

MFSA

MALTA FINANCIAL SERVICES AUTHORITY

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Amendments to Banking Rule BR/04 'Capital Requirements of Credit Institutions Authorised under the Banking Act 1994'

PUBLISHED JUNE 2013

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

Appendix 2 Section I.1 'General principles' para 9: inserted reference to mixed financial holding company.

Appendix 2 Section II.1 'General principles' para 3: inserted reference to EU parent mixed financial holding company and its subsidiaries.

Appendix 2 Section II.1 'General principles' para 7: inserted reference to EU parent mixed financial holding company and its subsidiaries.

Appendix 2 Section II.1 'General principles' para 8: inserted reference to EU parent mixed financial holding company.

Appendix 2 Section II.1 'General principles' para 44: inserted reference to mixed financial holding company.

Appendix 3 Section I.1 'General Principles' para 1.2: replaced 'EU financial holding company' with 'EU parent financial holding company' and inserted reference to EU parent mixed financial holding company.

Appendix 4 Section I.1 'Minimum Own Funds Requirements for Operational Risk' paras 7.3 and 7.4: inserted reference to EU parent mixed financial holding company.

Appendix 4 Section I.4 'Advanced Measurement Approach' para 3.0.1: inserted reference to EU parent mixed financial holding company.

PUBLISHED MARCH 2012

EBA Guidelines on Advanced Measurement Approach (AMA) – Extensions and Changes (GL 45) (applicable from 6 March 2012)

Main body of Rule: amendment of para 11 to include that institutions using AMA for the purpose of calculating the capital requirement for operational risk shall be guided by the EBA Guidelines on AMA – Extensions and Changes. Moreover, the authority would adopt the supervisory procedures for extensions and significant changes, major changes and minor changes as provided for in the said EBA Guidelines on AMA – Extensions and Changes.

PUBLISHED DECEMBER 2011

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

Main body of Rule: amendment of para 5(b) and (c) – capital requirements for settlement risk also apply in the non-trading book.

Appendix 2 Section I.2 ‘Credit Risk – Standardised Approach – Risk Weights’: amendment of para 2.1 and 2.5 – exposures to regional governments and local authorities of the Member States denominated and funded in the domestic currency of that regional government and local authority shall be assigned a risk weight of 20%.

Appendix 3 Section I.1 ‘Securitisation – General Principles’: para 6 amended to include that even where a sponsor credit institution or an originator credit institution has sold instruments from its trading book to a securitisation special purpose entity to the effect that it is no longer required to hold own funds for the risks of those instruments, it shall not, with a view to reducing potential or actual losses to investors, provide support to the securitisation beyond its contractual obligations.

Appendix 3 Section I.3 ‘Securitisation – External Credit Assessments’: inclusion of para 1.1(c) which is an additional condition that a credit assessment of an eligible ECAI has to comply with. It states that *“The credit assessment shall not be based or partly based on unfunded support provided by the credit institution itself. In such case, the credit institution shall consider the relevant position as if it were not rated and shall apply the relevant treatment of unrated positions as set out in Section I.4.”*

Appendix 3 Section I.4 ‘Securitisation – Calculation’: para 1.0.5, 2.0.1 and Table 1 amended, Table 2 deleted, Table 4 amended, Table 5 deleted, para 3.3.1, 3.3.2 and 3.3.3 amended, para 3.3.4 deleted, para 3.3.5 re-numbered 3.3.4, para 3.4.1 and 3.4.2 amended.

Annex I: inserted definitions for ‘*re-securitisation*’ and ‘*re-securitisation position*’.

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

Appendix II Section II.1 ‘Credit Risk: Internal Ratings Based Approach – General Principles’ para 10.0: the underlined text added *“In the absence of a joint decision between the authorities within six months, the consolidating authority shall make its own decision on the application. The decision shall be set out in a document containing the fully reasoned decision and shall take into account the views and reservations of the other authorities expressed during the six months period. The decision shall be provided to the applicant and the other relevant authorities by the consolidating authority. If, at the end of the six month period, any of the authorities concerned has referred the matter to EBA in accordance with Article 19 of Regulation (EU) No 1093/2010, the consolidating authority shall defer its decision and await any decision that EBA may take in accordance with Article 19(3) of that Regulation on its decision, and shall take its decision in conformity with the decision of EBA. The six-month period shall be deemed the conciliation period within the meaning of that Regulation. EBA shall take its decision within 1 month. The matter shall not be referred to EBA after the end of the six month period or after a joint decision has been reached.”*

Other applicable amendments were made to the following:

Main body of Rule para 13: rewording as follows *“Article 17 of the Act requires a credit institution to notify the Capital Requirements to the authority. In this respect the authority requires credit institutions to submit the Capital Requirements Return as prescribed in Appendix 5 of this Rule on a quarterly basis which must coincide with balance sheet date. The authority’s reporting framework in Appendix 5 adopts the framework on common reporting (COREP) developed by CEBS (predecessor of EBA) but due to the nature, scale and complexity of the activities of credit institutions, due consideration has been given to the principle of proportionality in the adoption of the relevant COREP templates herein.”*

Annex V ‘Transitional Provisions’ – amended para 5a and 5b.

PUBLISHED OCTOBER 2010

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

Appendix 2 Section I.2 paras 6.3 and 6.4: A lesser risk weight may be applicable to exposures towards credit institutions with a residual maturity (and not original maturity) of less than 3 months.

Appendix 2 Section I.2 para 16.9: More clarifications were inserted regarding the calculation of the exposure value for leases.

Appendix 2 Section I.4 para 1.2: New references to the registration of ECAIs in accordance with Regulation (EC) No 1060/2009 of 16 September 2009 of the European Parliament and of the Council on Credit Rating Agencies.

Main body of Rule para 13: Inserted reference to the authority's reporting framework in Appendix 5 which adopts the uniform formats, frequencies and dates of reporting developed by CEBS in its framework on common reporting (COREP). Due to the nature, scale and complexity of the activities of credit institutions, the authority has taken into consideration the principle of proportionality in the adoption of the relevant COREP templates.

Appendix 2 Section II.1 para 36.0 and 37.0: Amendments to and clarifications of the treatment of CIUs in terms of the IRB approach.

Appendix 2 Section II.1 para 44.0(d): Credit institutions utilising the IRB Approach may, subject to certain conditions, be authorised to continue using the Standardised Approach for the calculation of the credit risk capital requirement in respect of exposures to the Central Governments of Member States and their regional governments, and not merely exposures to the Maltese Central Government.

Appendix 2 Section II.1 para 46.0: Credit institutions utilising an IRB approach, should, if requested, explain their rating decisions to SMEs and other corporate applicants for loans.

Appendix 2 Section II.3 para 1.3.2 (c): An amendment to the maturity figure to be taken into consideration for repurchase transaction or securities or commodities lending or borrowing transactions.

Appendix 2 Section III.2 para 1.3.4 and 1.3.6: insertion of clarification regarding the eligibility of CIUs for credit risk mitigation purposes.

Appendix 2 Section III.2 para 1.8.2 and Section III.4 para 1.7.2: Further conditions that need to be adhered to for life insurance policies to be recognised for credit risk mitigation purposes were inserted.

Appendix 3 Section I.1 para 1.1 to 1.8: These paragraphs have been newly transposed in BR/04 in line with the requirements of CRD II. These paragraphs introduce new conditions that need to be present for a credit institution to be able to invest in a securitisation transaction. These conditions mainly define issues that need to be addressed by an originator, sponsor or original lending institution. However, one of the main constraints introduced is the fact that a credit institution (investing bank) can only invest in a securitisation position if the originator, sponsor or original lender has explicitly disclosed that it will retain a material net economic interest of not less than 5% of each tranche sold or transferred to investors.

Appendix 3 Section I.2 paras 1.0.1 – 2.0.5: Further clarifications have been inserted regarding securitisation issues, namely with regards to the determination of the transfer of risk from the originator credit institution to the investor.

Appendix 4 Section I.3 para 1.1: Further clarification has been provided regarding the calculation of the average gross income for the calculation of operational risk capital requirement purposes.

Annex I: Further definitions found in EU Directive 2006/48/EC have been duly inserted in this Annex.

Annex 5: The transitional provisions in this annex are now obsolete. Consequently this Annex is now rendered for information purposes only.

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

Annex 5 new para 5a – “Credit institutions calculating risk-weighted exposure amounts utilising the Internal Ratings Based Approach shall until 31 December 2011 provide own funds which are at all times more than or equal to the amount indicated in paragraph 5c or paragraph 5d if applicable.”

Annex 5 new para 5b – “Credit institutions using the Advanced Measurement Approach for the calculation of their operational risk capital requirement shall until 31 December 2011 provide own funds which are at all times more than or equal to the amount indicated in paragraphs 5c or 5d if applicable.”

Annex 5 new para 5c – “The amount referred to in paragraphs 5a and 5b shall be 80% of the total minimum amount of own funds that the credit institutions would be required to hold under the Banking Directives BD/04 and BD/08, as they stood prior to 1 January 2007.”

Annex 5 new para 5d - “Subject to the authority’s approval, for credit institutions referred to in paragraph 5e, the amount referred to in paragraphs 5a and 5b may amount to up to 80% of the total minimum amount of own funds that those credit institutions would be required to hold under the Standardised Approach for the calculation of their credit risk capital requirement, the Basic Indicator Approach or the Standardised Approach, for the calculation of their operational risk capital requirements and BR/08 for the calculation of their market risk capital requirement as applicable prior to 1 January 2011.”

Annex 5 new para 5 e – “A credit institution may apply paragraph 5d only if it started to use the Internal Ratings Based Approach or the Advanced Measurement Approaches for the calculation of its capital requirements on or after 1 January 2010.”

Annex 5 para 11 – The time period until the weighted average LGD for all retail exposures secured by residential properties and not benefiting from guarantees from central governments shall not be lower than 10% has been extended to 31 December 2012.

Appendix 2 Section I.2 para 12.1 (d)(ii) and (e)(ii) – Amended eligibility criteria of loans secured by senior units issued by French Fonds Communs de Creances or by equivalent securitisation entities governed by the laws of a Member State securitising residential/commercial real estate exposures as collateral for covered bonds.

Appendix 2 Section I.2 new para 12.4 – Until 31 December 2013, the 10% limit for senior units issued by French Fonds Communs de Creances or by equivalent securitisation entities as specified in para 12.1 (d) and (e) shall not apply provided certain conditions are met.

Appendix 2 Section II.3 para 1.2.1 – LGD value to be assigned to covered bonds as defined in paragraphs 12.1, 12.6 and 12.7 of Appendix 2 Section I.2 has been reduced to 11.25%. The transitional provision has been removed.

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

Main body of Rule: In para 11 insertion of reference to CEBS '*Guidelines on Operational Risk Mitigation Techniques.*'

Appendix 3 Section I.1: Insertion of footnote 1 referring to CEBS '*Guidelines to Article 122a of the Capital Requirements Directive*'

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