unless the competent authority authorises a lower frequency and a longer delay. Competent authorities shall only grant such authorisations based on the individual situation of a credit institution. They shall monitor the implementation of the restoration plan and shall require a more timely restoration if appropriate.

Amendment

Where *an* institution does not meet, or *does not expects* to meet the requirement set out in Article 401(1), it shall immediately notify the competent authorities and shall submit without undue delay to the competent *authorities* a plan for the timely restoration of compliance with Article 401. Until such compliance has been restored, the credit institution shall report the items daily by the end of each business day unless the competent authority authorises a lower frequency and a longer delay. Competent authorities shall only grant such authorisations based on the individual situation of a credit institution. They shall monitor the implementation of the restoration plan and shall require a more timely restoration if appropriate.

Or. en

Amendment 77

Proposal for a regulation Article 403 – paragraph 1

Text proposed by the Commission

1. Institutions shall report to the competent authorities the items referred to in Title II and III and their components, including the composition of *its* liquid assets according to Article 404 *and Annex III*. The reporting frequency shall not be less than monthly for the requirement in Title II *and Annex III* and not less than quarterly for items referred to in Title III.

Amendment

1. Institutions shall report to the competent authorities *in the currency of the Member State where they are situated* the items referred to in Title II and III and their components, including the composition of *their* liquid assets according to Article 404. The reporting frequency shall not be less than monthly for the requirement in Title II and not less than quarterly for items referred to in Title III.

Or. en

Amendment 78

Proposal for a regulation Article 403 – paragraph 2

Text proposed by the Commission

2. When *a competent authority decides that an institution has a significant liquidity risk in another* currency or a significant branch as defined in Article 52 of Directive [inserted by OP] in a host Member State using a *different* currency *than its home Member State, the institution shall separately report to the competent authorities of the home Member States the items denominated in or indexed to the former currency.*

Amendment

2. *The institution shall report to the competent authorities the items referred to in paragraph 1 in that currency when it has:*

(a) aggregate liabilities in a currency different from the reporting currency as defined in paragraph 1 amounting to or exceeding 5 % of the institution's or liquidity sub-group's total liabilities, or

(b) a significant branch as defined in Article 52 of Directive [inserted by OP] in

a host Member State using a currency *different from the reporting currency as defined in paragraph 1.*

Or. en

Amendment 79

Proposal for a regulation Article 403 – paragraph 6 a (new)

Text proposed by the Commission

Amendment

6a. Parent institutions in the Union, their subsidiaries, and sub-consolidated groups which belong to the same cross-border group shall be subject to one single coherent reporting framework when reporting to home and host competent authorities. Until EBA has issued a harmonised set of standards for reporting in accordance with paragraph 3, the consolidating supervisor shall, after consulting the competent authorities responsible for the supervision of the subsidiaries and sub-groups of the parent institutions, submit the reporting framework to the parent institutions and to the other competent authorities.

Or. en

Amendment 80

Proposal for a regulation Article 404 – paragraph 5

Text proposed by the Commission

Amendment

5. Shares or units in CIUs may be treated as liquid assets up to an absolute amount of **250 million EUR** provided that the requirements in Article 127 (3) are met and that the CIU, apart from derivatives to

5. Shares or units in CIUs may be treated as liquid assets up to an absolute amount of **EUR 500 million** provided that the requirements in Article 127 (3) are met and that the CIU, apart from derivatives to

mitigate interest rate *or* credit risk, only invests in liquid assets.

mitigate interest rate, credit *or* currency risk, only invests in liquid assets.

Or. en

Amendment 81

Proposal for a regulation Article 404 – paragraph 6

Text proposed by the Commission

6. Where a liquid asset ceases to be eligible for paragraph 1, an institution may nevertheless continue to consider it a liquid asset for an additional period of 30 calendar days.

Amendment

6. Where a liquid asset ceases to be eligible for paragraph 1, an institution may nevertheless continue to consider it a liquid asset for an additional period of 30 calendar days. ***If a liquid asset in a CIU ceases to be eligible, it may nevertheless be considered a liquid asset for an additional period of 30 days provided that those assets do not exceed 10 % of the CIU's assets.***

Or. en

Amendment 82

Proposal for a regulation Article 407 – paragraph 4 – subparagraph 1

Text proposed by the Commission

4. EBA shall develop draft implementing technical standards listing the currencies which meet the conditions set out in this Article.

Amendment

4. ***After the criteria for liquid assets have been specified in accordance with Article 481(2)***, EBA shall develop draft implementing technical standards listing the currencies which meet the conditions set out in this Article.

Or. en

Amendment 83

Proposal for a regulation

Article 407 – paragraph 4 – subparagraph 2

Text proposed by the Commission

EBA shall submit those draft implementing technical standards to the Commission by **1 January 2013**.

Amendment

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

Or. en

Amendment 84

Proposal for a regulation

Article 408 – paragraph 3 – subparagraph 2

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 85

Proposal for a regulation

Article 410 – paragraph 4 – subparagraph 2

Text proposed by the Commission

Clearing, custody or cash management services referred to in point (a) only covers such services to the extent that they are rendered in the context of an established relationship on which the depositor has substantial dependency. They shall not merely consist in correspondent banking or prime brokerage services and the institution shall have objective evidence that the client is unable to withdraw those amounts over a 30 day horizon without

Amendment

Clearing, custody or cash management services referred to in point (a) only covers such services to the extent that they are rendered in the context of an established relationship on which the depositor has substantial dependency. They shall not merely consist in correspondent banking or prime brokerage services and the institution shall have objective evidence that the client is unable to withdraw those amounts over a 30 day horizon without compromising its operational functioning.

compromising its operational functioning.

Pending a uniform definition of 'established relationship', institutions shall establish the criteria for qualifying as an 'established relationship'. Institutions shall follow any general guidance laid down by competent authorities for identifying deposits with established relationships.

Or. en

Amendment 86

Proposal for a regulation Article 410 – paragraph 5

Text proposed by the Commission

5. Institutions shall multiply liabilities resulting from deposits by clients that are not financial customers by 75% to the extent they do not fall under paragraph 4.

Amendment

5. Institutions shall multiply liabilities resulting from deposits by clients that are not financial customers by 75% to the extent they do not fall under paragraph 4. *When conducting the assessment referred to in Article 409(5), EBA shall also assess the calibration of corporate deposits.*

Or. en

Amendment 87

Proposal for a regulation Article 412 – paragraph 1

Text proposed by the Commission

1. Institutions shall report outflows from credit and liquidity facilities, which shall be determined as a percentage of the maximum amount that can be drawn. This maximum amount that can be drawn may be assessed net of the value according to Article 406 of collateral to be provided if the institution can reuse the collateral and if the collateral in the form of liquid assets

Amendment

1. Institutions shall report outflows from credit and liquidity facilities, which shall be determined as a percentage of the maximum amount that can be drawn. This maximum amount that can be drawn may be assessed net of the value according to Article 406 of collateral to be provided if the institution can reuse the collateral and if the collateral in the form of liquid assets

in accordance with Article 404. The collateral to be provided *may* not be assets issued by the counterparty of the facility or one of its affiliated entities. If the necessary information is available to the institution, the maximum amount that can be drawn for credit and liquidity facilities provided to SSPEs shall be determined as the maximum amount that could be drawn given an SSPEs own obligations coming due over the next 30 days.

in accordance with Article 404. The collateral to be provided *shall* not be assets issued by the counterparty of the facility or one of its affiliated entities. If the necessary information is available to the institution, the maximum amount that can be drawn for credit and liquidity facilities provided to SSPEs shall be determined as the maximum amount that could be drawn given an SSPEs own obligations coming due over the next 30 days.

Or. en

Amendment 88

Proposal for a regulation

Article 413 – paragraph 2 – introductory part

Text proposed by the Commission

2. The liquidity inflows shall be measured over the next 30 days. They shall comprise only *contractual* inflows from exposures that are not past due and for which the bank has no reason to expect non-performance within the 30-day time horizon. The inflow shall be taken into account in full with the exception of the following:

Amendment

2. The liquidity inflows shall be measured over the next 30 days. They shall comprise only inflows from exposures that are not past due and for which the bank has no reason to expect non-performance within the 30-day time horizon. The inflow shall be taken into account in full with the exception of the following:

Or. en

Amendment 89

Proposal for a regulation

Article 413 – paragraph 2 – point a

Text proposed by the Commission

(a) monies due from customers that are not financial customers shall be reduced by 50% of their value or by the contractual commitments to those customers to extend

Amendment

(a) monies due from customers that are not financial customers shall be reduced by 50% of their value or by the contractual commitments to those customers to extend

funding, whichever is higher. This does not apply to monies due from secured lending and capital market driven transactions as defined in Article 188 that are collateralised by liquid assets according to Article 404;

funding, whichever is higher. This does not apply to monies due from secured lending and capital market driven transactions as defined in Article 188 that are collateralised by liquid assets according to Article 404 **and to monies due from trade financing transactions referred to in point (b) in the second subparagraph of Article 158(3), which shall be taken into account in full as inflows;**

Or. en

Amendment 90

Proposal for a regulation Article 413 – paragraph 4

Text proposed by the Commission

Amendment

4. Competent authorities may grant the permission to apply, by derogation from paragraph 2 point c), a higher inflow on a case by case basis for credit and liquidity facilities when all of the following conditions are fulfilled:

deleted

(a) there are reasons to expect a higher inflow even under idiosyncratic stress;

(b) the provider is a parent or subsidiary institution of the institution or another subsidiary of the same parent institution or linked to the institution by a relationship within the meaning of Article 12(1) of Directive 83/349/EEC;

(c) the institution and the provider shall be established in the same Member State unless Article 18(1)(b) applies.

Where such higher inflow is permitted to be applied, the competent authorities shall inform EBA about the decision and its reasons. The conditions for such higher inflows shall be regularly reviewed by the competent authorities.

Amendment 91

Proposal for a regulation

Article 414 – paragraph 1 – introductory part

Text proposed by the Commission

1. The following items **shall be reported** to competent authorities **separately** in order to allow an assessment of the availability of stable funding:

Amendment

1. **Institutions shall report** the following items **in the currency of the Member State where they are situated** to the competent authorities in order to allow an assessment of the availability of stable funding:

Or. en

Amendment 92

Proposal for a regulation

Article 416 – paragraph 8 – point b

Text proposed by the Commission

(b) the specific credit risk adjustment for **all other** off-balance-sheet items listed in Annex I is 100%.

Amendment

(b) the specific credit risk adjustment for **medium/low risk trade related** off-balance-sheets items **referred to in the first indent of paragraph 3(i) of Annex I** is **20 %**;

Or. en

Amendment 93

Proposal for a regulation

Article 416 – paragraph 8 – point b a (new)

Text proposed by the Commission

Amendment

(ba) the specific credit risk adjustment for medium risk off-balance sheet items referred to in the first indent of paragraph 2 of Annex I is 50%;

Amendment 94

Proposal for a regulation
Article 416 – paragraph 8 – point b b (new)

Text proposed by the Commission

Amendment

(bb) the specific credit risk adjustment for all other Off-balance-sheet items listed in Annex I is 100%.

Amendment 95

Proposal for a regulation
Article 422 – paragraph 1 – point f

Text proposed by the Commission

Amendment

(f) a concise risk statement approved by the management body succinctly describing the institution's overall risk profile associated with the business strategy. This statement shall include key ratios and figures providing external stakeholders with a concise but comprehensive view of how risk profile of the institution interacts with the risk tolerance set by the management body.

deleted

Amendment 96

Proposal for a regulation
Article 436 – paragraph 1

Text proposed by the Commission

Amendment

1. Institutions shall disclose the following

1. ***The decision as to whether the leverage***

information regarding their leverage ratio as defined in Article 416 and their management of the risk of excessive leverage as defined in point (B) of Article 4(2) of Directive [inserted by OP]:

ratio has to be disclosed other than to the competent authorities shall take into account the decision of the European Parliament and the Council. Institutions shall disclose the following information regarding their leverage ratio as defined in Article 416 and their management of the risk of excessive leverage as defined in point (B) of Article 4(2) of Directive [inserted by OP]:

Or. en

Amendment 97

Proposal for a regulation Article 436 – paragraph 1 – point c

Text proposed by the Commission

Amendment

(c) a description of the processes used to manage the risk of excessive leverage;

deleted

Or. en

Amendment 98

Proposal for a regulation Article 441 – paragraph 1 – subparagraph 1 – point i

Text proposed by the Commission

Amendment

(i) the extension by twelve months of the duration of the requirement to provide own funds which are at all times more than or equal to the amount specified in Article 476 beyond the periods provided for in paragraphs 1 and 2 of that Article;

deleted

Or. en

Amendment 99

Proposal for a regulation

Article 441 – paragraph 1 – subparagraph 1 – point i a (new)

Text proposed by the Commission

Amendment

(ia) the updated method of calculation of own funds requirements for credit valuation adjustment risk as referred to in Title VI of Part III after the EBA has issued the report referred to in Article 486a.

Or. en

Amendment 100

Proposal for a regulation

Article 441 – paragraph 1 – subparagraph 1 – point j

Text proposed by the Commission

Amendment

(j) the modification of the capital measure and the total exposure measure of the leverage ratio referred to in Article 416(2) in order to correct any shortcomings discovered on the basis of the reporting referred to in Article 417(1) before the leverage ratio has to be published by institutions as set out in Article 436(1)(a). ***This delegation of power shall be subject to the procedure referred to in Article 446.***

(j) the modification of the capital measure and the total exposure measure of the leverage ratio referred to in Article 416(2) in order to correct any shortcomings discovered on the basis of the reporting referred to in Article 417(1) before the leverage ratio has to be published by institutions as set out in Article 436(1)(a).

Or. en

Amendment 101

Proposal for a regulation

Article 441 – paragraph 1 – subparagraphs 2 and 3

Text proposed by the Commission

Amendment

The Commission may adopt a measure as referred to under point (i) of paragraph 1

deleted

more than once, provided that the requirement to provide own funds which are at all times more than or equal to the amount specified in Article 476 is extended for consecutive periods of twelve months. However, the requirement may not be extended beyond 31 December 2018. If the requirement is not extended before the expiry of the relevant twelve months period, the Commission may not adopt any further measures under paragraph 1(i).

By 30 June 2015, EBA shall report to the Commission whether the evolving economic situation and developments in relevant regulatory requirements would justify an extension of the requirements set out in Article 476.

Or. en

Amendment 102

Proposal for a regulation

Article 443 – paragraph 1 – subparagraph 1 – point k a (new)

Text proposed by the Commission

Amendment

(ka) the requirements for large exposures laid down in Article 381 and Articles 384 to 392;

Or. en

Amendment 103

Proposal for a regulation

Article 443 – paragraph 1 – subparagraph 1 – point k b (new)

Text proposed by the Commission

Amendment

(kb) the general principles and technical criteria on transparency and disclosure laid down in Articles 419 and 420 and

Articles 422 to 436;

Or. en

Amendment 104

Proposal for a regulation

Article 443 – paragraph 1 – subparagraph 1 – point k c (new)

Text proposed by the Commission

Amendment

(kc) the requirements for liquidity risk laid down in Articles under Part Six of this Regulation, including any amended or supplementary requirements introduced under the legislative proposals envisaged under Article 481 of this Regulation;

Or. en

Amendment 105

Proposal for a regulation

Article 443 – paragraph 1 – subparagraph 1 – point k d (new)

Text proposed by the Commission

Amendment

(kd) the requirements for leverage laid down in Articles under Part Seven of this Regulation including any amended or supplementary requirements for leverage introduced under the legislative proposals envisaged under Article 482 of this Regulation.

Or. en

Amendment 106

**Proposal for a regulation
Article 443 – subparagraph 2**

Text proposed by the Commission

Amendment

This delegation of power shall be subject to the procedure referred to in Article 446.

deleted

Or. en

Amendment 107

**Proposal for a regulation
Article 443 – paragraph 1 – subparagraph 1 a (new)**

Text proposed by the Commission

Amendment

Where a measure is recommended for an extended period of time and has been in force for at least one year, EBA shall, in cooperation with the ESRB, submit a report to the European Parliament, the Council and the Commission. On the basis of that report, the Commission shall, where appropriate, put forward a legislative proposal to maintain the measure.

Or. en

Amendment 108

**Proposal for a regulation
Article 445 – paragraph 5**

Text proposed by the Commission

Amendment

5. A delegated act adopted pursuant to Articles 441 to 444 shall enter into force only if no objection has been expressed by the European Parliament of the council within a period of **2 months** of notification of that act to the European Parliament and the Council or if, before the expiry of that

5. A delegated act adopted pursuant to Articles 441 to 444 shall enter into force only if no objection has been expressed by the European Parliament of the council within a period of **3 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 **2 months** at the initiative of the European Parliament of the Council.

period, the European Parliament and the council have both informed the Commission that they will not object. That period shall be extended by **3 months** at the initiative of the European Parliament of the Council.

Or. en

Amendment 109

Proposal for a regulation Article 446

Text proposed by the Commission

Amendment

Urgency procedure

deleted

1. Delegated acts adopted under this Article shall enter into force without delay and shall apply as long as no objection is expressed in accordance with paragraph

2. The notification of a delegated act to the European Parliament and to the Council shall state the reasons for the use of the urgency procedure.

2. Either the European Parliament or the Council may object to a delegated act in accordance with the procedure referred to in Article 445(5). In such a case, the Commission shall repeal the act without delay following the notification of the decision to object by the European Parliament or the Council.

Or. en

Amendment 110

Proposal for a regulation Article 448 – paragraph 1

Text proposed by the Commission

1. By way of derogation from points (a) and (b) of Article 87(1), institutions shall satisfy the following own funds requirements:
- (a) at all times during the period from 1 January 2013 to 31 December 2013:
- (i) a Common Equity Tier 1 capital ratio of ***a level that falls within a range with a lowest value of 3.5% and a highest value of 4.5%***;
- (ii) a Tier 1 capital ratio of ***a level that falls within a range with a lowest value of 4.5 % and a highest value of 6%***;
- (b) at all times during the period from 1 January 2014 to 31 December 2014:
- (i) a Common Equity Tier 1 capital ratio of ***a level that falls within a range of 4 % to 4.5 %***;
- (ii) a Tier 1 capital ratio of ***a level that falls within a range of 4.5 % to 6%***.

Amendment

1. By way of derogation from points (a) and (b) of Article 87(1), institutions shall satisfy the following own funds requirements:
- (a) at all times during the period from 1 January 2013 to 31 December 2013:
- (i) a Common Equity Tier 1 capital ratio of ***4,5%***;
- (ii) a Tier 1 capital ratio of ***6 %***;
- (b) at all times during the period from 1 January 2014 to 31 December 2014:
- (i) a Common Equity Tier 1 capital ratio of ***4,5 %***;
- (ii) a Tier 1 capital ratio of ***6 %***.

Or. en

Amendment 111

Proposal for a regulation Article 448 – paragraph 2

Text proposed by the Commission

- 2. Competent authorities shall:***
- (a) determine the levels of the Common Equity Tier 1 and Tier 1 capital ratios in the ranges specified in points (a) and (b) of paragraph 1 that institutions shall satisfy;***

Amendment

deleted

(b) publish the determination made in accordance with point (a).

Or. en

Amendment 112

Proposal for a regulation Article 449 – paragraph 2

Text proposed by the Commission

2. The applicable percentage for the purposes of paragraph 1 shall ***fall within following ranges:***
- (a) 0 % ***to 100*** % during the period from 1 January 2013 to 31 December 2013;
 - (b) 20 % ***to 100*** % during the period from 1 January 2014 to 31 December 2014;
 - (c) 40 % ***to 100*** % during the period from 1 January 2015 to 31 December 2015;
 - (d) 60 % ***to 100*** % during the period from 1 January 2016 to 31 December 2016; and
 - (e) 80 % ***to 100*** % for the period from 1 January 2017 to 31 December 2017.

Amendment

2. The applicable percentage for the purposes of paragraph 1 shall ***be:***
- (a) 0 % during the period from 1 January 2013 to 31 December 2013;
 - (b) 20 % during the period from 1 January 2014 to 31 December 2014;
 - (c) 40 % during the period from 1 January 2015 to 31 December 2015;
 - (d) 60 % during the period from 1 January 2016 to 31 December 2016; and
 - (e) 80 % for the period from 1 January 2017 to 31 December 2017.

Or. en

Amendment 113

Proposal for a regulation Article 449 – paragraph 3

Text proposed by the Commission

- 3. Competent authorities shall:***
- (a) determine the applicable percentage in the ranges specified in points (a) to (e) of paragraph 2;***
 - (b) publish the determination made in accordance with point (a).***

Amendment

deleted

Amendment 114**Proposal for a regulation
Article 450 – paragraph 2***Text proposed by the Commission*

2. For the purposes of paragraph 1, the applicable percentage shall be 0 % during the period from 1 January 2013 to 31 December 2013, and shall, after that date, **fall within the following ranges:**

- (a) **0 % to** 20 % during the period from 1 January 2014 to 31 December 2014;
- (b) **0 % to** 40 % during the period from 1 January 2015 to 31 December 2015;
- (c) **0 % to** 60 % during the period from 1 January 2016 to 31 December 2016;
- (d) **0 % to** 80 % for the period from 1 January 2017 to 31 December 2017.

Amendment

2. For the purposes of paragraph 1, the applicable percentage shall be 0 % during the period from 1 January 2013 to 31 December 2013, and shall, after that date, **be:**

- (a) 20 % during the period from 1 January 2014 to 31 December 2014;
- (b) 40 % during the period from 1 January 2015 to 31 December 2015;
- (c) 60 % during the period from 1 January 2016 to 31 December 2016;
- (d) 80 % for the period from 1 January 2017 to 31 December 2017.

Or. en

Amendment 115**Proposal for a regulation
Article 450 – paragraph 4***Text proposed by the Commission*

- 4. Competent authorities shall:**
- (a) determine the applicable percentage of unrealised gains in the ranges specified in points (a) to (d) of paragraph 2 that is not removed from Common Equity Tier 1 capital;**
 - (b) publish the determination made in accordance with point (a).**

*Amendment***deleted**

Or. en

Amendment 116

Proposal for a regulation Article 458 – paragraph 1

Text proposed by the Commission

1. The applicable percentage for the purposes of points (a) and (c) of Article 451(1), point (a) of Article 454 and point (a) of Article 456 shall **fall within the following ranges**:

- (a) 0 % **to 100 %** for the period from 1 January 2013 to 31 December 2013;
- (b) 20 % **to 100 %** for the period from 1 January 2014 to 31 December 2014;
- (c) 40 % **to 100 %** for the period from 1 January 2015 to 31 December 2015;
- (d) 60 % **to 100 %** for the period from 1 January 2016 to 31 December 2016;
- (e) 80 % **to 100 %** for the period from 1 January 2017 to 31 December 2017

Amendment

1. The applicable percentage for the purposes of points (a) and (c) of Article 451(1), point (a) of Article 454 and point (a) of Article 456 shall **be**:

- (a) 0 % for the period from 1 January 2013 to 31 December 2013;
- (b) 20 % for the period from 1 January 2014 to 31 December 2014;
- (c) 40 % for the period from 1 January 2015 to 31 December 2015;
- (d) 60 % for the period from 1 January 2016 to 31 December 2016;
- (e) 80 % for the period from 1 January 2017 to 31 December 2017.

Or. en

Amendment 117

Proposal for a regulation Article 458 – paragraph 2

Text proposed by the Commission

- 2. Competent authorities shall:**
- (a) determine the applicable percentage in the ranges specified in paragraph 1 for each of the following:**
 - (i) the items referred to in points (a) to (h) of Article 33(1), excluding deferred tax assets that rely on future profitability and arise from temporary differences;**
 - (ii) deferred tax assets that rely on future**

Amendment

deleted

profitability and arise from temporary differences and the items referred to in point (i) of Article 33(1);

(iii) the items referred to in points (a) to (d) of Article 53;

(iv) the items referred to in points (a) to (d) of Article 63;

(b) publish the determination made in accordance with point (a).

Or. en

Amendment 118

Proposal for a regulation Article 459 – paragraph 3

Text proposed by the Commission

3. For the purposes of paragraph 2, the applicable percentages shall ***fall within the following ranges:***

(a) ***0 % to*** 100 % for the period from 1 January 2013 to 31 December 2013;

(b) ***0 % to*** 80 % for the period from 1 January 2014 to 31 December 2014;

(c) ***0 % to*** 60 % for the period from 1 January 2015 to 31 December 2015;

(d) ***0 % to*** 40 % for the period from 1 January 2016 to 31 December 2016;

(e) ***0 % to*** 20% for the period from 1 January 2017 to 31 December 2017.

Amendment

3. For the purposes of paragraph 2, the applicable percentages shall ***be:***

(a) 100 % for the period from 1 January 2013 to 31 December 2013;

(b) 80 % for the period from 1 January 2014 to 31 December 2014;

(c) 60 % for the period from 1 January 2015 to 31 December 2015;

(d) 40 % for the period from 1 January 2016 to 31 December 2016;

(e) 20% for the period from 1 January 2017 to 31 December 2017.

Or. en

Amendment 119

Proposal for a regulation Article 459 – paragraph 4

Text proposed by the Commission

Amendment

4. Competent authorities shall:

deleted

(a) determine the applicable percentage in the ranges specified in paragraph 3;

(b) publish the determination made in accordance with point (a).

Or. en

Amendment 120

Proposal for a regulation Article 460 – paragraph 2

Text proposed by the Commission

Amendment

2. For the purposes of paragraph 1, the applicable factor shall **fall within the following ranges:**

2. For the purposes of paragraph 1, the applicable factor shall **be:**

(a) 0 **to 1** in the period from 1 January 2013 to 31 December 2013;

(a) 0 in the period from 1 January 2013 to 31 December 2013;

(b) 0.2 **to 1** in the period from 1 January 2014 to 31 December 2014;

(b) 0.2 in the period from 1 January 2014 to 31 December 2014;

(c) 0.4 **to 1** in the period from 1 January 2015 to 31 December 2015;

(c) 0.4 in the period from 1 January 2015 to 31 December 2015;

(d) 0.6 **to 1** in the period from 1 January 2016 to 31 December 2016; and

(d) 0.6 1 in the period from 1 January 2016 to 31 December 2016; and

(e) 0.8 **to 1** in the period from 1 January 2017 to 31 December 2017.

(e) 0.8 in the period from 1 January 2017 to 31 December 2017.

Or. en

Amendment 121

Proposal for a regulation Article 460 – paragraph 3

Text proposed by the Commission

Amendment

3. Competent authorities shall:

deleted

(a) determine the value of the applicable factor in the ranges specified in paragraph 2;

(b) publish the determination made in accordance with point (a).

Or. en

Amendment 122

Proposal for a regulation Article 461 – paragraph 2

Text proposed by the Commission

Amendment

2. For the purposes of paragraph 1, the applicable percentage shall **fall within the following ranges**:

2. For the purposes of paragraph 1, the applicable percentage shall **be**:

(a) **0 % to** 100 % for the period from 1 January 2013 to 31 December 2013;

(a) 100 % for the period from 1 January 2013 to 31 December 2013;

(b) **0 % to** 80 % for the period from 1 January 2014 to 31 December 2014;

(b) 80 % for the period from 1 January 2014 to 31 December 2014;

(c) **0 % to** 60 % for the period from 1 January 2015 to 31 December 2015;

(c) 60 % for the period from 1 January 2015 to 31 December 2015;

(d) **0 % to** 40 % for the period from 1 January 2016 to 31 December 2016; and

(d) 40 % for the period from 1 January 2016 to 31 December 2016; and

(e) **0 % to** 20 % for the period from 1 January 2017 to 31 December 2017.

(e) 20 % for the period from 1 January 2017 to 31 December 2017.

Or. en

Amendment 123

Proposal for a regulation Article 461 – paragraph 3

Text proposed by the Commission

Amendment

3. For each filter or deduction referred to in paragraph 1, competent authorities shall:

deleted

(a) determine the applicable percentages in the ranges specified in paragraph 2;

(b) publish the determination made in accordance with point (a).

Or. en

Amendment 124

Proposal for a regulation Article 463 – paragraph 1

Text proposed by the Commission

Amendment

1. This Article shall apply only to instruments that were issued prior to **20 July 2011** and are not those referred to in Article 462(1).

1. This Article shall apply only to instruments that were issued prior to **31 December 2012** and *that* are not those referred to in Article 462(1).

Or. en

Amendment 125

Proposal for a regulation Article 464 – paragraph 5

Text proposed by the Commission

Amendment

5. For the purposes of this Article, the applicable percentages referred to in paragraphs 2 to 4 shall **fall within the following ranges:**

5. For the purposes of this Article, the applicable percentages referred to in paragraphs 2 to 4 shall **be:**

(a) **0 % to 90 %** during the period from 1

(a) 90 % during the period from 1 January

January 2013 to 31 December 2013;
(b) **0 % to 80 %** during the period from 1 January 2014 to 31 December 2014;
(c) **0 % to 70 %** during the period from 1 January 2015 to 31 December 2015;
(d) **0 % to 60 %** during the period from 1 January 2016 to 31 December 2016;
(e) **0 % to 50 %** during the period from 1 January 2017 to 31 December 2017;
(f) **0 % to 40 %** during the period from 1 January 2018 to 31 December 2018;
(g) **0 % to 30 %** during the period from 1 January 2019 to 31 December 2019;
(h) **0 % to 20 %** during the period from 1 January 2020 to 31 December 2020;
(i) **0 % to 10 %** during the period from 1 January 2021 to 31 December 2021

2013 to 31 December 2013;
(b) 80 % during the period from 1 January 2014 to 31 December 2014;
(c) 70 % during the period from 1 January 2015 to 31 December 2015;
(d) 60 % during the period from 1 January 2016 to 31 December 2016;
(e) 50 % during the period from 1 January 2017 to 31 December 2017;
(f) 40 % during the period from 1 January 2018 to 31 December 2018;
(g) 30 % during the period from 1 January 2019 to 31 December 2019;
(h) 20 % during the period from 1 January 2020 to 31 December 2020;
(i) 10 % during the period from 1 January 2021 to 31 December 2021.

Or. en

Amendment 126

Proposal for a regulation Article 464 – paragraph 6

Text proposed by the Commission

6. Competent authorities shall:
(a) determine the applicable percentages in the ranges specified in paragraph 5;
(b) publish the determination made in accordance with point (a).

Amendment

deleted

Or. en

Amendment 127

**Proposal for a regulation
Article 471 – paragraph 1 a (new)**

Text proposed by the Commission

Amendment

1a. After ... *, institutions shall, without delay, initiate all organisational and technical measures concerning exposures that were granted on a contractual basis prior to 31 December 2012 that are necessary to comply with the large exposure rules under this Regulation from 1 January 2016. Until 31 December 2015, Member States' large exposure regimes in accordance with own funds provisions that were applicable before ... * shall continue to apply.

**** OJ please insert date: date of entry into force of this Regulation.***

Or. en

Amendment 128

**Proposal for a regulation
Article 472 – paragraph 3**

Text proposed by the Commission

Amendment

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

deleted

EBA shall submit those draft regulatory technical standards to the Commission by 1 January 2013.

Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first sub-paragraph in accordance with the procedure laid down in Articles 10 to 14 of Regulation (EU) No

Amendment 129

**Proposal for a regulation
Article 475 a (new)**

Text proposed by the Commission

Amendment

Article 475a

***Application of liquidity coverage
requirement***

***Article 401 shall apply from 1 January
2015.***

Amendment 130

**Proposal for a regulation
Article 481 – paragraph 1**

Text proposed by the Commission

Amendment

1. EBA shall monitor and evaluate the reports made in accordance with Article 403(1), across currencies and across different business models. EBA shall, and after consulting the ESRB, annually and for the first time by 31 December 2013 report to the Commission whether a specification of the general liquidity coverage requirement in Article 401 based on the criteria for liquidity reporting in Part Six Title II, considered either individually or cumulatively, is likely to have a material detrimental impact on the business and risk profile of Union institutions or on financial markets or the economy and bank lending, with a particular focus on lending to small and medium enterprises and on trade

1. EBA **and ESMA** shall monitor and evaluate the reports made in accordance with Article 403(1), across currencies and across different business models. EBA **and ESMA** shall, and after consulting the ESRB **and the ECB**, annually and for the first time by 31 December 2013 report to the Commission whether a specification of the general liquidity coverage requirement in Article 401 based on the criteria for liquidity reporting in Part Six Title II, considered either individually or cumulatively, is likely to have a material detrimental impact on the business and risk profile of Union institutions or on financial markets or the economy and bank lending, with a particular focus on lending to small

financing, including lending under official export credit insurance schemes.

and medium enterprises and on trade financing, including lending under official export credit insurance schemes **and refinancing of institutions.**

Or. en

Amendment 131

Proposal for a regulation

Article 481 – paragraph 2 – introductory part

Text proposed by the Commission

2. EBA shall, by 31 December 2013, report to the Commission on appropriate uniform definitions of high and of extremely high liquidity and credit quality of transferable assets for purposes of Article 404. EBA shall in particular test the adequacy of the following criteria and the appropriate levels for such definitions:

Amendment

2. EBA **and EMSA** shall, by 31 December 2013, report to the Commission on appropriate uniform definitions of high and of extremely high liquidity and credit quality of transferable assets for purposes of Article 404, **taking into account all relevant factors such as the applicable legal framework, incentive structures, available market initiatives and tools designed to enhance transparency and liquidity of assets. In particular it shall be assessed if gold and equities can be considered eligible assets under art. 404 (3), their volatility compared to other assets and which haircuts can be applied.** EBA **and ESMA** shall in particular test the adequacy of the following criteria and the appropriate levels for such definitions:

Or. en

Amendment 132

Proposal for a regulation

Article 482 – paragraph 2 – point a

Text proposed by the Commission

(a) whether the requirements laid out in Articles 75 and 85 of Directive [inserted

Amendment

deleted

by OP] in accordance with Articles 72 and 92 of Directive [inserted by OP] for addressing the risk of excessive leverage ensure sound management of this risk by institutions and, if not, which further enhancement they need in order to ensure these objectives;

Or. en

Amendment 133

Proposal for a regulation Article 482 – paragraph 2 – point b

Text proposed by the Commission

Amendment

(b) whether – and if so, which - changes to the calculation methodology detailed in Article 416 would be necessary to ensure that the leverage ratio can be used as an appropriate indicator of an institution’s risk of excessive leverage; *deleted*

Or. en

Amendment 134

Proposal for a regulation Article 482 – paragraph 2 – point e

Text proposed by the Commission

Amendment

(e) whether the 10% conversion factor for commitments that are unconditionally cancellable is appropriately conservative based on the evidence collected during the observation period; *deleted*

Or. en

Amendment 135

Proposal for a regulation Article 482 – paragraph 2 – point f

Text proposed by the Commission

Amendment

(f) whether the frequency and format of the disclosure of items referred to in Article 436 are adequate;

deleted

Or. en

Amendment 136

Proposal for a regulation Article 485 – paragraph 1

Text proposed by the Commission

Amendment

The Commission shall within 24 months after the entry into force of this Regulation, report on the impact of the own funds requirements laid down in this Regulation on lending to small and medium-sized enterprises and natural persons and shall submit this report to the European Parliament and the Council, and, if appropriate, a legislative proposal.

The Commission shall *[before]* the entry into force of this Regulation, report on the impact of the own funds requirements laid down in this Regulation on lending to small and medium-sized enterprises and natural persons and shall submit this report to the European Parliament and the Council, and, if appropriate, a legislative proposal.

Or. en

Amendment 137

Proposal for a regulation Article 485 – paragraph 2 – introductory part

Text proposed by the Commission

Amendment

For these purposes, EBA shall report the following to the Commission with regard to Article 118:

For these purposes, EBA shall, *by 1 September 2012*, report the following to the Commission with regard to Article 118:

Or. en

Amendment 138

**Proposal for a regulation
Article 486 a (new)**

Text proposed by the Commission

Amendment

Article 486a

***Credit valuation adjustment monitoring
and updating***

1. EBA shall monitor and evaluate the application of the provisions on credit valuation adjustment in Title VI of Part III. By 1 January 2013 EBA shall report to the Commission on the alignment with the trading book review conducted by the Basel Committee.

2. The Commission shall be empowered to adopt delegated acts in accordance with Article 445 to update the method of calculation of own funds requirements for credit valuation adjustment risk as referred to in Title VI of Part III, taking into account modifications to international standards and the report referred to in paragraph 1.

Or. en

Amendment 139

**Proposal for a regulation
Article 487 – paragraph 2**

Text proposed by the Commission

Amendment

2. Article 436(1) shall apply from 1 January 2015.

deleted

Or. en

EXPLANATORY STATEMENT

The reform of the Capital Requirements directive must be understood in the context of the multiple responses to the financial and economic crisis. Our goal is to restore economic growth and job creation because this is crucial for increasing the welfare of each and every EU citizen. This crisis began with the collapse of financial markets in autumn 2008 and the credit crunch that followed can be attributed to many factors, one of the most important is the accumulation of excessive risk in the financial system. The EU economy needs a financial sector at the service of the real economy, providing stability and being able to respond to the financial needs of our companies and households.

In order to achieve this goal is very important to preserve the level playing field inside the single market and to preserve the credibility competitiveness of the EU financial sector vis-à-vis the rest of the world.

These two objectives are guiding the work of the EP on CRD IV, and the rapporteur would like to thank the Commission for taking up and incorporating key points included in the EP's "Own Initiative report on Basel II and revision of the Capital Requirements Directives into the CRD IV proposal. Going forward, your rapporteur believes that the following principles should guide our way: first, he is committed to keeping and further developing the establishment of a "single rule book" and the principle of maximum harmonisation in order to keep a level playing field in the European Union. He believes that goldplating weakens this principle and shall be avoided. The EBA has an important role to play in the drawing up and implementation of measures relating to capital requirements and counter-cyclical capital buffer standards at EU level. However he believes that this must not undermine the decision power of the European Parliament and the European Council on politically sensitive issues.

Second, Europe is the driving force in implementing the G 20 decisions on financial market regulation and should continue that way. New rules are adapted to the variety of business models and to the special market structure. Your rapporteur firmly believes that this is the right way to go towards a stable, safe and sound financial system all market participants benefit from. Therefore constant dialogue with the United States should continue but timely implementation of Basel III should not be a precondition for an implementation as of 2013 on the European level.

Your rapporteur wishes to comment on some important aspects in the Commission proposal

One of the biggest achievements taking into account the unique structure of the European Banking Sector is the "substance-over-form" approach when assessing the quality of capital. Once an asset fulfils certain strict criteria it will be recognized as the highest form of capital irrespective of the legal form of the issuer. The issue of capital has become a complex one as on 23 October 2011 the Heads of State following a recommendation by the European Banking Authority decided that certain banks will have to hold 9 percent capital of the highest quality. The definition of this capital however does not correspond with the definition foreseen in the CRD IV nor does the scope of this decision. Furthermore, some Member States have already started to implement Basel III provisions. For reasons of legal certainty and the necessity of a level-playing field within the European Union, a unitary set of regulations for all market

participants is a key element for the functioning of the internal market. Member States and competent authorities shall avoid any diverging or front running regulations impacting or weakening the principle of maximum harmonization of Pillar 1.

Sufficient and high-quality liquidity standards are probably the most important part of the crisis response. We have to avoid a future drying out of the markets. The Commission has proposed a thorough investigation before finally setting the ratios. Your rapporteur calls on all stakeholders to co-operate with the EBA as well as the Commission in providing them with the necessary data so that essential elements such as the eligibility of assets and run-off rates can be assessed. Unitary reporting formats shall ensure the observation period is meaningful.

Your rapporteur believes that the leverage ratio is a useful, simple and hard to manipulate backstop against the building of excessive leverage and excessive risk. The leverage ratio should serve as a backstop mechanism under Pillar II and not be disclosed before a final decision on its introduction has been taken.

The Commission suggests requirements for management and capitalisation of the counterparty credit risk. Your rapporteur is concerned about the alignment with the EMIR dossier. The CRD IV will have to be adjusted once EMIR is adopted. This concerns in particular the default waterfall principle, the authorization and recognition requirements for Central Counterparties by the competent authorities as well as reference to the relevant EMIR provisions.

The treatment of CVA is currently conducted by the Basel Committee on Banking Supervision with regards to methodological and technical issues. An observation period until 2013 would allow taking into account the work being undertaken by the Basel Committee and ensure consistency.