



FINANCIAL REGULATOR  
*Rialtóir Airgeadais*

# Implementation of the CRD


28 December 2006

Regulatory Document for Credit Institutions & Investment Firms

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# 1 Introduction

## 1.1 Overview

This Notice sets out the Financial Regulator's requirements and guidance for the revised capital framework pursuant to Directive 2006/48/EC and Directive 2006/49/EC. These Directives are collectively referred to as the Capital Requirements Directive or CRD. The CRD has been transposed into Irish law via European Communities (Capital Adequacy of Investment Firms) Regulations 2006 (S.I. No. 660 of 2006) and European Communities (Capital Adequacy of Credit Institutions) Regulations 2006 (S.I. No. 661 of 2006). These Statutory Instruments and this Notice provide the primary framework for the application of the CRD in Ireland.

## 1.2 Legal Basis for Issuing This Notice

The Financial Regulator's requirements in respect of the discretions available to it are exercised pursuant to the provisions of S.I. No. 660 of 2006 and S.I. No. 661 of 2006. It should be noted that for the purposes of this Notice, all references to the Bank in S.I. No. 660 of 2006 and S.I. No. 661 of 2006 in terms of the powers and obligations conferred by the regulations will be carried out by the Financial Regulator. Equally for the purposes of this Notice, all references to competent authorities in the Annexes of the CRD, in terms of powers and obligations conferred by those Annexes will be carried out by the Financial Regulator.

## 1.3 Scope of This Notice

The provisions of this Notice apply to credit institutions licensed under the Central Bank Act, 1971, investment firms<sup>1</sup> authorised under the Investment Intermediaries Act, 1995 and to stockbrokers authorised under the Stock Exchange Act, 1995.

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<sup>1</sup> Investment firms covered by the Investment Services Directive are obliged to comply with the requirements of the CRD.

Hereinafter, where the provisions of this Notice apply to all of these, the word ‘institutions’ shall be used.

## **1.4 Additional Requirements**

In addition to meeting the requirements of S.I. No. 660 of 2006 and S.I. No. 661 of 2006, and the requirements and guidance set out in this Notice, institutions must ensure that their operations are consistent with the guidelines of the Committee of European Banking Supervisors (CEBS) unless otherwise instructed by the Financial Regulator. CEBS guidelines are available on the following website [www.c-ebs.org](http://www.c-ebs.org).

When adopting the CRD capital framework, institutions should note that the Financial Regulator’s notices that support the pre-CRD capital framework<sup>2</sup> still apply except to the extent that the statutory instruments and CEBS guidelines directly supersede those notices.

## **1.5 Transitional Arrangements**

### **1.5.1 Date of Implementation**

Institutions availing of the option of continuing to remain on the pre-CRD capital framework until 31 December 2007 pursuant to Article 152(8) of EU directive 2006/48/EC (Reg. 82[8] of S.I. No. 661 of 2006) should note the following:

- The CRD provisions not explicitly referenced in Article 152(8) (Reg. 82[8] of S.I. No. 661 of 2006) apply from 1 January 2007 regardless of what option pursuant to Article 152 (Reg. 82 of S.I. No. 661 of 2006) an institution chooses to take.
- The notices that support the Financial Regulator’s pre-CRD capital framework apply until the institution moves to the revised capital adequacy framework. A list of these notices is contained in Appendix 1 to this paper, with copies available on the Financial Regulator’s website.

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<sup>2</sup> The pre-CRD framework is set out in Directive 2000/12/EC relating to the taking up and pursuit of the business of credit institutions and Directive 93/6/EEC regarding the capital adequacy of investment firms and credit institutions.

### **Provisions that do NOT apply to institutions that remain on the pre-CRD capital framework in 2007**

- The revised standardised and IRB approaches to credit risk (Principal References: Article 78-83 (Reg. 22-28 of S.I. No. 661 of 2006) & Annex VI and Article 84-89 (Reg. 29-35 of S.I. No. 661 of 2006 & Annex VII));
- The requirement to calculate operational risk (Principal References: Article 102-105 (Reg. 48-51 of S.I. No. 661 of 2006) and Annex X);
- The revised rules on securitisation (Principal References: Article 94-101 (Reg. 40-47 of S.I. No. 661 of 2006) and Annex IX);
- The revised rules on credit risk mitigation (Principal References: Article 90-93 (Reg. 36-39 of S.I. No. 661 of 2006) and Annex VIII);
- The updated provisions on large exposures (Principal References: Article 106-119 (Reg. 52-61 of S.I. No. 661 of 2006));
- The new approaches for settlement and counterparty risk in the trading book;
- Pillar 2, including the need for an ICAAP (Principal Reference: Article 123) (Reg. 65 of S.I. No. 661 of 2006);
- Pillar 3 (Principal References: Article 145-149 (Reg. 72-76 of S.I. No. 661 of 2006) and Annex XII).

### **Provisions that APPLY from 1 January 2007 regardless of the choice of approach adopted by the institution**

- The revised rules on the definition of capital, in particular:
  - The requirement to deduct certain items 50% from Tier 1 and 50% from Tier 2 own funds;
  - The prudential filter provisions of Article 64(4)<sup>3</sup> (Reg. 9[5] of S.I. No. 661 of 2006);
- The revised rules on scope of application and consolidation. (Principal References: Article 68-73 (Reg. 13-17 of S.I. No. 661 of 2006));
- The revised capital requirements for 'free deliveries' in the trading book under Directive 2006/49/EC Annex 2 paragraph 2;
- The updated and revised definition of the trading book (Principal References: Article 11 and Annex VII of Directive 2006/49/EC);

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<sup>3</sup> These are changes brought about by the introduction of new accounting standards in respect of the fair valuing of financial contracts.

- All the changes to the rules on position risk as introduced in Directive 2006/49/EC, including credit derivatives and CIUs;
- The counterparty credit risk treatment of credit derivatives<sup>4</sup> (Principal Reference Annex III);
- The revised treatment of foreign exchange risk in CIUs as per para 2.1 of Annex III to Directive 2006/49/EC.

### **1.5.2 The operation of the capital floors to 2009**

Article 152(1) to (6) of Directive 2006/48/EC (Reg. 82[1-6] of S.I. No. 661 of 2006) sets out capital floors for the period 2007-2009. The equivalent provisions for investment firms are contained in Article 43 of Directive 2006/49/EC (Reg. 39 of S.I. No. 660 of 2006). These apply only to those institutions that adopt (for all or part of their portfolios) an IRB approach for credit risk and/or the Advanced Measurement Approach (AMA) for operational risk. The floors (which apply at both a consolidated and individual institution level) are based upon a percentage of what an institution's capital requirements would have been as calculated under the pre-CRD capital adequacy framework.

This percentage varies by calendar year as follows:

**2007 - 95%**

**2008 - 90%**

**2009 - 80%**

During these years, institutions shall compare on an ongoing basis their capital requirements under the revised capital adequacy framework and their capital requirements under the existing capital adequacy framework.

## **1.6 Structure of this Notice**

Section 2 details the Financial Regulator's requirements based on its exercise of the National Discretions available to it under the CRD. Section 3 sets out the application

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<sup>4</sup> Subject to prior written approval from the Financial Regulator.



process for institutions seeking to use the internal ratings based approach (IRBA) to capital requirements for credit risk. Section 4 provides criteria for institution specific Internal Capital Adequacy Assessment Process (ICAAP) and the submission process for ICAAP data for evaluation by the Financial Regulator. Sections 5 and 6 provide criteria on operational risk and Pillar 3 disclosures respectively. Finally, Section 7 provides guidance on specialised lending.

A list of some of the abbreviations used in this paper is provided in Appendix 4.

# 2 The Explicit Competent Authority Discretions

## 2.1 Overview

This Section details the Financial Regulator's application of the competent authority discretions available to it under S.I. No. 660 of 2006 and S.I. No. 661 of 2006. The discretions below have been classified as Type A and Type B.

Type A competent authority discretions are discretions that are (i) specific to the CRD capital framework or (ii) significantly different to a related discretion under the pre-CRD capital framework. Grandfathering of Type A discretions shall not be permitted.

Type B competent authority discretions are available under the directives that support the pre-CRD capital framework that have not been significantly changed by the CRD capital framework. Type B national discretions are grandfathered, as the conditions attaching to them are unchanged.

Institutions should note that prior written approval is required from the Financial Regulator in respect of the exercise of certain discretions. In such instances, this is stated in the tables below in the supplementary comment for that discretion.

## 2.2 Type A Discretions:

N.B. All directive references are to Directive 2006/48/EC unless stated otherwise. Please refer to the CRD for legal text of the Directive.

N.B. All statutory instrument references are to S.I. No. 661 of 2006 unless stated otherwise. Please refer to the S.I. for legal text.

N.B. Appendix 6 lists all type A Competent Authority discretions sequentially as per the CRD and cites the reference for each as below.

REF.	Directive Reference	S.I. Reference	DISCRETION <sup>5</sup>	EXERCISED BY THE FINANCIAL REGULATOR (Y/N)	SUPPLEMENTARY COMMENT
<b>Qualifying Capital and Scope of Application</b>					
1	Art 70(1)	Reg. 14(1)	Amended solo requirement: "The Financial Regulator may allow on a case by case basis credit institutions to incorporate in the calculation of their requirement under Article 68(1) [Reg. 13.1] subsidiaries which meet (certain conditions).	Yes	Exercise subject to prior written approval from the Financial Regulator. See section 2.4.5 of this Notice.
2	Art 154(4)	Reg. 84(5)	Discretion until 31 December 2012 to continue to deduct investments and participations in insurance companies from total capital.	Yes	This applies to the calculation of the Tier 1 ratio only; the limits on Tier 2 capital as a percentage of total capital and lower Tier 2 capital as a percentage of total Tier 2 capital are not affected by this change. The exercise of this discretion furthermore does not impact on Tier 3 limits.

<sup>5</sup> The data in this column is provided for information purposes only and does not constitute either a legal reference or legal interpretation. Institutions should at all times refer to the legislative provisions.

REF.	Directive Reference	S.I. Reference	DISCRETION <sup>5</sup>	EXERCISED BY THE FINANCIAL REGULATOR (Y/N)	SUPPLEMENTARY COMMENT
3	Art 22 of 2006/49/EC	Reg.20 of S.I. No. 660 of 2006	Waiver from application of consolidated capital adequacy requirements for investment groups	Yes	Exercise subject to prior written approval from the Financial Regulator
<b>Standardised Approach [Excluding Mortgage Lending]</b>					
4	Art 80(7)	Reg. 24(9-10)	Zero weighting of certain intra-group exposures.	Yes	Exercise subject to prior written approval from the Financial Regulator. Application for use should be made six months before institutions' adoption of the CRD capital framework and should set out the entities to which they wish the treatment to apply and how in each case the relevant criteria of Article 80(7) are met.
5	Art 80(7)(a)	Reg. 24(9)(a)	Zero weighting where the counterparties are part of the same inter-institutional protection scheme, which meets certain specified conditions.	No	
6	Art 81(3)	Reg. 25(4)	Mutual recognition of ECAI within EU: "if an ECAI has been recognised as eligible by the competent authorities of a Member State, the competent authorities of other Member States may recognise that ECAI as eligible without carrying out their own evaluation process"	Yes	The Financial Regulator recognises Fitch Ratings, Standard & Poor's Ratings Services and Moody's Investor Services for this purpose. Appendix 5 outlines the mapping of ECAI credit assessments to the credit quality scales.  Institutions that choose not to make use of ECAI ratings should use the risk weighting that is reserved for unrated entities (see Annex VI of Directive 2006/48/EC).
7	Art 82(2)	Reg. 26(2)	Mutual recognition of mapping within EU: "when the competent authorities of a Member State have made a determination under § 1 (ECAI assessment associated with credit quality step), the competent authorities of other Member States may recognise that determination without carrying out their own determination process".	Yes	
8	Art 83(2)	Reg. 27(3)	Discretion to use unsolicited ratings	Yes	Recognised provided the ECAI giving the unsolicited rating is recognised.
9	Art 154(1) first para	Reg. 84(1)	Discretion to set, until December 2011, the definition of default (for the definition of 'past due' exposures for sovereign, PSE, corporate and retail exposures) any number of days up to 180 days. The specific number may vary across product lines	No	
10	154(1)	Reg. 84(2)	Competent authorities which do not make use	Yes	

REF.	Directive Reference	S.I. Reference	DISCRETION <sup>5</sup>	EXERCISED BY THE FINANCIAL REGULATOR (Y/N)	SUPPLEMENTARY COMMENT
	second para		of the option in the first para may set a higher number of days for exposures to counterparts situated in the territories of other member states that have exercised the discretion		
<b>Annex VI, Part 1: Risk Weight</b>					
11	Para 5		Mutual recognition of third country treatment of sovereign exposure.	Yes	
12	Para 11		Mutual recognition of third country regional and local government exposure.	Yes	
13	Para 14		Subject to the discretion of the Financial Regulator, exposures to PSEs may be treated as exposures to institutions	Yes	Exposures to PSEs located in Ireland will attract a risk weighting of 20%.  Bodies recognised as PSEs are: <ul style="list-style-type: none"> <li>• Bodies owned by central governments or local authorities which perform regulatory or other non-commercial functions; and</li> <li>• Bodies that carry out non-commercial functions on behalf of, and are responsible to, central government or local authorities and are not in competition with private sector suppliers.</li> </ul>
14	Para 15		In exceptional circumstances, exposures to PSEs may be treated as exposures to the central government in whose jurisdiction they are established	Yes	Institutions seeking to avail of the provision to treat exposures to PSEs in the same way as exposures to the central government where there is no difference in risk between such exposures require prior written approval from the Financial Regulator before applying a risk weight other than 20% to any PSE exposure. In the absence of an unconditional and irrevocable guarantee evidenced in writing, institutions must demonstrate that the arrangements in place secure an equivalent degree of protection.
15	Para 16		Mutual recognition of another member state's treatment of PSEs	Yes	In respect of PSEs located in other jurisdictions, the Financial Regulator will follow the principle of mutual recognition in recognising the risk weight conveyed on such entities by the local regulator.
16	Para 17		Mutual recognition of a third country's treatment of claims on PSEs as claims on institutions	Yes	In respect of PSEs located in other jurisdictions, the Financial Regulator will follow the principle of mutual recognition in recognising the risk weight conveyed on such entities by the local regulator.
17	Para 37		Preferential risk weight for short-term	No	

REF.	Directive Reference	S.I. Reference	DISCRETION <sup>5</sup>	EXERCISED BY THE FINANCIAL REGULATOR (Y/N)	SUPPLEMENTARY COMMENT
			exposures to institutions		
18	Para 40		Discretion to weight exposures to institutions in the form of minimum reserves required by the ECB or the Central Bank of a Member State as direct exposures to the central bank of the Member State.	No	
19	Para 63		Discretion to adopt a more favourable treatment of past due items where non-eligible collateral has been taken	No	
20	Para 66		Discretion to risk weight certain items at 150%	Yes	Applies to speculative commercial real estate in Ireland. This is defined as loans for the purposes of (i) Land or building acquisition; or (ii) Development or construction in relation to such property. In each case, such lending will cease to be considered speculative if a level of contracted pre-sales or pre-letting of at least 50% of the property (by value) has been achieved. Furthermore, such exposures need not be treated as speculative to the extent that an institution has recourse to contracted: (i) Alternative sources of cash flow; (ii) Other realisable security.
21	Para 67		Discretion to adopt a lower risk weight for non past-due items in the 150% bucket where value adjustments have been made	Yes	Value adjustments are defined in Directive 86/635/EEC on the annual accounts and consolidated accounts of banks and other financial institutions.
22	Para 68(e)		The Financial Regulator may recognise loans secured by commercial real estate as eligible where the Loan to Value ratio of 60% is exceeded up to a maximum level of 70% (under certain conditions)	No	
23	Para 78		Discretion to make use of another country's approval of a third country CIU.	Yes	
<b>Annex VI, Part 3: Use of ECAIs' credit assessments for the determination of risk weight</b>					
24	Para 17		Discretion to allow credit assessment on certain Multilateral Development Banks' exposure on the basis of their domestic currency rating ('B' Loans)	Yes	
Internal ratings based approach [IRB]					

REF.	Directive Reference	S.I. Reference	DISCRETION <sup>5</sup>	EXERCISED BY THE FINANCIAL REGULATOR (Y/N)	SUPPLEMENTARY COMMENT
25	Art 84(1)	Reg. 29(1)&(2)	Discretion to use IRB approaches	Yes	Exercise subject to prior written approval from the Financial Regulator. See Section 3 of this Notice.
26	Art 84(2)	Reg. 29(4)	Where an EU parent credit institution and its subsidiaries or an EU parent financial holding company and its subsidiaries use the IRB Approach on a unified basis, the competent authorities may allow [certain minimum requirements] to be met by the parent and its subsidiaries considered together	Yes	Exercise subject to prior written approval from the Financial Regulator. See Section 3 of this Notice.
27	Art.85 (1) & (2)	Reg. 30(1-5)	Rollout of IRB across exposure classes over a period of time. Implementation of IRB may be carried out sequentially across the different exposure classes, within the same business unit, or across different business units in the same group. Art. 85(2) [Reg. 30(4&5)] requires that the implementation shall be carried out within a reasonable timeframe and subject to strict conditions imposed by the Competent Authority.	Yes	Exercise subject to prior written approval from the Financial Regulator. See Section 3 of this Notice.
28	Art 87(9)	Reg. 32(13)	Discretion to use own estimates of LGD and conversion factors	Yes	Exercise subject to prior written approval from the Financial Regulator. See Section 3 of this Notice.
29	Art 89(1)	Reg. 34(1) & (2)	Discretion to allow credit institutions to maintain some exposures permanently on the standardised approach. The exposures to which this permanent exemption applies are categorised below. The competent authority may select one or more (or all) of the categories to which it may apply the discretion	Yes	Exercise subject to prior written approval from the Financial Regulator. See Section 3 of this Notice.
30	Art 89(1)(a)	Reg. 34(1)(a)	Permanent Partial Use for sovereign exposures, where the number of counterparties is limited and it would be unduly burdensome for the credit institution to implement a rating system	Yes	Exercise subject to prior written approval from the Financial Regulator. See Section 3 of this Notice.
31	Art 89(1)(b)	Reg. 34(1)(b)	Permanent partial use for exposures to institutions, where the number of counterparties is limited and it would be unduly burdensome for the credit institution to implement a rating system for these counterparties.	Yes	Exercise subject to prior written approval from the Financial Regulator. See Section 3 of this Notice.
32	Art 89(1)(c)	Reg.	Permanent partial use for exposures in non-	Yes	Exercise subject to prior written approval from the Financial Regulator. See Section 3

REF.	Directive Reference	S.I. Reference	DISCRETION <sup>5</sup>	EXERCISED BY THE FINANCIAL REGULATOR (Y/N)	SUPPLEMENTARY COMMENT
		34(1)(c)	significant business units as well as exposure classes that are immaterial in terms of size and perceived risk profile.		of this Notice.
33	Art 89(1)(d)	Reg. 34(1)(d)	Permanent partial use for exposures to the sovereign of incorporation, as well as regional governments, local authorities and administrative bodies meeting certain criteria.	Yes	Exercise subject to prior written approval from the Financial Regulator. See Section 3 of this Notice.
34	Art 89(1)(e)	Reg. 34(1)(e)	Permanent partial use for intra-group exposures	Yes	Exercise subject to prior written approval from the Financial Regulator. See Section 3 of this Notice.
35	Art 89(1)(f)	Reg. 34(1)(f)	Permanent partial use for equity exposures which qualify for a 0% risk weight in the standardised approach.	Yes	Exercise subject to prior written approval from the Financial Regulator. See Section 3 of this Notice.
36	Art 89(1)(g)	Reg. 34(1)(g)	Permanent partial use for equity exposures which are part of legislated programmes.	No	Such holdings shall be considered as part of other equity holdings under Art 89(i)(c) [Reg. 34(1)(c)].
37	Art 89(1)(h)	Reg. 34(1)(h)	Permanent partial use for exposures which are required to be held as minimum reserves	No	This provision is not required as exposures to the ECB and Central Bank are zero weighted.
38	Art 89(1)(i)	Reg. 34(1)(i)	Permanent partial use for State and State-reinsured guarantees subject to Annex VIII part 2 para 18.	No	
39	Art 89(1) Last sentence	Reg. 34(2)	Discretion to recognise the standardised approach for equity exposures in other Member States (where those member states have exercised this discretion)	Yes	
40	Art 154(2)	Reg. 84(3)	Discretion to reduce the three-year's experience requirement to one year until 31 December 2009.	Yes	Exercise subject to prior written approval from the Financial Regulator. See Section 3 of this Notice.
41	Art.154(3)	Reg. 84(4)	For credit institutions applying for use of own estimates of LGDs and/or conversion factors, the three-year use requirement prescribed in Article 84 paragraph 4 may be reduced to two years until 31 December 2008.	Yes	Exercise subject to prior written approval from the Financial Regulator. See Section 3 of this Notice.
42	Art 154(6)	Reg. 84(7) & (8)	Discretion to exempt from IRB until 31 December 2017 certain equity holdings	No	
43	Art. 154 (7)	Reg. 84(9) & (10)	Discretion to use (until December 2011) a definition of default of greater than 90 days for corporate exposures	No	However, for exposures to counterparties located in other member states, institutions can choose (at consolidated level) 90 days or the specific number of days set by the local competent authority.



REF.	Directive Reference	S.I. Reference	DISCRETION <sup>5</sup>	EXERCISED BY THE FINANCIAL REGULATOR (Y/N)	SUPPLEMENTARY COMMENT
<b>Annex VII, Part 1: Risk weighted exposure amounts and expected loss amounts</b>					
44	Para 6		Preferential risk weights for certain specialised lending	Yes	Exercise subject to prior written approval from the Financial Regulator. See Section 3 and Section 7 of this Notice.  Institutions are required to demonstrate that the underwriting characteristics and other risk characteristics are substantially strong for the relevant category.
45	Para 13 [last sentence]		By way of derogation to para 13(b), the Financial Regulator may waive the requirement that the exposure be unsecured in respect of collateralised credit facilities linked to a wage account.	No	
46	Para 18		Discretion to risk weight equity exposures to ancillary services undertakings according to the treatment of other non-credit obligations	No	If the equity participation should be deducted under the own funds / scope of application rules, then deduction shall apply. Alternatively, the asset should be treated like any other equity position under the IRB approach (and as such would be eligible to be considered immaterial under the provisions of Article 89.1(c), whereupon the standardised approach (100%) will apply.
<b>Annex VII, Part 2: PD, LGD and maturity</b>					
47	Para 5		For dilution risk, Financial Regulator may recognise as eligible unfunded protection providers other than those indicated in Annex VIII, Part 1.	No	Protection providers must meet the same eligibility criteria as for default risk.
48	Para 7		For default risk in purchased receivables, Financial Regulator may recognise as eligible unfunded protection providers other than those indicated in Annex VIII, Part 1.	No	Protection providers must meet the same eligibility criteria as for other aspects of the IRB framework.
49	Para 12		Financial Regulator may require all credit institutions in their jurisdiction to use an explicit maturity adjustment for each exposure.	Yes	Maturity, M, can be a significant driver of risk, particularly for low PD portfolios, therefore there is no reason to link maturity with the ability to use own estimate of LGD and conversion factors (where use of M becomes mandatory). Institutions may use the duration based approach to maturity or the simpler, 'longest remaining maturity' approach according to paragraphs 13-14, Part 2, Annex VII of Directive 2006/48/EC.
50	Para 15		Carve out from explicit maturity for SME exposures	No	
51	Para 20		Ability under retail IRB to recognise as eligible unfunded protection providers other than those indicated in Annex VIII, Part 1	No	Protection providers must meet the same eligibility criteria as for default risk.

REF.	Directive Reference	S.I. Reference	DISCRETION <sup>5</sup>	EXERCISED BY THE FINANCIAL REGULATOR (Y/N)	SUPPLEMENTARY COMMENT
<b>Annex VII, Part 4: Minimum requirements for IRB approach</b>					
52	Para 48		Requirement to set days past due definition of default for retail and PSE exposures	Yes	The Financial Regulator sets the definition for default at 90 days past due for all retail and PSE exposures  For exposures in other Member States, institutions are free, at consolidated level, to use 90 days or the number of days specified by the local competent authority.
53	Para 56		Flexibility in mapping to the definition of default for historic data.	Yes	Exercise subject to prior written approval from the Financial Regulator. See Section 3 of this Notice.  Institutions are required to demonstrate the rigour of the mapping of the definition of default to historic data.
54	Para 66, 71, 86 and 95		Transitional provisions in respect of data requirements.	Yes	Exercise subject to prior written approval from the Financial Regulator. See Section 3 of this Notice.
55	Para 100		Discretion to recognise conditional guarantees.	Yes	Exercise subject to prior written approval from the Financial Regulator. Institutions are required to demonstrate that the assignment criteria adequately address any potential reduction in the risk mitigation effect given the existence of such conditionality
<b>CREDIT RISK MITIGATION</b>					
<b>Annex VIII, Part 1: Eligibility</b>					
56	Para 20		Discretion to recognise as eligible collateral under IRB amounts receivable linked to a commercial transaction	Yes	
57	Para 21		Recognition under IRB of certain types of physical collateral	Yes	
<b>Annex VIII, Part 3: Calculating the effects of credit risk mitigation</b>					
58	Para 12		Recognition of internal models for calculation of adjusted exposure amounts (E*) for repo-style transactions subject to a master netting agreement	Yes	Exercise subject to the criteria being met and to prior written approval from the Financial Regulator.
59	Para 19		Discretion to use empirical correlations.	Yes	Exercise subject to the criteria being met and to prior written approval from the Financial Regulator.
60	Para 43		When debt securities have a credit assessment from a recognised ECAI equivalent to investment grade or better, the Financial Regulator may allow institutions to calculate a volatility for each category of security".	Yes	Subject to the requirements being met.

REF.	Directive Reference	S.I. Reference	DISCRETION <sup>5</sup>	EXERCISED BY THE FINANCIAL REGULATOR (Y/N)	SUPPLEMENTARY COMMENT
61	Para 59		Mutual recognition of 0% volatility adjustment	Yes	
62	Para 89		Discretion to look through sovereign guarantees and treat them as direct exposures	Yes	A guarantee must be in place, which must be, at the least, unconditional, irrevocable and evidenced in writing.
<b>Large Exposures</b>					
63	Art 114(2)	Reg. 60(3-11)	Allow Advanced IRB institutions to use own estimates of collateral effects in calculation of exposure amounts for purposes of LE limits	Yes	Exercise subject to prior written approval from the Financial Regulator.
64	Art 30(4) (2006/49/EC)	Reg. 28(6) of S. I. 660 of 2006	Discretion to treat claims on recognised third-country investment firms and recognised clearing houses and exchanges in financial instruments to be subject to the same treatment accorded to those institutions laid out in Articles 113(3)(i), 115(2) and 116 of Directive 2006/48/EC.	Yes	Exercise subject to prior written approval from the Financial Regulator.
65	Art 45(1) Directive 2006/49/EC	Reg. 40(1-4) of S. I. 660 of 2006	Investment firms may be permitted to exceed large exposure limit requirements for certain derivative contracts until 31 December 2010	No	
<b>Mortgage Lending</b>					
<b>Annex VI, Part 1: Standardised Approach</b>					
66	Para 49		Waiver of eligibility criterion in respect of residential real estate (RRE): "Financial Regulator may dispense with the condition contained in § 48(b) for exposures fully and completely secured by mortgages on residential property which is situated within their territory, if they have evidence that a well-developed and long-established residential real estate market in present in their territory with loss rates which are sufficiently low to justify such treatment".	No	<p>Pursuant to Paragraph 48, the Financial Regulator defines 'substantial margin' with reference to an exposure's current (as opposed to original) loan-to-value (LTV) ratio.</p> <p>Loans with an LTV not higher than 75% shall attract a 35% risk weight. The amount of any exposure above 75% LTV shall attract a risk weight of 75% if the exposure meets the definition of the retail exposure class under Article 79(2) of Directive 2006/48/EC. Otherwise a 100% risk weight will apply. Where institutions do not record current LTVs they may use either (i) original LTVs or (ii) original LTVs adjusted by an appropriate index, which takes into account geographical and house type factors.</p> <p>The 35% risk weight to all exposures secured by properties that are not or will not be occupied by the borrower is disappplied. This includes residential investment properties and some second homes. Such exposures shall be risk weighted at 75% if the definition of the retail exposure under Article 79(2) of directive 2006/48/EC is met. Otherwise a 100% risk weight shall apply.</p> <p>Eligible Mortgage Indemnity Insurance shall be recognised in the same way as any other unfunded credit protection permitted under the CRD.</p>

REF.	Directive Reference	S.I. Reference	DISCRETION <sup>5</sup>	EXERCISED BY THE FINANCIAL REGULATOR (Y/N)	SUPPLEMENTARY COMMENT
67	Para 50		Mutual recognition of the treatment in §49 within EU.	Yes	
68	Para 51		50% RW for commercial real estate (CRE): "subject to the discretion of the Financial Regulator, exposures fully and completely secured, to the satisfaction of the Financial Regulator by mortgages on offices or other commercial premises situated within their territory may be assigned a risk weight of 50%"	No	
69	Para 52		50% RW for Finnish Housing CRE	Yes	
70	Para 53		Discretion to risk-weight certain commercial property leases at 50%	No	
71	Para 57		Discretion to recognise another Member State's use of the discretions in paragraphs 51-53 above.	Yes	
72	Para 58		Ability to waive certain requirements for exposures secured by commercial real estate to secure a 50% weighting	No	
73	Para 60		Discretion to recognise another Member State's use of the discretions in paragraph 58 above.	Yes	
<b>Annex VIII, Part 1: Credit Risk Mitigation, Eligibility</b>					
74	Para 15		Discretion to recognise as eligible collateral shares in Finnish Housing companies	Yes	
75	Para 16		Discretion to waive certain eligibility criteria to recognise residential real estate collateral in the IRB approach.	No	
76	Para 17		Discretion to waive certain eligibility criteria to recognise commercial real estate collateral in the IRB approach.	No	
77	Para 19		Discretion to recognise as eligible collateral commercial real estate located in other member states, the competent authority of which has waived certain eligibility criteria in this respect.	Yes	
<b>Annex VIII, Part 2: Credit Risk Mitigation, Minimum Requirements</b>					
78	Para 9(a)(ii)		Discretion to permit recognition under the Foundation IRB approach of a first priority	Yes	Conditions apply to certain exposures

REF.	Directive Reference	S.I. Reference	DISCRETION <sup>5</sup>	EXERCISED BY THE FINANCIAL REGULATOR (Y/N)	SUPPLEMENTARY COMMENT
			claim over receivables where it may be subordinate to the claims of preferential creditors provided for in legislation or based on precedent.		At the outset, and on a periodic basis thereafter, institutions should take steps to ascertain the likely extent of preferential creditors, and ensure that an appropriate haircut is taken to the value of the collateral to reflect this. For exposures outside Ireland, exercise of this discretion should be supported by the legal position in the local market.
79	Para 10(b)		Discretion to permit recognition under the Foundation IRB approach of a first priority claim over other physical collateral where it may be subordinate to the claims of preferential creditors provided for in legislation or based on precedent.	Yes	Conditions apply to certain exposures  At the outset, and on a periodic basis thereafter, institutions should take steps to ascertain the likely extent of preferential creditors, and ensure that an appropriate haircut is taken to the value of the collateral to reflect this. For exposures outside Ireland, exercise of this discretion should support the legal position in the local market.
<b>Annex VIII, Part 3: Calculating the effects of credit risk mitigation</b>					
80	Para 72(a)		Ability until 31 December 2012 to assign 30% LGD to CRE leasing.	No	
81	Para 72(b)		Ability until 31 December 2012 to assign 35% LGD to equipment leasing exposures.	No	
82	Para 72(c)		Ability until 31 December 2012 to assign a 30% LGD for senior exposures secured by residential or commercial real estate	No	
83	Para 73		Ability to use a 50% risk weight in foundation IRB for the secured part of an exposure secured by commercial or residential real estate.	No	
84	Para 75		Discretion to recognise 50% weighting for residential and commercial real estate located in other member states if the competent authority of that state has recognised this discretion.	Yes	
<b>Securitisation</b>					
85	Art. 97(3)	Reg. 43(3)	Ability to recognise ECAs that have been recognised in another member state.	Yes	
86	Art 98(2)	Reg. 44(2)	Recognition of mapping of assessments made by an ECAI within EU for securitisation purposes.	Yes	The Financial Regulator recognises Fitch Ratings, Standard & Poor's Ratings Services and Moody's Investor Services for this purpose. Appendix 5 outlines the mapping of ECAI credit assessments to the credit quality scales.

REF.	Directive Reference	S.I. Reference	DISCRETION <sup>5</sup>	EXERCISED BY THE FINANCIAL REGULATOR (Y/N)	SUPPLEMENTARY COMMENT
<b>Annex IX, Part 4: Calculation</b>					
87	Para 30		Early amortisations - discretion to allow similar treatment as for amortisation triggered by the 3 month average excess spread when early amortisation is triggered by a quantitative value other than 3 month excess spread. Waiver to be applied for by the institution.	Yes	Exercise subject to prior written approval from the Financial Regulator.
88	Para 43		Ability to use the internal assessment approach	Yes	Exercise subject to prior written approval from the Financial Regulator.
89	Para 43, last paragraph		The requirement for the assessment methodology of the ECAI to be publicly available may be waived by the Financial Regulator	Yes	
90	Para 48		Application of a 6% risk weight to the most senior position.	Yes	Exercise subject to prior written approval from the Financial Regulator.
91	Para 53 last para		For securitisation involving retail exposures, the Financial Regulator may permit the Supervisory Formula Method to be implemented using the simplifications: H=0 and v=0	Yes	Exercise subject to prior written approval from the Financial Regulator.
<b>Trading Book and Trading Book Review</b>					
92	Para 52 Annex I (2006/49/E C)		Recognition of third country CIUs (allowing institutions to look through underlying investments in order to calculate capital requirements for position risk (general and specific).	Yes	Exercise subject to prior written approval from the Financial Regulator.
93	Para 4 Annex II, (2006/49/E C)		In cases of a system wide failure of a settlement or clearing system, Financial Regulator may waive the capital requirements for settlement/delivery risk.	Yes	
94	Para 4, second sub-para, Annex V,		Competent Authority may require the institution to perform back-testing on either hypothetical or actual trading, or both	Yes	Backtesting on actual trading outcomes is a key aspect of model validation and, to the extent that this does not provide an adequate indication of the model's performance, this should be supplemented by backtesting on hypothetical portfolios.

REF.	Directive Reference	S.I. Reference	DISCRETION <sup>5</sup>	EXERCISED BY THE FINANCIAL REGULATOR (Y/N)	SUPPLEMENTARY COMMENT
	2006/49/EC				
95	Para 2, Part 2, Annex III,		Ability to use internal models to determine exposure value	Yes	Exercise subject to prior written approval from the Financial Regulator.
96	Para 3 Part 2, Annex III,		Options for the calculation of capital requirements on assets hedged by credit derivatives	Yes	Exercise contingent upon prior written approval from the Financial Regulator for use of an IRB approach
97	Para 19, Part 5, Annex III,		Right of the competent authority to require use of methodology set out in Annex III Part 3 for determining size of risk positions	Yes	Methodology set out in Annex III Part 3 to be used.
98	Para 1, Part 6, Annex III		Use of Internal Models methodology	Yes	Exercise subject to prior written approval from the Financial Regulator.
99	Para 2, Part 6 Annex III,		Discretion to permit roll out of internal models sequentially across different product types.	Yes	Exercise subject to prior written approval from the Financial Regulator.
100	Para 7, Part 6 Annex III,		Discretion to set a higher value of alpha.	No	
101	Para 12, Part 6, Annex III		Discretion to use own estimates of alpha	Yes	Exercise subject to prior written approval from the Financial Regulator.
102	Para 42, Part 6, Annex III,		In respect of EPE modelling, Financial Regulator may also require additional own funds to be held pursuant to Article 136.	Yes	
103	Para 12 (end), Part 3, Annex VIII		Use of IMM for margin lending transactions	Yes	Exercise subject to prior written approval from the Financial Regulator.
<b>Operational Risk</b>					
104	Art. 20(2) Directive 2006/49/EC	Reg. 18(2) of S.I. No. 660 of 2006	Limited licence exemption from explicit OpR charge	Yes	Exercised by general dispensation from the Financial Regulator to investment firms that meet the qualifying criteria in Article 20(2).
105	Art 20(3) Directive 2006/49/EC	Reg. 18(3) of S.I. No. 660 of 2006	Limited activity exemption from explicit OpR charge	Yes	Exercise subject to prior written approval from the Financial Regulator. Approval will be granted only where investment firms can demonstrate they are in accordance with the criteria noted in the Directive.
106	Art 24 Directive 2006/49/EC	Reg. 22 of S.I. No. 660 of 2006	Consolidated calculation using EBR for limited licence groups	Yes	
107	Art 25 Directive	Reg. 23 of S.I. No.	Consolidated calculation for investment firm groups with limited licence and limited activity	Yes	

REF.	Directive Reference	S.I. Reference	DISCRETION <sup>5</sup>	EXERCISED BY THE FINANCIAL REGULATOR (Y/N)	SUPPLEMENTARY COMMENT
	2006/49/EC	660 of 2006	firms		
108	Article 46, Directive 2006/49/EC	Reg. 41 of S.I. No. 660 of 2006	Exemption, on a case-by-case basis from the explicit OpR charge for investment firms with limited trading activity (less than 50m euro).	No	
109	Article 102(4)	Reg. 48(4)	Financial Regulator may allow credit institutions to use a combination of approaches in accordance with Annex X, Part 4.	Yes	Exercise subject to prior written approval from the Financial Regulator.
110	Article 105(4)	Reg. 51(5)	Where an EU parent institution and its subsidiaries or the subsidiaries of an EU parent financial holding company use an Advanced Measurement Approach on a unified basis, the competent authorities may allow the qualifying criteria set out in Annex X, Part 3 to be met by the parent and its subsidiaries considered together.	Yes	Exercise subject to prior written approval from the Financial Regulator. Application for use should be submitted with AMA model application
<b>Annex X, Part 2: Standardised Approach</b>					
111	Para 3		Financial Regulator may authorise a credit institution to calculate its capital requirement for operational risk using an alternative standardised approach, as set out in paragraphs 5 to 11.	No	
112	Para 5		The Financial Regulator may authorise the credit institution to use an alternative indicator for the business lines: retail banking and commercial banking	No	
<b>Annex X, Part 4: Combined use of different methodologies</b>					
113	Para 2		Ability of the competent authority, on a case-by-case basis, to impose additional conditions on rollout.	Yes	This will be considered as part of an institutions Pillar 1 model application.
<b>Market Discipline</b>					
114	Art. 72(3)	Reg. 16(5)	Exemption of EU subs of third-country groups from Pillar 3 disclosures:	Yes	Exercise subject to prior written approval from the Financial Regulator.
<b>Other Transitional Measures</b>					
115	Art. 152 (10)(b)	Reg. 82(10)(b)	Discretion not to apply standardised approach for risk weighting securitisations in 2007	Yes	This shall be permitted, if the institution itself has decided (under Article 152(8)) to remain on Basel 1 during 2007
116	Article 153	Reg. 83(1)	Discretion to dispense with certain criteria to	No	



REF.	Directive Reference	S.I. Reference	DISCRETION <sup>5</sup>	EXERCISED BY THE FINANCIAL REGULATOR (Y/N)	SUPPLEMENTARY COMMENT
	(first part)		risk weight CRE leasing transactions at 50% until 31 December 2012		
117	Article 153 (second part)	Reg. 83(2)	Recognition until 31 December 2010 of collateral other than 'eligible collateral' for purpose of defining secured portion of a past-due loan	No	
118	Article 47 (2006/49/E C)	Reg. 42 of S.I. No. 660 of 2006	Grandfathering until 31 December 2009, of recognised specific risk models.	No	

## 2.3 Type B Discretions:

N.B. All directive references are to Directive 2006/48/EC unless stated otherwise. Please refer to the CRD for legal text of the Directive.

N.B. All statutory instrument references are to S.I. No. 661 of 2006 unless stated otherwise. Please refer to the S.I. for legal text.

REF NO.	Directive Reference	S.I. Reference	Discretion <sup>6</sup>	EXERCISED BY THE FINANCIAL REGULATOR (Y/N)	SUPPLEMENTARY COMMENT
1	Art 58	Reg. 4	Where shares in another credit institution, financial institution, insurance or reinsurance undertaking or insurance holding company are temporarily for the purposes of a financial assistance operation designed to reorganise and save that entity, the competent authority may waive the provisions on deduction referred to in points (l) to (p) of Article 57.	Yes	Exercise subject to prior written approval from the Financial Regulator.
2	Art 66(4)	Reg. 11(6)	The Financial Regulator may authorise credit institutions to exceed the limit laid down in paragraph 1 in temporary and exceptional circumstances.	Yes	Exercise subject to prior written approval from the Financial Regulator.
3	Art 73(1)	Reg. 17(1) & (2)	The Member States or the Financial Regulator responsible for exercising supervision on a consolidated basis pursuant to Articles 125 and 126 may decided in the [listed] cases that a credit institution, financial institution or ancillary services undertaking which is a subsidiary or in which a participation is held need not be included in the consolidation.	Yes	Exercise subject to prior written approval from the Financial Regulator.
4	Art 134(1)		In particular, the Financial Regulator may permit, or require use of, the method provided for in Article 12 of Directive 83/349/EEC. That method shall not, however, constitute inclusion of the undertakings concerned in	No	

<sup>6</sup> The information in this column is provided for information purposes only and does not constitute either a legal reference or legal interpretation. Institutions should at all times refer to the CRD provisions when applying the discretions.

REF NO.	Directive Reference	S.I. Reference	Discretion <sup>6</sup>	EXERCISED BY THE FINANCIAL REGULATOR (Y/N)	SUPPLEMENTARY COMMENT
			consolidated supervision.		
5	Art 143.3 2 <sup>nd</sup> last sentence		Financial Regulator may in particular require the establishment of a financial holding company, which has its head office in the Community, and apply the provisions on consolidated supervision to the consolidated position of that financial holding company.	Yes	
6	Annex III, Part 3,		For the purpose of calculating the potential future exposure in accordance with step (b) the Financial Regulator may allow credit institutions to apply the following percentages instead of those prescribed in Table 1 provided that the institutions make use of the option set out in Annex IV, paragraph 21 of Directive [93/6/EEC] for contracts within the meaning of paragraph 3(b) and (c) of Annex IV.	No	
7	Annex III, part 7, section (c)		Net-to-gross ratio: at the discretion of the Financial Regulator either: (i) Separate calculation: the quotient of the net replacement cost for all contracts included in a legally valid bilateral netting agreement with a given counterparty (numerator) and the gross replacement cost for all contracts included in a legally valid bilateral netting agreement with that counterparty (denominator), or (ii) aggregate calculation: the quotient of the sum of the net replacement cost calculated on a bilateral basis for all counterparties taking into account the contracts included in legally valid netting agreements (numerator) and the gross replacement cost for all contracts included in legally valid netting agreements(denominator).	Yes	Option (i) (separate calculation) adopted
8	Art 5(2) (2006/49/E C	Reg. 4(2) of S.I. No. 660 of 2006	The Financial Regulator may, allow an investment firm which executes investors' orders for financial instruments to hold such instruments for its own account if the following conditions are met: (a) such positions arise only as a result of the firm's failure to match investors' orders precisely; (b) the total market value of all such positions is subject to a ceiling of 15% of the firm's initial	Yes	

REF NO.	Directive Reference	S.I. Reference	Discretion <sup>6</sup>	EXERCISED BY THE FINANCIAL REGULATOR (Y/N)	SUPPLEMENTARY COMMENT
			capital; (c) the firm meets the requirements laid down in Articles 18,20 and 28; (d) such provisions are incidental and provisional; in nature and strictly limited to the time required to carry out the transaction in question. The holding of non-trading-book positions in financial instruments in order to invest own funds shall not be considered as dealing for the purposes set out in paragraph 1 or for the purposes of paragraph 3.		
9	Art 13(2) 2006/49/EC	Reg. 11(3-5) of S.I. No. 660 of 2006	By derogation to paragraph 1, the Financial Regulator may permit those institutions which are obliged to meet the capital requirements calculated in accordance with Articles 21 and 28 to 32 and Annexes 1 and 111 to V1 to use, for that purpose only, an alternative determination of own funds. No part of the own funds used for that purpose may be used simultaneously to meet other capital requirements. The alternative definition shall be the sum of the items set out in points (l) to (p) of Article 57 of that Directive for those investment firms which are required to deduct item (d) of this paragraph from the total of items (a), (b) and (c) of this paragraph; (b) an institution's net trading-book profits net of any foreseeable charges or dividends, less net losses on its other business provided that none of these amounts has already been included in item (a) of this paragraph under the items set out in points (b) to (k) of Article 57 of Directive [2006/48/EC] . (c) subordinated loan capital and/or the items referred to in paragraph 5, subject to the conditions set out in paragraphs 3 and 4 and Article 14; (d) illiquid assets as specified in Article 15.	Yes	

REF NO.	Directive Reference	S.I. Reference	Discretion <sup>6</sup>	EXERCISED BY THE FINANCIAL REGULATOR (Y/N)	SUPPLEMENTARY COMMENT
10	Art 13(5) 2006/49/EC	Reg. 11(10) of S.I. No. 660 of 2006	The Financial Regulator may permit institutions to replace the subordinated loan capital referred to in point (c) of paragraph 2 with points (d) to (h) of Article 57 of Directive [2006/48/EC].	Yes	
11	Art 14(1) 2006/49/EC	Reg. 12(1) of S.I. No. 660 of 2006	The Financial Regulator may permit investment firms to exceed the ceiling for subordinated loan capital set out Article 13(4) if they judge it prudentially adequate and provided that the total of such subordinated loan capital and the items referred to in Article 13(5) does not exceed 200% of the original own funds left to meet the requirements calculated in accordance with Articles 21, 28 to 32 and Annexes I and iii to VI or 250% of the same amount where investment firms deduct the item set out in point ( d) of Article 13(2) when calculating own funds.	Yes	Exercise subject to prior written approval from the Financial Regulator.
12	Art 14(2) 2006/49/EC	Reg. 12(2) of S.I. No. 660 of 2006	The Financial Regulator may permit the ceiling for subordinated loan capital set out in Article 13(4) to be exceeded by a credit institution if they judge it prudentially adequate and provided that the total of such subordinated loan capital and points (d) to (h) of Article 57 of Directive [2006/48/EC] does not exceed 250% of the original own funds left to meet the requirements calculated in accordance with Articles 28 to 32 and Annexes I and III to VI.	Yes	Exercise subject to prior written approval from the Financial Regulator
13	Art 15 last paragraph 2006/49/EC	Reg. 13(2) of S.I. No. 660 of 2006	For the purposes of point (b), where shares in a credit or financial institution are held temporarily for the purpose of a financial assistance operation designed to recognise and save that institution, the Financial Regulator may waive this provision. They may also waive it in respect of those shares, which are included in the investment firm's trading book.	Yes	Exercise subject to prior written approval from the Financial Regulator
14	Art 18(2)	Reg. 16(2)	By derogation to paragraph 1, the Financial	Yes	Exercise subject to prior written approval from the Financial Regulator

REF NO.	Directive Reference	S.I. Reference	Discretion <sup>6</sup>	EXERCISED BY THE FINANCIAL REGULATOR (Y/N)	SUPPLEMENTARY COMMENT
	2006/49/EC	of S.I. No. 660 of 2006	Regulator may allow institutions to calculate the capital requirements for their trading book business in accordance with Article 75(a) of Directive [2006/48/EC] and paragraphs 6,7,8 and 10 of Annex II of this Directive, rather than in accordance with Annexes I and II of this Directive, where the size of the trading book business meets the following requirements: (a) the trading-book business of such institutions does not normally exceed 5% of their total business; (b) their total trading-book positions do not normally exceed EUR 15 million; and (c ) the trading-book business of such institutions never exceeds 6% of their total business and their total business and their total trading-book positions never exceed EUR 20 million.		
15	Art 21, 2 <sup>nd</sup> paragraph 2006/49/EC	Reg. 19(2) of S.I. No. 660 of 2006	The Financial Regulator may adjust that requirement in the event of a material change in a firm's business since the preceding year.	Yes	Exercise subject to prior written approval from the Financial Regulator
16	Art 26 2006/49/EC	Reg. 24 of S.I. No. 660 of 2006	Where the waiver provided for in Article 22 is not exercised, the Financial Regulator may, for the purpose of calculating the capital requirements set out in annexes I and V and the exposures to clients set out in Articles 28 to 32 and Annex VI on a consolidated basis, permit [certain offsets].	Yes	Exercise subject to prior written approval from the Financial Regulator
17	Art 31 First Sentence 2006/49/EC	Reg. 29(1) of S.I. No. 660 of 2006	The Financial Regulator may authorise the limits laid down in Articles 111 to 117 of Directive [2006/48/EC] to be exceeded if [certain] conditions are met	Yes	Exercise subject to prior written approval from the Financial Regulator
18	Art 32(2) 2006/49/EC	Reg. 30(4) of S.I. No. 660 of 2006	The Financial Regulator may permit institutions which are allowed to use the alternative determination of own funds under Article 13(2) to use that determination for the purposes of Articles 30(2), 30(3) and 31 provided that the institutions concerned are required, to meet all of the obligations set out in Articles 110 to 117 of Directive 2006/48/EC], in respect of the exposures which arise outside their trading books by using own	Yes	Exercise subject to prior written approval from the Financial Regulator

REF NO.	Directive Reference	S.I. Reference	Discretion <sup>6</sup>	EXERCISED BY THE FINANCIAL REGULATOR (Y/N)	SUPPLEMENTARY COMMENT
			funds as defined in Directive [2006/48/EC].		
19	Art 33(3) 2006/49/EC	Reg. 31(5) of S.I. No. 660 of 2006	In the absence of readily available market prices, the Financial Regulator may waive the requirement imposed in paragraphs 1 and 2 and shall require institutions to use alternative methods of valuation provided that those methods are sufficiently prudent and have been approved by Financial Regulator	Yes	Exercise subject to prior written approval from the Financial Regulator
20	Para 4, 2 <sup>nd</sup> sub-para, Annex 1, 2006/49/EC		The Financial Regulator may allow the capital requirement for an exchange-traded future to be equal to the margin required by the exchange if they are fully satisfied that it provides an accurate measure of the risk associated with the future and that it is at least equal to the capital requirement for a future that would result from a calculation made using the method set out in this Annex or applying the internal models method described in Annex V	Yes	Exercise subject to prior written approval from the Financial Regulator
21	Para 4, 3 <sup>rd</sup> subpara, Annex 1, 2006/49/EC		The Financial Regulator may also allow the capital requirement for an OTC derivatives contract of the type referred to in this paragraph cleared by a clearing house recognised by them to be equal to the margin required by the clearing house if they are fully satisfied that it provides an accurate measure of the risk associated with the derivatives contract and that it is at least equal to the capital requirement for the contract in question that would result from a calculation made using the method set out in this Annex or applying the internal models method described in Annex V.	Yes	Exercise subject to prior written approval from the Financial Regulator
22	Para 5, 2 <sup>nd</sup> sub-para, Annex 1, 2006/49/EC		The Financial Regulator may also prescribe that institutions calculate their deltas using a methodology specified by the Financial Regulator	Yes	
23	Para 5, 3 <sup>rd</sup> sub-para, Annex 1, 2006/49/EC		Other risks, apart from the delta risk, associated with options shall be safeguarded against. The Financial Regulator may allow the requirement against a written exchange-traded option to be equal to the margin required by	Yes	Exercise subject to prior written approval from the Financial Regulator

REF NO.	Directive Reference	S.I. Reference	Discretion <sup>6</sup>	EXERCISED BY THE FINANCIAL REGULATOR (Y/N)	SUPPLEMENTARY COMMENT
			the exchange if they are fully satisfied that it provides an accurate measure of the risk associated with the option that would result from a calculation made using the method set out in the remainder of this Annex or applying the internal models method described in Annex V.		
24	Para 14, Annex 1 2006/49/EC		Instruments issued by a non-qualifying issuer shall receive a specific risk capital charge of 8% or 12% according to Table 1 above. Financial Regulator may require institutions to apply a higher specific risk charge to such instruments and/or to disallow offsetting for the purposes of defining the extent of general market risk between such instruments any other debt instruments	No	
25	Para 26, Annex 1 2006/49/EC		The Financial Regulator in a member state may allow institutions in general or on an individual basis to use a system for calculating the capital requirement for the general risk on traded debt instruments which reflects duration instead of the system set out in paragraphs 17 to 25, provided that the institution does so on a consistent basis.	Yes	Exercise subject to prior written approval from the Financial Regulator
26	Para 35, First sentence, Annex 1, 2006/49/EC		By derogation to paragraph 34, the Financial Regulator may allow the capital requirement against specific risk to be 2% rather than 4% for those portfolios, which meet certain conditions.	Yes	
27	Para 35(c) Annex 1, 2006/49/EC		No individual position shall comprise more than 5% of the value of the institution's whole equity portfolio. For the purpose of this para the Financial Regulator may authorise individual positions of up to 10% provided that the total of such positions does not exceed 50% of the portfolio.	Yes	
28	Para 2.1, Last Sentence, Annex III 2006/49/EC		The Financial Regulator shall have the discretion to allow institutions to use the net present value when calculating the net open position in each currency and in gold.	Yes	



REF NO.	Directive Reference	S.I. Reference	Discretion <sup>6</sup>	EXERCISED BY THE FINANCIAL REGULATOR (Y/N)	SUPPLEMENTARY COMMENT
29	Para 3.1 Annex III, 2006/49/EC		The Financial Regulator may allow institutions to provide lower capital requirements against positions in closely correlated currencies than those, which would result from applying paragraph 1 and 2 to them.	Yes	
30	Part 3.2 Annex III,		The Financial Regulator may allow institutions to remove positions in any currency which is subject to a legally binding intergovernmental agreement to limit its variation relative to other currencies covered by the same agreement from whichever of the methods described in paragraphs 1, 2 and 3.1 that they apply. Institutions shall calculate their matched positions in such currencies and subject them to a capital requirement no lower than half of the maximum permissible variation laid down in the intergovernmental agreement in question in respect of the currencies concerned. Unmatched positions in those currencies shall be treated in the same way as other currencies. By derogation to the first sub-paragraph, the Financial Regulator may allow the capital requirement on the matched positions in currencies of Member States participating in the second stage of the European monetary union to be 1.6%, multiplied by the value of such matched positions.	Yes	
31	Para 7, Annex IV, 2006/49/EC		The Financial Regulator may regard the following positions as positions in the same commodity: (a) positions in different sub-categories of commodities in cases where the sub-categories are deliverable against each other; (b) positions in similar commodities if they are close substitutes and if a minimum correlation of 0.9 between price movements can be clearly established over a minimum period of one year.	Yes	
32	Para 8, Annex IV-, 2006/49/EC		Commodity futures and forward commitments to buy or sell individual commodities shall be incorporated in the measurement system as notional amounts in terms of the standard unit	Yes	

REF NO.	Directive Reference	S.I. Reference	Discretion <sup>6</sup>	EXERCISED BY THE FINANCIAL REGULATOR (Y/N)	SUPPLEMENTARY COMMENT
			<p>of measurement and assigned maturity with reference to expiry date. The Financial Regulator may allow the capital requirement for an exchange-traded future to be equal to the margin required by the exchange if they are fully satisfied that it provided an accurate measure of the risk associated with the future and that it is equal to the capital requirement for a future that would result from a calculation made using the method set out in the remainder of this Annex or applying the internal models method described in Annex V. The Financial Regulator may also allow the capital requirement for an OTC commodity derivatives contract of the type referred to in this paragraph cleared by a clearing house recognised by them to be equal to the margin required by a clearing house if they are fully satisfied that it provides an accurate measure of the risk associated with the derivatives contract and that it is at least equal to the capital requirement for the contract in question that would result from a calculation made using the method set out in the remainder of this Annex or applying the internal models method described in Annex V.</p>		
33	Para 10, Annex IV, 2006/49/EC		<p>Options on commodities or on commodity derivatives shall be treated as if they were positions equal in value to the amount of the underlying to which the option refers, multiplied by its delta for the purposes of this Annex. The latter positions may be netted off against any offsetting positions in the identical underlying commodity or commodity derivative. The delta used shall be that of the exchange concerned, that calculated by the Financial Regulator or, where none of those is available or for OTC options, that calculated by the institution itself, subject to the Financial Regulator being satisfied that the model used by the institution is reasonable.</p>	Yes	Exercise subject to prior written approval from the Financial Regulator

REF NO.	Directive Reference	S.I. Reference	Discretion <sup>6</sup>	EXERCISED BY THE FINANCIAL REGULATOR (Y/N)	SUPPLEMENTARY COMMENT
34	Para 10, Last three sub-paragraphs, Annex IV 2006/49/EC		The Financial Regulator may allow the capital requirement for an OTC commodity option to be equal to the margin required by the exchange if it is fully satisfied that it provides an accurate measure of the risk associated with the option and that it is at least equal to the capital requirement against an option that would result from a calculation made using the remainder of this Annex or applying the internal models method in Annex V.	Yes	
35	Para 10, Last three sub-paragraphs, Annex IV 2006/49/EC		The Financial Regulator may also allow the capital requirement for an OTC commodity option cleared by a clearing house recognised by them to be equal to the margin required by the clearing house if they are fully satisfied that it provides an accurate measure of the risk associated with the option and that it is at least equal to the capital requirement for an OTC option that would result from a calculation made using the method set out in the remainder of this Annex	Yes	
36	Para 10, Last three sub-paragraphs, Annex IV 2006/49/EC		In addition they may allow the requirement on a bought exchange-traded or OTC commodity option to be the same as that for the commodity underlying it, subject to the constraint that the resulting requirement does not exceed the market value of the option. The requirement for a written OTC option shall be set in relation to the commodity underlying it.	Yes	
37	Para 14 Annex IV, 2006/49/EC		Financial Regulator may allow positions which are, or are regarded pursuant to paragraph 7 as, positions in the same commodity to be offset and assigned to the appropriate maturity bands on a net basis for the following: (a) positions in contracts maturing on the same date; (b) positions in contracts maturing within 10 days of each other if the contracts are traded on markets which have daily delivery dates.	Yes	
38	Para 2, Part 7, Annex V		The Financial Regulator may, in individual cases and owing to an exceptional situation, waive the requirement to increase the	Yes	Exercise subject to prior written approval from the Financial Regulator

REF NO.	Directive Reference	S.I. Reference	Discretion <sup>6</sup>	EXERCISED BY THE FINANCIAL REGULATOR (Y/N)	SUPPLEMENTARY COMMENT
			multiplication factor by the plus-factor according to Table 1, if the institution has demonstrated to the satisfaction of the Financial Regulator that such an increase is unjustified and that the model is basically sound.		
39	Para 3, part D Annex VII, 2006/49/EC		The Financial Regulator may allow institutions to treat positions that are holdings as set out in Directive [2006/48/EC] Article 57 (l), (m) and (n) in the trading book as equity or debt instruments as appropriate where an institution demonstrates that it is an active market maker in these positions. In this case, the institution shall have adequate systems and controls surrounding the trading of eligible own funds instruments.	No	

## **2.4 Additional Requirements**

### **2.4.1 Exposures to Regional Governments or Local Authorities (Annex VI, Part 1, Para 8-9)**

The Financial Regulator has adopted the 'Sovereign plus one' approach for risk weighting exposures to Irish local authorities. In consequence, exposures to all Irish local authorities attract a risk weighting of 20%. Exposure to Irish local authorities cannot be treated as exposures to central government pursuant to Annex VI, Part 1, Para 9 because they do not meet the stipulated requirements

Institutions can treat exposures to regional governments and local authorities located in other jurisdictions as exposures to central government pursuant to Annex VI, Part 1, Para 9 provided the criteria in that section are met as determined by that jurisdiction's competent authority.

### **2.4.2 Past-Due Exposures Under the Standardised Approach (Annex VI, Para 61)**

The Financial Regulator has set the threshold at €100 or 0.5% of the gross value of the exposure; whichever is higher as the materiality threshold. For institutions that are using the IRBA approach, the Financial Regulator has not set a specific threshold, but expects institutions to take a pragmatic approach. In a situation where an IRBA institution, which is also using the standardised approach for some of its portfolios, if the past-due exposure occurs in a portfolio under the standardised approach, then the institution should apply the treatment outlined above for the standardised approach.

### **2.4.3 Counting the Number of Days Past Due**

Institutions shall use the same definition and methodology for past due as it uses for internal purposes. Appendix 3 to this paper contains an example for illustrative purposes only of counting the number of days past due.

### **2.4.4 Short-Term Exposures (Annex VII, Part 2, Para 13)**

Pursuant to Annex VII, Part 2, Para 13, the Financial Regulator specified the following transactions where the one-year floor for maturity may be waived. These must not be part of the ongoing finance of the borrower but must be one-off or self-liquidating transactions.

- Short-term (less than one year), self-liquidating letters of credit;
- Short-term exposures arising from settling securities purchases and sales, including overdrafts arising from failed transactions that do not continue for more than 7 working days;
- Short-term exposures arising from cash settlements by wire transfer, including overdrafts arising from failed transactions that do not continue for more than 7 working days;
- Exposures to institutions arising from foreign exchange settlements.

### **2.4.5 Amended Solo Requirement**

Pursuant to the discretion contained in Article 70(1) [Reg. 14(1) of S.I. No. 661 of 2006], the Financial Regulator has determined that institutions will only be permitted to avail of this discretion if the qualifying criteria of Article 70 [Reg. 14 of S.I. No. 661 of 2006] are met. When assessing whether the criteria are met, the institution must be able to demonstrate the following:

1. The risk evaluation, measurement and control procedures of the parent undertaking cover the subsidiary. In practice this means that credit, market, operational and liquidity risk are centrally managed;
2. That by virtue of its shareholding in the subsidiary, and the voting rights attached to such, the subsidiary is under the effective control of the parent.

This means in particular that the parent can exercise the right to appoint or remove a majority of the members of the Board of the subsidiary, and/or pass a resolution to wind up the company. Therefore the Financial Regulator requires that the parent control at least 75% of the voting shares;

3. The subsidiary's material exposures or material liabilities are to the parent institution;
4. There exists no current or foreseen practical or legal impediments to the repayment of capital or funds to the parent. In the case of non-Irish subsidiaries, this must be supported by an external legal opinion.

In assessing compliance with the criteria of 4, the Financial Regulator will, inter alia, take the following into consideration:

- The existence of regulatory requirements that potentially impact on the ability of the subsidiary to transfer funds or repay liabilities promptly;
- Whether the legal structure of the subsidiary prejudices the prompt transfer of funds or repayment of liabilities;
- The existence of any contractual relationships entered into by the subsidiary, which may prejudice the prompt transfer of funds or repayment of liabilities;
- Reputational risk to the institution or subsidiary that may be caused by the transfer of funds or repayment of liabilities; and
- Availability of assets in the subsidiary for transfer or liquidation for the purposes of the transfer of funds or the repayment of liabilities.

# 3 Pillar 1 IRB

## 3.1 Overview

This section of the Notice sets out the Financial Regulator's requirements pursuant to Regulations 29-35 of S.I. No. 661 of 2006 and Regulation 15 of SI No. 660 of 2006 pertaining to the application and use of the Internal Ratings Based Approach (IRBA) for the calculation of credit risk capital.

## 3.2 IRBA Model Application

Institutions intending to apply to the Financial Regulator to use an IRBA approach must follow the process and requirements for IRBA as outlined in the paper regarding IRBA Application Criteria. This document is available upon request from the Financial Regulator.

## 3.3 Exercise of IRBA Discretions

Exercise of the following discretions is subject to prior written approval from the Financial Regulator in advance of submission of institutions' IRBA application:

- Article 84(2) (Reg. 29[3 & 4] of S.I. No. 661 of 2006)
- Article 85 (Reg. 30 of S.I. No. 661 of 2006)
- Article 89(1) (Reg. 34[1 & 2] of S.I. No. 661 of 2006)
- Article 154(2) (Reg. 82[2] of S.I. No. 661 of 2006)
- Article 154(3) (Reg. 82[3] of S.I. No. 661 of 2006)
- Annex VII Part 4, Para 56, 66, 71, 86, 95 & 100 (Reg. 35 of S.I. No. 661 of 2006).



The above discretions are also detailed in Section 2 of this paper. Supplementary information with respect to the exercise of these discretions is also set out in the IRBA application criteria.

## 4 Pillar 2

### 4.1 Overview

This section of the Notice sets out the Financial Regulator's requirements pursuant to Regulation 65 of S.I. No. 661 of 2006 pertaining to the arrangements and processes institutions have in place to assess and maintain on an on-going basis the amounts, types and distribution of internal capital that they consider adequate to cover the nature and level of the risks to which they are or might be exposed. These arrangements and processes are hereinafter referred to as the Internal Capital Adequacy Assessment Process or ICAAP.

### 4.2 Submission of ICAAP Data

The Financial Regulator will require from time to time that institutions shall submit data about their Internal Capital Adequacy Assessment Process. This data will be provided through a template that the Financial Regulator will forward to institutions for the purposes of submission.

### 4.3 Timing of Submission in 2007

Credit institutions licensed under the Central Bank Act, 1971 that adopt the CRD standardised approach to credit risk in 2007 shall submit ICAAP data<sup>7</sup> to the Financial Regulator through the appropriate template 6 months prior to the date they use the approach for the calculation of regulatory capital.

Credit institutions licensed under the Central Bank Act, 1971 that adopt an IRB approach to credit risk in 2007 and for which the Financial Regulator is their

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<sup>7</sup> Institutions that plan to move to the CRD capital framework prior to June 2007 were previously advised of submission timelines.

consolidating supervisor, shall submit ICAAP data to the Financial Regulator through the appropriate template at the same time as their IRB model application submission.

Credit institutions licensed under the Central Bank Act, 1971 that adopt an IRB approach to credit risk in 2007 but for which the Financial Regulator is not their consolidating supervisor, shall submit ICAAP data to the Financial Regulator through the appropriate template at the same time as their parent submits their IRB model application.

Investment firms are required to have an ICAAP in place at the firm's adoption of the CRD capital framework. Investment firms are not required to submit the ICAAP template prior to the switchover.

## **4.4 Completeness of Template**

Credit Institutions shall complete **all** sections of the template and provide information about ICAAP processes, policies and procedures as they are at the time the template is populated.

The complexity of each credit institution should be reflected within the comprehensiveness of each response provided.

Credit institutions should also be able to demonstrate through the ICAAP submission and subsequent supervisory contact that their ICAAP complies with the CRD and is consistent with CEBS guidelines.

# 5 Operational Risk

## 5.1 Operational Risk

Institutions should be guided by the paper published by the Basel Committee entitled ‘Sound Practices for the Management of Operational Risk.’

## 5.2 Definition of Gross Income for Operational Risk

The calculation of the operational risk charge under the Basic Indicator Approach (BIA) and the Standardised Approach (TSA) to operational risk is based on a three-year average of an institution’s gross income. CEBS GL10 states that the competent authority may permit institutions to use a different calculation method in exceptional circumstances<sup>8</sup>. Institutions should note that the use of such derogation from the calculation is subject to prior written approval from the Financial Regulator.

## 5.3 Use of the Standardised Approach [TSA]

The Financial Regulator requires all institutions to provide formal written notification of their intention to use the standardised approach. This should be provided at least three months before the institution intends to use the approach for regulatory capital calculation purposes. Institutions shall complete a self assessment to demonstrate compliance with the criteria qualifying criteria specified in Annex X, Part 2, Paragraph 12 of Directive 2006/48/EC in advance of notification. This self-assessment and supporting document should be made available to the Financial Regulator upon request.

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<sup>8</sup> See also Para 1, Part 2, Annex X of Directive 2006/48/EC

# 6 Pillar 3

## **6.1 Institution's Internal Policy**

Article 145.3 (Reg. 72[3] of S.I. No. 661 of 2006) requires an institution to have a policy statement articulating how it proposes to comply with the disclosure requirements. Institutions are required to have this policy statement when they move on to the CRD capital framework. The Financial Regulator reserves the right to request a copy of an institutions' internal Pillar 3 policy, but will not require institutions to submit the policy for approval prior to moving on to the CRD capital framework.

## **6.2 Certification with Disclosure Requirements**

Pursuant to Article 147 of Directive 2006/48/EC (Reg. 74 of S.I. No. 661 of 2006), institutions are required to certify to the Financial Regulator on an annual basis that they have complied with the disclosure requirements as outlined in the CRD. This should take the form of a letter, which should outline the location of the disclosures and areas in which summary information was submitted for data that was deemed proprietary or confidential.

## **6.3 Date of First and Subsequent Disclosure**

Pursuant to Article 149 (Reg. 76 of S.I. No. 661 of 2006), the Financial Regulator requires that institutions make their first Pillar 3 disclosures no later than 12 months after their transition to the CRD. For subsequent disclosures, institutions are required to make their Pillar 3 disclosures on an annual basis aligned to the institution's annual reporting cycle.

## **6.4 Reporting Requirements applicable to Subsidiaries**

By way of guidance the Financial Regulator would consider that subsidiaries of EU parent institutions that represent 5% or more of group assets and/or have market share in any sector or group of connected sectors, which is greater than or equal to 20%, constitute a significant subsidiary pursuant to Annex XII, Part 1, Para 5.

Subsidiaries of third country parent institutions are required to make Pillar 3 disclosures. The Financial Regulator will consider applications for exemptions from making the disclosure requirements on an individual basis where subsidiaries of third country parent institutions are included within comparable disclosures made on a consolidated basis by a third country parent undertaking. Such an application should satisfy the Financial Regulator regarding the comparability of disclosures and advise as to their location.

# 7 Specialised Lending

Article 86(6) of Directive 2006/48/EC (Reg. 31[7] of S.I. No. 661 of 2006) outlines a sub-section of the corporate exposure class, specialised lending, for institutions adopting the IRB approach. Exposures generally regarded as specialised lending include project finance, certain forms of residential and commercial real estate transactions, commodities finance and object finance. However, such lending will only be deemed 'specialised' if it meets the criteria of the CRD. Appendix 2 to this Notice provides additional clarity.

CEBS GL10 envisages some flexibility, stating that, while all three criteria should be met in substance, they need not necessarily be met in form. The reason for this is that, unless there is flexibility, some exposures may not have a home under the IRB framework. Take, for example, a company that embarks in project finance activities. If an institution has three separately collateralised exposures to this company, each tied to the underlying assets and the income they generate, the contractual arrangements of the loans may mean that one loan could default without the others also defaulting or being deemed to be in default. In this case, the institution may rate the transactions in such a way that estimates of PD and LGD are conflated. So it cannot use the corporate IRB approach. But it cannot use the supervisory slotting criteria approach either because, according to the definition, such exposures are not specialised lending. The only alternative, in the absence of some flexibility over the definition, would be for these exposures to remain on the standardised approach. This defeats the purpose of increased risk sensitivity, particularly if the means by which the borrower rates such counterparties is sound and implemented with integrity.

The Financial Regulator is willing to take a pragmatic approach. Institutions should set out the approach they have taken to the categorisation of their specialised lending exposures as part of their application for use of IRB.

# Appendix 1

## List of Notices to support the pre-CRD Framework for Credit Institutions

### Notices:

BSD S 1/05	Multi-Lateral Development Banks – An Amendment to the Implementation of EC Own Funds and Solvency Ratio Directives BSD S 1/00
BSD S 1/04	Alternative Capital Instruments: Eligibility as Tier 1 Capital
BSD S 03/04	The Risk Weighting of Asset Backed Securities
BSD S 2/04	Regulatory Treatment of Credit Derivative Contracts
BSD S 1/00	Own Funds Directive 89/299/EEC as amended & Solvency Ratio Directive 89/647/EEC as amended
BSD S 1/95	Amendment to Directive 92/121/EEC – Large Exposures Administrative Notice February 1994 – Large Exposures Directive 92/121/EEC
BSD S 2/00	Capital Adequacy Directive 93/6/EEC as amended
BSD C 1/02	Exemptions granted under Section 8(2) of the Central Bank Act, 1971

### Other Documents:

Requirements for the Management of Liquidity Risk and Appendices  
Licensing and Supervision Requirements and Standards for Credit Institutions  
Asset Securitisation Notice  
Code of Practice on the Transfer of Mortgages  
Regulatory Document on Impairment Provisions for Credit Exposures and  
Appendices



## List of Notices to support the pre-CRD Framework for Investment Firms

EU Directive on the Capital Adequacy of Investment Firms and Credit Institutions  
(93/6/EEC of 15 March 1993) Implementation for Investment Firms.

EU Directive (96/10/EC of 21 March 1996) on Recognition of Contractual Netting  
Implementation for Investment firms

## Appendix 2

### ***Risk weighed SL Exposures - Guidance***

*While part of the corporate exposure class, Article 86(6) (Reg. 31[7] of S.I. No. 661 of 2006) is clear in requiring institutions separately to identify specialised lending exposures. Institutions should have policies and procedures in place to do this. In terms of capital requirements, institutions can use the corporate risk weight curve if, and only if, they can meet the requirements for the estimation of probability of default (PD). Crucially, this means that their estimates of PD must be borrower specific, and not conflated with transaction specific factors. The simplest way of looking at this is if an institution has two asset-backed loans to the same borrower, out of which it derives two separate estimates of PD, it is conflating estimates of PD and loss given default (LGD) and cannot use the corporate risk weight. If the institution can meet the requirements for estimation of PD, it may use the foundation corporate approach or the advanced approach if it also meets the requirements for estimation of LGD.*

*If institutions cannot meet the requirements for estimation of PD, and the exposure is specialised, they must use the risk weight buckets outlined in Annex VII, Part 1 paragraph 6 of Directive 2006/48/EC. In assigning exposures to these risk buckets, institutions should refer to the 'supervisory slotting criteria' outlined in the revised Basel II Accord (Annex VI). The Financial Regulator will review the means by which institutions assign exposures to risk buckets as part of its overall assessment of a firm's application to use an IRB approach. The Financial Regulator has stated that it will adopt the discretion to permit specialised lending exposures to be assigned to preferential risk weight buckets if the underlying exposures and the institution's underwriting practices are sufficiently strong. Again, this will be reviewed as part of the institution's application for use of an IRB approach.*

## Appendix 3

### Counting the Number of Days Past Due - Guidance

*For example, under a mortgage obligation, if repayment on 1 January was missed, but repayments were made in February and March, the obligation need not be called in default on 1 April (90 days down). Instead, February's repayment can be seen as extinguishing January's repayment, March's repayment extinguishing February's, etc. So, in this case, the obligation is a rolling 30 days down. Taking this example further, if April's payment is missed, but May's is made, the obligation may only be in default if June's payment is missed. A similar approach can be taken with part payments; so long as the institution is receiving money to extinguish a significant portion of a debt before it becomes 90 days past due, an institution is free to record this in its systems as delinquent rather than in default.*

# Appendix 4

- AMA:** Advanced Measurement Approach.
- ASA:** Alternative standardised approach
- CRD:** Capital Requirements Directive, including its Annexes – comprising the recast of Directive 2000/12 (Act 1) and recast Directive 93/6 (Act 2).
- CEBS:** Committee of European Banking Supervisors (CEBS)
- CF:** Conversion Factor
- CIU:** Collective Investment Undertaking
- CRE:** Commercial Real Estate
- EAD:** Exposure at Default
- EBR:** Expenditure Based Requirement
- ECAI:** External Credit Assessment Institutions
- EPE:** Expected Positive Exposure
- GL10:** CEBS’s guideline paper “Guidelines on the implementation, validation and assessment of Advanced Measurement (AMA) and Internal Ratings Based (IRB) Approaches” (GL10), issued 4 April 2006.
- ICAAP:** Internal Capital Adequacy Assessment Process.
- IMM:** Internal Models Method (e.g. Expected Positive Exposure models).
- IRBA:** Internal Ratings-Based Approach.
- LE:** Large Exposures
- LGD:** Loss Given Default.
- LTV:** Loan to Value
- OpR:** Operational Risk
- OTC:** Over the Counter
- PD:** Probability of Default.
- PSE:** Public Sector Entity
- RRE:** Residential Real Estate
- SL:** Specialised lending
- SME:** Small to medium sized entity
- TSA:** the standardised approach
- VaR:** Value-at-Risk

# Appendix 5

In August of 2006, competent authorities across Europe reached a shared view on Moody's Investor Services, Standard & Poors Ratings Services and Fitch Ratings that institutions could use the ratings of all three agencies for determining the risk weight of their exposures<sup>9</sup>. In addition, competent authorities had also reached agreement regarding the mapping of the agencies ratings into the credit quality scales provided in the CRD. The following tables outline the result of this process.

## Standard & Poors Rating Services:

Credit Quality Step	S&P's Assessment	Corporate	Institution (includes banks)	Institution (includes banks)	Institution (includes banks)	Sovereign
			Sovereign Method	Credit Assessment Method	Credit Assessment Method	
				Maturity > 3 months	Maturity 3 months or less	
1	AAA to AA-	20%	20%	20%	20%	0%
2	A+ to A-	50%	50%	50%	20%	20%
3	BBB+ to BBB-	100%	100%	50%	20%	50%
4	BB+ to BB-	100%	100%	100%	50%	100%
5	B+ to B-	150%	100%	100%	50%	100%
6	CCC+ and below	150%	150%	150%	150%	150%

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<sup>9</sup> Institutions that choose not to make use of ECAI ratings should use the that do not intend to make use of ECAI ratings are permitted to do so and use the risk weighting that is reserved for unrated entities as outlined in Annex VI of the CRD.

### Moodys Investor Services:

Credit Quality Assessment	Moody's Assessment	Corporate	Institution (includes banks)	Institution (includes banks)	Institution (includes banks)	Sovereign
				Credit Assessment Method	Credit Assessment Method	
				Maturity > 3 months	Maturity 3 months or less	
1	Aaa to Aa3	20%	20%	20%	20%	0%
2	A1 to A3	50%	50%	50%	20%	20%
3	Baa1 to Baa3	100%	100%	50%	20%	50%
4	Ba1 to Ba3	100%	100%	100%	50%	100%
5	B1 to B3	150%	100%	100%	50%	100%
6	Caa1 and below	150%	150%	150%	150%	150%

### Fitch Ratings:

Credit Quality Step	Fitch's Assessment	Corporate	Institution (includes banks)	Institution (includes banks)	Institution (includes banks)	Sovereign
			Sovereign Method	Credit Assessment Method	Credit Assessment Method	
				Maturity > 3 months	Maturity 3 months or less	
1	AAA to AA-	20%	20%	20%	20%	0%
2	A+ to A-	50%	50%	50%	20%	20%
3	BBB+ to BBB-	100%	100%	50%	20%	50%
4	BB+ to BB-	100%	100%	100%	50%	100%
5	B+ to B-	150%	100%	100%	50%	100%
6	CCC+ and below	150%	150%	150%	150%	150%

### Short term Mapping [Standardised approach]

Credit Quality Step	Fitch	Moody's	S & P	Risk Weight
1	F1+, F1	P-1	A-1+, A-1	20%
2	F2	P-2	A-2	50%
3	F3	P-3	A-3	100%
4	Below F3	NP	All short-term ratings below A-3	150%
5				150%
6				150%

The relevant tables regarding Securitisation are as follows:

Long term mapping: Standardised Approach

Credit Quality Step	Risk Weights	Fitch	Moody's	S&P
1	20%	AAA to AA-	Aaa to Aa3	AAA to AA-
2	50%	A+ to A-	A1 to A3	A+ to A-
3	100%	BBB+ to BBB-	Baa1 to Baa3	BBB+ to BBB-
4	350%	BB+ to BB-	Ba1 to Ba3	BB+ to BB-
5	1250%	B+ and below	B1 and below	B+ and below

Long term mapping: IRB Approach

Credit Quality Step	Risk Weights			Credit Assessments		
	Most senior tranche	Base	Non-granular pool	Fitch	Moody's	S & P
1	7%	12%	20%	AAA	Aaa	AAA
2	8%	15%	25%	AA	Aa	AA
3	10%	18%	35%	A+	A1	A+
4	12%	20%	35%	A	A2	A
5	20%	35%	35%	A-	A3	A-
6	35%	50%	50%	BBB+	Baa1	BBB+
7	60%	75%	75%	BBB	Baa2	BBB
8	100%	100%	100%	BBB-	Baa3	BBB-
9	250%	250%	250%	BB+	Ba1	BB+
10	425%	425%	425%	BB	Ba2	BB
11	650%	650%	650%	BB-	Ba3	BB-
Below 11	1250%	1250%	1250%	Below BB-	Below Ba3	Below BB-

Short-term mapping: Standardised Approach

Credit Quality Step	Risk Weight	Fitch	Moody's	S & P
1	20%	F1+, F1	P-1	A-1+, A-1
2	50%	F2	P-2	A-2
3	100%	F3	P-3	A-3
All other credit assessments	1250%	Below F3	NP	All short term ratings below A-3

Short-term mapping: IRB Approach

Credit Quality Step	Risk Weights			Credit Assessments		
	Most Senior Tranche	Base	Non-granular Pool	Fitch	Moody's	S & P
1	7%	12%	20%	F1+, F1	P-1	A-1+, A-1
2	12%	20%	35%	F2	P-2	A-2
3	60%	75%	75%	F3	P-3	A-3
All other credit assessments	1250%	1250%	1250%	Below F3	All short term ratings below A3, P3 and F3	All short term ratings below A-3

The relevant tables regarding CIUs are as follows:

<b>Credit Quality Step</b>	<b>Risk Weights</b>	<b>Fitch</b>	<b>Moody's</b>	<b>S&amp;P Principal Stability Fund Ratings</b>	<b>S&amp;P Fund Credit Quality Ratings</b>
1	20%	AAA to AA-	Aaa to Aa3	AAA m to AA-m	AAA f to AA-f
2	50%	A+ to A-	A1 to A3	A+m to A-m	A+f to A-f
3	100%	BBB+ to BBB-	Baa1 to Baa3	BBB+m to BBB-m	BBB+f to BBB-f
4	100%	BB+ to BB-	Ba1 to Ba3	BB+m to BB-m	BB+f to BB-f
5	150%	B+ to B-	B1 to B3	B+m to B-m	B+f to B-f
6	150%	CCC+ and below	Caal and below	CCC+m and below	CCC+f and below



# Appendix 6

The table below lists all type A Competent Authority discretions sequentially as per the CRD and cites the reference for each as per Section 2 of this Notice.

<b>Directive Reference</b>	<b>S.I. Reference</b>	<b>Doc Ref.</b>
<b>2006/48EC</b>		
Art 70(1)	Reg. 14(1)	1
Art 72(3)	Reg. 16(5)	114
Art 80(7)	Reg. 24(9-10)	4
Art 80(7)(a)	Reg. 24(9)(a)	5
Art 81(3)	Reg. 25(4)	6
Art 82(2)	Reg. 26(2)	7
Art 83(2)	Reg. 27(3)	8
Art 84(1)	Reg. 29(1)&(2)	25
Art 84(2)	Reg. 29(4)	26
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