

MFSA

MALTA FINANCIAL SERVICES AUTHORITY

BANKING SUPERVISION UNIT

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Amendments to Banking Rule BR/12 ‘The Supervisory Review Process of Credit Institutions authorised under The Banking Act 1994’

PUBLISHED DECEMBER 2013

Amendments due to CSR6

Main body of Rule: insertion of para 27a to reflect the requirement to allocate additional capital under Pillar II in line with the new ‘BR/09/2013 Measures Addressing Credit Risks Arising from the Assessment of the Quality of Asset Portfolios of Credit Institutions Authorised under the Banking Act 1994’.

Annex 2G: insertion of new Section F on Concentration Risk to the ‘Real Estate Sector’.

Amendments to reflect requirements of MFSA Rule 1 of 2012 ‘Foreign Currency Lending’ and MFSA Rule 2 of 2012 ‘US Dollar Funding’

Annex 2B: insertion of paragraphs 3d, 10k and 10l.

PUBLISHED JUNE 2013

Directive 2011/89/EU (FICOD I) Amendments (applicable from 10 June 2013)

Appendix 4, para 1: inserted reference to EU parent mixed financial holding company.

Appendix 4, para 5: inserted reference to EU parent mixed financial holding company.

Appendix 4, para 8: inserted reference to EU parent mixed financial holding company.

PUBLISHED APRIL 2012

The European Banking Authority (EBA), on 27th September 2011, published its latest Guidelines on Internal Governance which are aimed at enhancing and consolidating

supervisory expectations and to ultimately improve the sound implementation of internal governance arrangements. Effective internal governance is fundamental if individual institutions and the banking system as a whole are to operate in the best possible manner. Accordingly, the MFSA transposed these new Guidelines in Banking Rule BR/12 under Appendix 1.

PUBLISHED MARCH 2012

The Committee of European Banking Supervisors (CEBS), on 10th December 2010, published its revised Guidelines on Remuneration Policies and Practices. Accordingly, in view of the emphasis being placed on the need for sound remuneration policies and practices and requirements in inter alia the EU's Capital Requirements Directive (CRD), the MFSA had taken steps to transpose these Guidelines in Banking Rule BR/12 under Annex 2E.

Moreover, through an amendment to Annex 3C 'The Authority's Prudential Measures', additional text was added to one of the measures available to the Authority, requiring a credit institution to hold own funds and/or Tier 1 capital above the minimum level required by BR/04. This amendment emanated from the recent changes adopted through the CRD III.

PUBLISHED DECEMBER 2011

Directive 2010/76/EU (CRD III) Amendments (applicable from 31 December 2011)

Annex 2B para 11(c): Included the following *“Transitional Provision: Credit institutions shall be required to apply the principles laid down herein to: (i) remuneration due on basis of contracts concluded before 30th December 2010 and awarded or paid after that date; and (ii) for services provided in 2010, remuneration awarded, but not yet paid, before 30th December 2010.”*

Annex 2E 3.1 'The basic principle of risk alignment' para 4: included definition of 'discretionary pension benefits' which means *“enhanced pension benefits granted on a discretionary basis by a credit institution to an employee as part of that employee's variable remuneration package, which do not include accrued benefits granted to an employee under the terms of the company pension scheme.”*

Annex 3C 'The Authority's Prudential Measures': Included two other measures available to the authority, being, requiring the credit institution to limit variable remuneration as a percentage of total net revenues when it is inconsistent with the maintenance of a sound capital base and requiring the credit institution to use net profits to strengthen its capital base.

Directive 2010/78/EU (OMNIBUS DIRECTIVE) Amendments (applicable from 31 December 2011)

Appendix 4 para 4: included text on EBA referral

Appendix 4 para 5: included text on EBA referral

Appendix 4 para 7: replaced CEBS with EBA

PUBLISHED JANUARY 2011

The Committee of European Banking Supervisors (CEBS) has, on 26th August and 2nd September 2010 respectively, published its revised Guidelines on Stress Testing (GL 32) and on Concentration Risk (GL31). Accordingly, these have been transposed to Banking Rule BR/12 Annex 2D and Annex 2G. These revised principles, which are to be followed by credit institutions when drawing up their ICAAPs have therefore replaced the principles found in the current version of BR/12, and should, in a proportionate manner, form an integral part of every credit institution's risk management framework.

PUBLISHED OCTOBER 2010

Directive 2009/111/EC (CRD II) and Directive 2009/83/EC Amendments (applicable from 31 December 2010)

Main body of Rule: insertion of new paragraph 29a regarding the duties of the Authority as a consolidating supervisor;

Annex 2B: paragraph 5 to include reference to limits that may be set out by the credit institution in terms of Banking Rule BR/02;

Annex 2B: paragraph 6a on Securitisation Risks to include reference to reputational risks;

Annex 2B: paragraphs 10 (a) and (b) on Liquidity Risk were replaced with paragraphs 10 (a) to (j);

Annex 3B: inclusion of more details to paragraph (1)(e); and

Appendix 4: a new Appendix regarding the obligations of the Authority when acting as the consolidating supervisor.

Directive 2010/76/EU (CRD III) Amendments (applicable from 1 January 2011)

Main body of Rule: insertion of new paragraph 15a to benchmark credit institutions' remuneration trends and practices and collection of information on individuals per credit institution in pay brackets of at least €1 million; and

Annex 2B: inclusion of paragraph 11 containing detailed information on Remuneration Policies.

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