

MFSA

MALTA FINANCIAL SERVICES AUTHORITY

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Amendments to Banking Rule BR/03 ‘Own Funds of Credit Institutions authorised under the Banking Act 1994’

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

Appendix 2: insertion of note following item 1.3.4 with respect to items 1.2.6 and 1.3.1 to 1.3.4 stating that “*Credit institutions shall apply the requirements of sections 1.2 and 1.3 of Appendix C to BR/08 to all their assets measured at fair value and shall deduct any additional value adjustments necessary.*”

Appendix 2: insertion of note following item 2.3.4 with respect to items 2.3.1 to 2.3.4 stating that “*Credit institutions shall apply the requirements of sections 1.2 and 1.3 of Appendix C to BR/08 to all their assets measured at fair value.*”

Appendix 2 COD 7 ‘Securitisation exposures not included in risk-weighted assets’: Addition of text “*Include also the exposure amount of securitisation positions in the trading book that would have otherwise received a 1250% risk weight if they were in the credit institution’s banking book.*” after first sentence.

Appendix 2 item 9.2.6: slight amendments to be in line with CRD III.

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

Appendix 2 footnote 10: Amended last sentence as follows “*Until such time the EBA develops draft regulatory technical standards concerning these “mechanisms”, institutions should refer to the CEBS Implementation Guidelines for Hybrid Capital Instruments issued on 10 December 2009 for further detail.*”

Other minor applicable amendments and / or additions were made to the following:

Main body of Rule para 2: changed reference to Article 16A(5) instead of 16(A)(4).

Main body of Rule footnote 1: initial capital is the sum of items 1.1.5 and 1.1.12 excluding items 1.1.9 and 1.1.11.

Appendix 1 Note 6: removal of last sentence which referred to securitisation exposures so as to leave note to specifically deal with COD10 'Other Deductions'.

Appendix 2 Item 1.1.9 'Reserve for general banking risks': explanation amended to refer to "...funds that the institution may want to set aside for future losses and other unforeseeable risks associated with banking."

Appendix 2 Item 1.1.10 'Other reserves': replacement of 'memorandum item' with 'calculation'.

Appendix 2 COD 7 'Securitisation exposures not included in risk-weighted assets': last sentence amended as follows "*This item shall not be deducted, if it has already been included for the purposes of Capital Requirements as per paragraph 5 of BR/04 in the calculation of risk weighted exposure amounts, as specified in BR/04 or BR/08.*"

Appendix 2 item 9.2.6: removal of reference to securitisation exposures since text already included under COD7.

Appendix 2 item 10.3.0: text amended since COD3 deals with qualifying shareholdings in a companies other than credit and/or financial institutions and which are not supervised on a consolidated basis.

Appendix 2 additional footnote: footnotes 13 and 14 have become footnotes 14 and 15 respectively. A new footnote 13 has been included to define financial institution as "*an undertaking other than a credit institution, the principal activity of which is to acquire holdings or to pursue one or more of the activities listed in points 2 to 12 and 15 of Annex I of Directive 2006/48/EC.*"

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

Main body of Rule para 6: insertion of reference to CEBS 'Implementation Guidelines for Hybrid Capital Instruments' issued on 10 December 2009 and CEBS 'Implementation Guidelines regarding Instruments referred to in Article 57(a) of Directive 2006/48/EC recast' issued on 14 June 2010.

Main body of Rule new para 8A: insertion of requirement to seek the authority's approval prior to issuing convertible instruments.

Main body of Rule para 10: reference to 'other instruments' instead of 'innovative and non-innovative instruments'.

Main body of Rule para 11(ii): insertion of footnote to explain loss-absorption on a going-concern basis.

Main body of Rule para 12: insertion of explanation of the composition of 'other instruments' and their qualities. In essence 'other instruments' shall be composed of convertible instruments, innovative instruments and non-innovative instruments.

Appendix 1 & 2 Item 1.1.7: renamed as 'Interim/year-end net profits/(losses)'. Year-end profits shall be included before a formal decision has been taken only if verified by persons responsible for the auditing of the accounts.

Appendix 1 & 2 Item 1.1.13: renamed as 'other instruments'. 'Other instruments' shall be composed of convertible, innovative and non-innovative instruments which shall be eligible as Original Own Funds up to certain limits.

Appendix 1 & 2 previous item 1.2.8: deleted since item 1.1.13 shall be reporting 'other instruments' within the limits for inclusion in Original Own Funds through Calculation 3. (vide note 4)

Appendix 1 & 2 Item 2.1.3: item amended to refer to the 'Excess on limits on other instruments from Original Own Funds transferred to Additional Own Funds'.

Appendix 1 & 2 Memorandum Items 1 and 2: deleted

Appendix 1 & 2: Insertion of Calculation 3 for item 1.1.13 where all 'Other Instruments' shall be itemised and described. The total 'Other Instruments' for inclusion under item 1.1.13 shall be computed automatically.

Appendix 1: Note 4 amended to refer to other instruments and the limits for inclusion in Original Own Funds according to their type.

Appendix 1: Insertion of Note 7 where in reporting Own Funds on a consolidated basis, minority interests in the form of other instruments are to be reported according to their type in Calculation 3.

Appendix 2 Para 9.2.5: amended to refer to other instruments and the limits for inclusion in Original Own Funds according to their type.

Appendix 2 Para 9.2.7: inclusion of reference to the limits laid down in para 9.2.5 where authority may authorise credit institutions to exceed the limits temporarily during emergency situations.

Other minor applicable amendments and / or additions were made to the following:

Appendix 1 & 2 Item 1.1.9: item renamed ‘Reserve for general banking risks’.

Appendix 1 & 2 Item 2.1.8: item renamed ‘IRB Provision excess’.

Appendix 1 & 2 Item 2.1.9: clarified that only collective provisions attributed to exposures treated under the standardised approach may be included. Characteristics of collective provisions have also been included.

Appendix 1 & 2 COD 3: amended for greater clarity.

Appendix 1 & 2 COD 8: renamed ‘IRB Provision shortfall and IRB equity expected loss amounts’. This item shall also include expected loss amounts calculated in accordance with Appendix 2, Section II.2, Paragraphs 3.4.0 (Expected loss amounts under the *Simple Risk Weight Approach* to calculating risk weighted exposure amounts for exposures belonging to the equity exposure IRB exposure class) and 3.5.0 (Expected loss amounts under the *PD/LGD Approach* to calculating risk weighted exposure amounts for exposures belonging to the equity exposure IRB exposure class) of BR/04.

Appendix 1 & 2: Insertion of Calculation 1 for item 1.1.8 where ‘Undistributable reserves’ eligible for inclusion in Original Own Funds shall be itemised. The total of this amount shall be automatically transferred to item 1.1.8.

Appendix 1 & 2: Insertion of Calculation 2 for item 1.1.10 where ‘Other reserves’ eligible for inclusion in Original Own Funds shall be itemised. The total of this amount shall be automatically transferred to item 1.1.10.

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