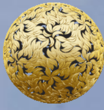

Banc Ceannais na hÉireann
Central Bank of Ireland
Eurosystem

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Consultation on Competent Authority Discretions and Options in CRD IV and CRR

Consultation Paper CP 74

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Chapter 1: Overview

1.1. This consultation paper signals the Central Bank of Ireland's (the Bank's) proposed approach and perspectives in relation to provisions contained within the Capital Requirements Directive IV (CRD IV)[1] and Capital Requirements Regulation (CRR),[2] where the competent authority can or must exercise its discretion. This consultation paper thus encompasses competent authority discretions and options that may apply to credit institutions and investment firms[3] (hereinafter referred to as 'institutions', except where otherwise specified), as well as those specific to credit institutions or investment firms.

Context

1.2. In the wake of the global financial crisis, the Group of 20 (G20) major economies resolved to reform the international financial regulatory architecture and to considerably bolster substantive regulation across a number of key areas; including in relation to minimum capital and liquidity requirements for institutions.[4] Accordingly, the G20 mandated the Basel Committee on Banking Supervision (BCBS) to formulate a new framework in this area, culminating in the Basel III International Regulatory Framework for Banks (Basel III) and subsequent supplementary standards.[5] CRD IV and CRR represent the European Union's (EU) implementation of Basel III. CRD IV and CRR were agreed and finalised under the Irish Presidency of the Council of the EU January-June 2013.

Key Aims of CRD IV and CRR

1.3. The global financial crisis exemplified the systemic financial risks that can be generated by, for instance, inadequate and poor quality capitalisation and liquidity at institutions,

[1] Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on the access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms and repealing Directives 2006/48/EC and 2006/49/EC [2013] OJ L 176/338.
[2] Regulation (EU) 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 [2013] OJ L 176/1.
[3] Generally the term 'investment firm' is used throughout the consultation paper to refer to investment firms as defined in point 2 of Article 4(1) CRR. However, Chapter 12 of the paper is relevant to all firms authorised under S.I. No 60 of 2007, the European Communities (Markets in Financial Instruments) Regulations 2007.
[4] See, e.g., G20, *Declaration on Strengthening the Financial System* (London, 2 April 2009) [http://www.g20.utoronto.ca/2009/2009ifi.pdf].
[5] See, e.g., Basel Committee on Banking Supervision, *International Regulatory Framework for Banks* [http://www.bis.org/bcbs/basel3.htm].

exacerbated where an institution is deemed 'too-big-to-fail'; insufficient checks on the propagation of credit bubbles and pro-cyclicality; perverse incentives and reward systems; informational asymmetries; and constrained regulatory powers.

1.4. Therefore, CRD IV and CRR:

- Enhances the level and quality of institutions' regulatory capital;
- Gives regulators a broader range of tools to combat emerging cyclical and macroprudential risks;
- Introduces additional and more stringent corporate governance requirements;
- Imposes additional disclosure obligations on institutions, including in relation to leverage;
- Establishes a basis for common EU liquidity requirements;
- Introduces stricter risk-weights primarily targeted at the trading book;
- Adds new sanctioning powers for regulators; and
- Fosters the development of a 'Single Rulebook' in relation to the authorisation and supervision of institutions operating across the EU.

Transposition and Implementation

1.5. CRD IV and CRR will apply from 1 January 2014 and will replace Directives 2006/48/EC [6] and 2006/49/EC [7] (taken together, hereinafter referred to as 'the current CRD'). These two Directives have constituted the EU's capital requirements regime since 2007 and were implemented in Ireland through statutory instruments; primarily the European Communities (Capital Adequacy of Investment Firms) Regulations 2006 (S.I. 660/2006)[8] and the European Communities (Capital Adequacy of Credit Institutions) Regulations 2006 (S.I. 661/2006).[9] These were also supplemented by the Bank's 'Implementation of the CRD' Regulatory Document[10], dated 28 December 2006 and updated in January 2011.

1.6. CRD IV, as an EU Directive, will require transposition at national level and certain competent authority discretions and options arise therein. The Department of Finance

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[6] Directive 2006/48/EC of the European Parliament and of the Council of 14 June 2006 relating to the taking up and pursuit of the business of credit institutions (recast) [2006] OJ L 177 (as amended).
[7] Directive 2006/49/EC of the European Parliament and of the Council of 14 June 2006 on the capital adequacy of investment firms and credit institutions (recast) [2006] OJ L 177 (as amended).
[8] As amended.
[9] As amended.
[10] Central Bank of Ireland, *Implementation of the Capital Requirements Directive* (January 2011) [http://www.centralbank.ie/regulation/industry-sectors/credit-institutions/Documents/Implementation%20of%20the%20Capital%20Requirements%20Directive.pdf].

(DoF) is responsible for arranging transposition of CRD IV. CRR is a directly applicable EU regulation and will not necessitate transposition. Nonetheless, a number of competent authority discretions and options also arise within CRR.

1.7. Following consideration of feedback received through this consultation process, it is the Bank's intention to update its current 'Implementation of the CRD' Regulatory Document. The Bank will issue its revised implementation document before end-2013. The Bank's confirmed approach towards the exercise of competent authority discretions and options will be included in that revised implementation document.

Implications of European Banking Authority Outputs

1.8. It should be noted that the implementation of the competent authority discretions and options identified will, in many cases, be subject to binding technical standards (BTS) developed by the European Banking Authority (EBA); which will further specify or calibrate requirements stipulated under CRD IV and CRR. Upon adoption by the European Commission, BTSs enter into force as legally binding EU regulations. Therefore, institutions are obliged to adhere to all such regulations.

1.9. EBA is also mandated to issue guidelines under certain provisions of CRD IV and CRR. Additionally, EBA has launched a Q&A tool[11] to promote consistent application of CRD IV and CRR.

1.10. The Bank expects institutions to adhere to EBA outputs where these are applicable to them. Accordingly, institutions should carefully consider regulations and guidance from EBA, as well as any relevant outputs emanating from the other European Supervisory Authorities (ESAs)[12], to date; and to monitor any additional regulations and guidance as they emerge.

Implications of the Single Supervisory Mechanism

1.11. In furtherance of its 'Banking Union'[13] initiative, in September 2012 the European Commission published Proposals for Regulations on a Single Supervisory Mechanism

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[11] EBA, *Single Rulebook and Q&A* [http://www.eba.europa.eu/single-rule-book-qa#search].
[12] European Securities and Markets Authority (ESMA) and European Insurance and Occupational Pensions Authority (EIOPA).
[13] European Commission, *Banking Union* [http://ec.europa.eu/internal_market/finances/banking-union/index_en.htm].

(SSM) relating to the prudential supervision of credit institutions. Agreement was reached in principle between the EU institutions on the SSM texts in March 2013. As a Eurozone Member State, Irish-licenced credit institutions will fall within the remit of SSM.

1.12. Credit institutions should therefore be mindful that, although the Bank will solely exercise discretions and options afforded to the competent authority under CRD IV and CRR from January 2014, the SSM is empowered to determine the exercise of competent authority discretions and options for significant credit institutions upon commencement of 'effective supervision' under SSM.[14] It is possible that an alternative approach towards the exercise of certain discretions and options may be required for credit institutions in an SSM environment.

The Bank's Statutory Powers and Responsibilities

1.13. In determining its approach towards the exercise of competent authority discretions and options arising within CRD IV and CRR, the Bank will have due regard to its statutory powers and responsibilities;[15] including its objective to prevent potential serious damage to the financial system in the State, to support the stability of that system and to protect the users of financial services.[16]

Scope of this Consultation Paper

1.14. This consultation document is only concerned with national discretions and options that are available to the 'competent authority' (i.e. the Bank) in CRD IV and CRR. Institutions should note that the authority to be responsible for exercising the capital buffers and broader macroprudential discretions and options under CRD IV and CRR (i.e. the 'Designated Authority') has not yet been confirmed by the DoF. If confirmed as the Designated Authority, the Bank will advise on the exercise of the capital buffer and macroprudential provisions in due course. In addition, discretions and options allocated to the 'Member State' in CRD IV and CRR are a matter for the DoF and thus fall outside the scope of this consultation paper.

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[14] See, e.g., Recital 23, Article 4(1) and Article 9(1) of the SSM text [http://register.consilium.europa.eu/pdf/en/13/st09/st09044.en13.pdf].

[15] See, e.g., *Central Bank Acts 1942-2013*; *Central Bank (Supervision and Enforcement) Act 2013* (No 26 of 2013).

[16] Long title, *Central Bank Reform Act 2010* (No 23 of 2010).

1.15. There are over one hundred competent authority discretions in CRD IV and CRR. In many of these cases, the discretion is either mapped from the existing CRD without significant change or is deemed to be non-material for Irish institutions.

1.16. This consultation paper particularly focuses on new competent authority discretions and options arising within CRD IV and CRR. For the avoidance of doubt, the Bank considers that a discretion typically arises where a provision allows a competent authority to implement or not to implement a particular approach. The Bank considers that an option typically allows a competent authority to choose between two or more possible approaches in determining how to comply with a particular provision.

1.17. In considering its position on the CRD IV and CRR discretions and options, the Bank has been guided by the following general principles:

- To adopt a prudent approach to the steady-state provisions;
- To choose the more risk sensitive option, where one is identified;
- To facilitate transition to the new CRR Own Funds requirements;
- Not to adopt new discretions that are of little or no consequence to Irish institutions or the Irish market; and
- To be consistent and transparent in the intended approach, and the reasoning behind it.

1.18. Where it is flagged that a new discretion or option will be exercised on a case-by-case basis, the onus is on the institution to apply for that discretion or option. Each institution should also reapply for the continued application of discretions and options on a case-by-case basis where the associated conditions attaching to the exercise of them have changed. Institutions must apply separately for each of these, which can be achieved by way of itemising each discretion or option sought on the same application to the Bank. The Bank will shortly communicate with institutions on the process for applying for such discretions.

1.19. The Bank is also taking this opportunity to highlight whether or not it is intending to continue with current approaches in relation to certain discretions and options that pre-exist under the current CRD. Where discretions and options, as well as the conditions attaching to them, are unchanged from the existing CRD under CRD IV/CRR, and the

Bank previously exercised these options and discretions on a case-by-case basis, institutions are not required to re-apply for the use of them.

1.20. The Bank is not consulting upon ad-hoc competent authority 'permissions' in CRD IV and CRR.

1.21. The Bank has included a comprehensive list of the competent authority discretions and options that it has identified in CRD IV and CRR in Appendices A and B. For completeness and ease of reference, the Bank has also included reference to discretions and options that may be afforded to 'competent authorities or designated authorities' by Member States under the capital buffers and macroprudential provisions. However, such inclusion should not be interpreted to mean that the Bank is assuming responsibility for these discretions and options. The decision on the appointment of the Designated Authority for the purposes of these provisions is a matter for the DoF.

1.22. New competent authority discretions and options arising within CRD IV, as well as existing discretions and options where conditions associated with them have changed are contained in Appendix A, Part I. Unchanged competent authority discretions and options arising within CRD IV are contained in Appendix A, Part II. New competent authority discretions and options identified within CRR, as well as existing discretions and options where conditions associated with them have changed are contained in Appendix B, Part I. Existing competent authority discretions and options identified within CRR are contained in Appendix B, Part II. Stakeholders are invited to submit comments on the provisions contained in Parts I of Appendices A and B in particular.

1.23. There are also a number of discretions and options within CRD IV and CRR that are predicated upon the decisions of institutions themselves. While these types of provisions are not within the scope of this consultation paper, institutions should remain cognisant that their choices on, and implementation of, such provisions may be reviewed by the Bank.

1.24. This consultation paper does not purport to offer an exhaustive account of all provisions under CRD IV and CRR and should not be interpreted as such. For further information, and avoidance of doubt, institutions are encouraged to consult the CRD IV and CRR texts directly, as well as relevant accompanying guidance issued by, for instance, EBA and the European Commission.

Structure of this Consultation Paper

1.25. Chapter 2 contains a broad overview, for information purposes, of the new capital buffers provisions arising in CRD IV.

1.26. Chapter 3 elaborates new CRD IV corporate governance requirements and competent authority discretions in this area, with reference to the Bank's Review of the Corporate Governance Code.

1.27. Chapter 4 highlights a competent authority discretion in CRD IV relating to recovery and resolution planning requirements for institutions.

1.28. Chapter 5 outlines the concept of supervisory benchmarking of internal models and indicates a competent authority discretion in this area.

1.29. Chapter 6 provides an overview of the competent authority discretions and options relating to the Standardised and Internal Ratings Based Approaches to credit risk respectively.

1.30. Chapter 7 elaborates the key competent authority discretions and options arising in the own funds area and transitional arrangements for own funds.

1.31. Chapter 8 sets out new requirements in the area of leverage.

1.32. Chapters 9 and 10 present competent authority discretions and options in the areas of liquidity, counterparty credit risk and market risk.

1.33. Chapter 11 indicates the Bank's proposed approaches towards certain competent authority discretions pertaining to consolidation arrangements.

1.34. Chapter 12 sets out the Bank's proposed approaches on certain competent authority discretions relevant for investment firms, as well as highlighting a number of provisions that will impact upon investment firms. This is relevant for all firms authorised under SI. 60/2007.

Feedback to this Consultation Paper

1.35. The Bank is committed to clear, open and transparent engagement with stakeholders in fulfilling its financial regulatory and supervisory objectives, particularly when introducing new codes, regulations, standards or guidelines. The Bank's Stakeholder Consultation Protocol can be found on the Bank's website: http://www.centralbank.ie/regulation/poldocs/documents/consultation%20protocol%20final.pdf

1.36. Due to the short period of time between the finalisation of the legal texts and the date of application of CRD IV and CRR, this consultation paper will be subject to the shorter comment period of six weeks. Comments should be sent in writing, and if possible by e-mail, no later than 1 November 2013 to:

For credit institutions and other non-investment firm stakeholders
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1.37. The Bank will send an email acknowledgement to all responses received. If you do not receive this acknowledgement, please contact us on 01-2246000.

1.38. It is the policy of the Bank to publish all responses to its consultations and such responses will be made available on our website. Institutions should thus not include

commercially confidential information in consultation responses and the Bank accepts no liability whatsoever for the content of institutions' consultation responses that are subsequently published by the Bank. We shall not publish any information which we deem potentially libellous or defamatory.

Chapter 2: Capital Buffers

2.1. For information purposes only, the Bank is taking the opportunity in this chapter to highlight the capital buffers provisions in CRD IV, which will be entirely new. However, stakeholders should note that discretions and options arising under these provisions are a matter for the Designated Authority. The appointment of the Designated Authority will be a matter for the DoF.

Capital Buffers

2.2. The global financial crisis exemplified the potential for damaging instability and market failures where macrofinancial conditions stoke pro-cyclicality and credit bubbles. The global financial crisis has also demonstrated the negative externalities which can result from the inadequate capitalisation of, and pooling of risks within, systemically important 'too-big and too-interconnected-to-fail' institutions.

2.3. Therefore, to ensure that institutions are better positioned to counteract these risks in future, CRD IV introduces five new capital buffers that must only be met with the highest quality capital (Common Equity Tier 1).

Capital Conservation Buffer

2.4. The primary objective of the mandatory capital conservation buffer (CCB) of 2.5 per cent under Article 129 CRD IV is to act as a supplementary capital cushion, conserving institutions' core regulatory capital. It will be applicable at both the consolidated and individual levels. The CCB may be subject to phase-in from 2016.

Countercyclical Capital Buffer

2.5. Article 130 CRD IV provides for a countercyclical capital buffer (CCyB), the precise calibration of which will be contingent upon the deviation of the ratio of credit-to-GDP from its long term trend and other variables that are considered relevant for addressing cyclical systemic risk. Accordingly, the CCyB is 'countercyclical' in the sense that it should be activated when excess aggregate credit growth is judged to be associated with a build-up of systemic risk. However, such requirements can also be eased during stressed macro-financial periods.

2.6. In general, jurisdictions may establish a CCyB requirement of between 0 and 2.5 per cent of total risk exposure amount on an individual and consolidated basis, calibrated in steps of 0.25 per cent and set quarterly. Institutions will be required to calculate their own specific CCyB rate as the weighted average of the CCyB rates applicable across the geographical locations (jurisdictions) of their relevant credit exposures. The CCyB may be subject to phase-in from 2016.

Systemic Risk Buffer

2.7. Article 133 CRD IV also allows for the activation of a systemic risk buffer (SRB) in order to stifle threats posed to the real economy by non-cyclical or macroprudential risks. A SRB must be set at a rate of at least 1 per cent, based on the particular exposures to which the SRB applies. Thereafter, a SRB may be set in steps of 0.5 per cent[17] and can be applied to the financial sector generally or specifically calibrated for one or more subsets of the financial sector. A SRB may be applied to domestic exposures, as well as exposures in other EU Member States and third countries. A SRB may be set up to 3 per cent for all exposures and up to 5 per cent for domestic and third country exposures without requiring the prior approval of the European Commission.

Global and Other Systemically Important Institution Buffers

2.8. With the objective of addressing risks associated with ‘too-big and too-interconnected-to-fail’ institutions, Article 131 CRD IV contains capital buffer requirements for ‘global’ and ‘other’ systemically important institutions (G-SIIs and O-SIIs).

2.9. G-SIIs will be identified in accordance with a methodology, which is predicated on certain criteria for determining global systemic significance. Depending on the ‘score’ allotted to possible G-SII institutions under the identification methodology, such institutions will be placed into one of five subcategories (‘buckets’) that will determine the applicable G-SII buffer requirement. G-SII buffers will range between 1 per cent and 3.5 per cent, subject to annual review. G-SII buffers are only applicable at the consolidated (parent) level and identified G-SIIs cannot be subsidiaries. EBA is mandated to further specify certain modalities of the G-SII buffer regime, which will be exercisable from 2016; in accordance with a phase-in period.[18]

[17] See Article 133(9) CRD IV.
[18] See Article 162(5) CRD IV.

2.10. O-SIIs will be identified in accordance with certain criteria for determining significance at the national and regional levels, subject to annual review. It is anticipated that EBA will formulate guidelines in 2015 to further specify the manner in which O-SIIs should be identified. O-SII buffers may be set up to 2 per cent at the consolidated, sub-consolidated or individual levels (see also 2.12. below). Subsidiaries may be subject to an O-SII buffer requirement. The O-SII buffer regime will be exercisable from 2016.[19]

Interactions between Buffers

2.11. Where an institution is subject to a G-SII buffer, an O-SII buffer and a SRB, in general the buffers will not be cumulative and the highest of the three will apply; except where the SRB is only applicable to domestic exposures, in which case the SRB requirement will be cumulative with G-SII and O-SII buffer requirements, where applicable.

2.12. If an O-SII is itself a subsidiary of a G-SII or an O-SII which is a parent institution, its O-SII buffer will be the higher of a) 1 per cent or b) the G-SII or O-SII buffer rate applicable at the consolidated level.

Combined Buffer Requirement

2.13. Institutions will be subject to a 'combined buffer requirement', as defined in Article 128(6) CRD IV, which will constitute a combination of the Common Equity Tier 1 capital required to meet the mandatory CCB and other specified buffer requirements that individual institutions may be subject to (i.e. a CCyB, SRB, G-SII and/or O-SII buffer).

2.14. Institutions will be prohibited from making distributions in relation to Common Equity Tier 1 capital to an extent that would trigger a breach of their combined buffer requirement. Institutions that breach their combined buffer requirement will, before calculating their Maximum Distributable Amount (MDA),[20] be obliged to retain a portion of earnings and to restrict dividends, share buybacks, payments on Additional Tier 1 (AT1) capital instruments, discretionary bonuses and discretionary pension benefits. Institutions in breach of their combined buffer requirement will also have to submit a capital conservation plan to their competent authorities

[19] See Article 162(5) CRD IV.
[20] Article 141 CRD IV.

Chapter 3: Corporate Governance

3.1. In response to corporate governance failures and perverse incentives evidenced by the global financial crisis, CRD IV contains new requirements in the area of corporate governance and certain competent authority discretions arise in this respect. These discretions, and the Bank's proposed approaches in relation to them, are outlined in this section. However, institutions should also refer to the Bank's Corporate Governance Code (and recently proposed revisions to same)[21], as well as the Bank's Fitness & Probity regime[22], for further information on the Bank's expectations in this area generally.

Amalgamated Risk-Audit Committees for Less Significant Institutions

3.2. Article 76(3) CRD IV provides that institutions deemed significant in terms of their size, internal organisation and the nature, scope and complexity of their activities must establish a standalone risk committee composed of non-executive members of the management body.

3.3. In its Consultation Paper on the Review of the Corporate Governance Code (CP 69) the Bank proposes, in paragraph 23.4, that 'The risk committee shall be composed of a majority of non-executive directors'. However please note that the Consultation Paper on the Review of the Corporate Governance Code also proposes, in paragraph 3.6, that 'if a conflict arises between the Code and another corporate governance obligation or standard, the stricter of the obligations or standards should be met so as to ensure compliance with all sets of obligations'.

3.4. The requirement in Article 76(3) CRD IV will be applicable to significant institutions falling within the scope of CRD IV.

[21] Central Bank of Ireland, *Consultation on the Review of the Corporate Governance Code for Credit Institutions and Insurance Undertakings* (CP 69) (August 2013) [http://www.centralbank.ie/regulation/poldocs/consultation-papers/Documents/CP69%20Consultation%20on%20the%20Review%20of%20the%20Corporate%20Governance%20Code%20for%20Credit%20Institutions%20and%20Insurance%20Undertakings/Consultation%20on%20the%20Review%20of%20the%20Corporate%20Governance%20Code%20for%20CIs%20and%20Ins%20Undertakings.pdf]. This consultation will close on 1 October 2013.

[22] Central Bank of Ireland, *Fitness & Probity Regime for Regulated Financial Service Providers* [http://www.centralbank.ie/regulation/processes/fandp/Pages/IntroductiontoFitnessandProbity.aspx].

3.5. However, competent authorities may permit less significant institutions to establish an amalgamated risk-audit[23] committee. The Bank affirms the importance it attaches to the establishment of separate risk and audit committees and is therefore proposing not to exercise this discretion, other than on a case-by-case basis for certain investment firms as outlined in Chapter 12.

The Chairman

3.6. CRD IV elaborates new specific requirements regarding the responsibilities of management bodies of institutions, with the ultimate objective of ensuring 'effective and prudent management of an institution, including the segregation of duties in the organisation and the prevention of conflicts of interest'. In this regard, CRD IV generally prohibits the chairman of a management body from simultaneously exercising the functions of the chief executive officer within that same institution, unless such arrangements can be justified by institutions in individual cases and are authorised by the relevant competent authority; as per Article 88(1)(e) CRD IV.

3.7. The Bank affirms the importance it attaches to the separation of the roles of chairman and chief executive officer, as specified in the Corporate Governance Code. Therefore, the Bank does not propose to exercise this discretion.

Limitations on Directorships at Significant Institutions

3.8. Article 91(3) CRD IV establishes limits to the number and nature of directorships for members of the management bodies of institutions that are considered significant in terms of their size, internal organisation and the nature, scope and complexity of their activities. Accordingly, from 1 July 2014 members of the management bodies of such institutions must not hold directorships amounting to more than one of the following combinations: a) One executive directorship with two non-executive directorships; b) Four non-executive directorships.

3.9. For the purposes of quantifying relevant directorships, Article 91(4) CRD IV stipulates that a single directorship means: a) Executive or non-executive directorships held within the same group; b) Executive or non-executive directorships held within i) institutions which are members of the same institutional protection scheme provided certain conditions are met or ii) undertakings (including non-financial entities) in which the institution holds a qualifying holding. Directorships in organisations which do not

[23] In reference to audit committees under Article 41 of Directive 2006/43/EC.

pursue predominantly commercial objectives are not taken into account for these purposes.

3.10. Article 91(6) CRD IV permits competent authorities to authorise members of the management bodies of significant institutions to hold one additional non-executive directorship. EBA must also be kept informed of such decisions. The Bank affirms the imperative for directors to ensure that they are in a position to devote sufficient time to each of their roles. However, the Bank is proposing to exercise this discretion on a case-by-case basis.

3.11. The Bank's Corporate Governance Code currently permits directors of High Impact designated institutions to hold 3 'financial directorships', meaning directorships in credit institutions and insurance undertakings, irrespective of whether they are executive or non-executive in nature; and up to 5 'non-financial' directorships, meaning directorships in entities other than credit institutions and insurance undertakings; again irrespective of whether they are executive or non-executive in nature. The Bank is currently seeking stakeholder feedback on the provisions in relation to directorship limits in its Corporate Governance Code as part of the Consultation on the Review of the Corporate Governance Code.

3.12. Notwithstanding this, the Consultation Paper on the Review of the Corporate Governance Code states in paragraph 3.6 that 'if a conflict arises between the Code and another corporate governance obligation or standard, the stricter of the obligations or standards should be met so as to ensure compliance with all sets of obligations'.

3.13. For avoidance of doubt significant institutions within the scope of CRD IV will be required to comply with the limits stipulated in Article 91 CRD IV.

Diversity on Management Bodies

3.14. Institutions that are significant in terms of size, internal organisation and the nature, scope and complexity of their activities should, in accordance with CRD IV, foster diversity on their management bodies; particularly with respect to gender balance. Such institutions will be required to formulate a policy promoting diversity on their management bodies. The Bank is currently seeking comments as to whether diversity requirements might also be considered in the revised Corporate Governance Code in its Consultation Paper on the Review of the Code.

Chapter 4: Recovery and Resolution Planning

4.1. The global financial crisis exemplified the dangers of institutions and competent authorities not having appropriate recovery and resolution planning in place. In Ireland, measures have already been taken towards bolstering the recovery and resolution planning regime for credit institutions through the Central Bank and Credit Institutions (Resolution) Act 2011.[24]

4.2. Article 74(4) CRD IV requires that 'recovery plans for the restoration of an institution's financial situation following a significant deterioration, and resolution plans are put in place'. However, the requirements for an institution to draw up, maintain, and update recovery plans and for the resolution authority to prepare resolution plans may be reduced. This discretion may be exercised where the competent authority, following consultation with other relevant authorities, considers that the failure of the institution in question would not exert a negative effect on financial markets, other institutions or funding conditions.

4.3. It is the Bank's intention to exercise its discretion to require compliance with this provision on a proportionate basis. However, institutions are reminded that obligations in this regard may be subject to change over time, particularly in view of further EU legislative initiatives in this area, such as the Recovery and Resolution Directive (RRD)[25] and Single Resolution Mechanism (SRM)[26] proposals.

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[24] No 27 of 2011.
[25] European Commission, *Crisis Management* [http://ec.europa.eu/internal_market/bank/crisis_management/index_en.htm].
[26] European Commission, *Banking Union* [http://ec.europa.eu/internal_market/finances/banking-union/index_en.htm].

Chapter 5: Benchmarking

5.1. In the wake of the global financial crisis, concerns have been expressed about the implications of, and supervisory challenges associated with, deviations in values for risk-weighted assets and own funds requirements generated by institutions' internal models.[27] With a view to identifying and, where necessary, addressing significant deviations between institutions in this regard, CRD IV thus introduces a framework for supervisory 'benchmarking' of internal approaches.

Supervisory Benchmarking of Internal Approaches for Calculating Own Funds

5.2. Article 78(1) CRD IV[28] requires that institutions permitted to use internal models for the calculation of risk weighted exposure amounts or own fund requirements, apart from operational risk, report the results of such calculations to competent authorities at least annually. Such reports must also be accompanied with an explanation of the underlying methodologies used to generate the calculations. The particular exposures or positions that will need to be reported to competent authorities will be those required for inclusion in so-called 'benchmark portfolios'.

5.3. As per Article 78(8) CRD IV, EBA will develop implementing technical standards (ITS) to specify, inter alia, the relevant benchmark portfolio or portfolios referred to in Article 78(1) CRD IV. Competent authorities will be expected to monitor and, if necessary, investigate and instigate corrective action where particular institutions are found to 'diverge significantly from their peers' or where there is 'little commonality in approach leading to a wide variance of results'.

5.4. Article 78(2) CRD IV also provides that competent authorities may, in addition to the 'EBA-developed' benchmark portfolios, develop their own 'specific portfolios' for the purposes of benchmarking internal approaches; subject to consultation with EBA. The Bank is proposing to maintain the flexibility to exercise this discretion

[27] See, e.g., EBA, *Interim Report on the Consistency of Risk-Weighted Assets in the Banking Book* [http://www.eba.europa.eu/-/eba-interim-report-on-the-consistency-of-risk-weighted-assets-in-the-banking-book].
[28] See also Recital 74 CRD IV.

Chapter 6: Credit Risk

6.1. This chapter aims to highlight the Bank's proposed approaches and perspectives in relation to certain aspects of the credit risk provisions in CRR. The global financial crisis starkly demonstrated the risks posed to financial system stability by flawed credit risk-related practices. Hence, the Bank stresses that it is imperative for institutions to ensure that they have accurate and robust credit risk management in place irrespective of whether they are applying the Standardised or Internal Ratings Based (IRB) Approaches.

Credit Risk – Standardised Approach

6.2. The Standardised Approach to credit risk is the default option under the CRD for those institutions either not wishing to use the IRB Approach or not having received approval from the Bank to do so. Even where an institution is on an IRB approach for most of its exposures, it is possible that the Standardised Approach will be of at least some relevance for certain institutions (e.g. those availing of permanent partial use).

6.3. Many of the competent authority discretions in the credit risk area, and on which the Bank is actively seeking views, relate to the Standardised Approach. These are set out in detail in Appendix B, Part I. The objective of the following sections is to highlight the Bank's proposed approach in relation to certain of these discretions.

Third Country Equivalency

6.4. Under Articles 107, 114, 115, 116, 132 and 142 contained in Title II, Chapters 1 and 2 of CRR, the European Commission is afforded discretion to adopt, by way of implementing acts, and subject to the examination procedure referred to in Article 464(2) CRR, a decision as to whether a third country applies prudential supervisory and regulatory requirements at least equivalent to those applied in the Union.

6.5. In the absence of such a decision, until 1 January 2015 institutions are permitted to continue prescribed treatments of third country exposures, provided that the relevant competent authorities had approved the third country as eligible for that treatment before 1 January 2014.

6.6. Solely for the purposes of credit risk, the Bank deems the following third countries to apply prudential supervisory and regulatory requirements at least equivalent to those applied in the EU[29]:

- Australia,
- Canada,
- Singapore,
- Switzerland; and
- United States of America (USA).

6.7. Comments are invited from stakeholders as to whether other third countries should be considered equivalent in this context. Stakeholders submitting comments to this effect should provide detailed justification as to why other third countries apply prudential supervisory and regulatory requirements at least equivalent to those applied in the EU

Exposures to Residential Property

6.8. Unless otherwise decided by competent authorities in accordance with Article 124(2) CRR on financial stability grounds, Article 125 CRR applies a 35 per cent risk weighting to loans fully and completely secured on residential property; subject to fulfilment of certain criteria. Where the relevant criteria are not met, a 100 per cent risk weighting applies.

6.9. The Bank proposes to avail of the discretion under Article 124(2) CRR to set stricter criteria in this area. Accordingly, the Bank proposes to continue to permit a 35 per cent risk weighting for such exposures but only where the loan-to-value (LTV) at market value does not exceed 75 per cent and the residential property is owner-occupied and the other specified conditions are met.

6.10. Any amount above 75 per cent LTV or exposure to a mortgage secured by residential property not meeting the conditions of Article 125 CRR may attract a 75 per cent risk weighting provided the exposure meets certain conditions; including that the relevant amount of the exposure 'does not exceed 1 million Euro in combination with all other owed amounts of exposures to the obligor or group of connected obligors but not taking account of exposures actually treated as secured on real estate property (i.e., meeting

[29] This should also be interpreted to encompass members of the European Economic Area (EEA).

the conditions of CRR Article 125 or Article 126) and assigned to exposure classes accordingly'.[30] In addition, the Bank intends to continue to require that exposures to mortgages secured by residential investment properties would be assigned a risk weight of 75 per cent, provided certain conditions are met.

6.11. The Bank will consult with EBA on its proposed approach with respect to risk weighting for exposures secured by residential property, as required by Article 124(2) CRR. It should also be noted that, as per Article 124(4) CRR, this will be subject to an EBA Regulatory Technical Standard (RTS) on 'financial stability considerations', to be submitted to the European Commission by 31 December 2014.

Exposures to Commercial Property

6.12. Unless otherwise decided by competent authorities on financial stability grounds in accordance with Article 124(2) CRR, Article 126 CRR applies a 50 per cent risk weighting to loans fully and completely secured on commercial property; subject to the fulfilment of specific criteria. Otherwise a risk weight of 100 per cent applies.

6.13. The Bank proposes to avail of the discretion under Article 124(2) CRR to set a higher risk weighting in this area. Therefore, the Bank proposes to continue with its policy under the current 'Implementation of the CRD' Regulatory Document and thereby require 100 per cent risk weighting for such exposures as a matter of course.

6.14. The Bank will consult with EBA on the continuance of its current approach with respect to risk weighting for exposures secured by commercial property, as required by Article 124(2) CRR. It should also be noted that, as per Article 124(4) CRR, this will be subject to an EBA Regulatory Technical Standard (RTS) on 'financial stability considerations', to be submitted to the European Commission by 31 December 2014

Covered Bonds

6.15. Article 129(1)(g), 3rd subparagraph CRR contains a competent authority discretion which would permit the Bank, following consultation with EBA, to allow for covered bonds to be collateralised by exposures to institutions of a particular credit quality ('credit quality step 2', as set out in CRR), up to 10 per cent of the total exposure of the nominal amount of outstanding covered bonds of the issuing institution; provided that

[30] In particular, that it satisfies the definition of 'retail exposure class' under Article 123 CRR. In this respect, please see CRDTG Question 593 and Response (http://ec.europa.eu/yqol/index.cfm?fuseaction=question.show&questionId=593)

concentration risks can be documented. The Bank is proposing to exercise this discretion. However, the Bank also affirms that it expects relevant institutions to continue to fully adhere to all other applicable requirements in this area, including the Bank's Regulatory Notices issued under the Asset Covered Securities Act (as amended).[31]

6.16. The Bank is also taking this opportunity to highlight a new provision under Article 129(7) CRR. This provision stipulates that exposures in the form of covered bonds will only be eligible for relevant preferential treatment if a) institutions investing in such instruments can demonstrate to competent authorities that they are in receipt of certain information facilitating a due diligence assessment and b) issuers of covered bonds render such information available to investors at least semi-annually.

Credit Risk - The Internal Ratings-Based Approach

6.17. The Bank confirms that its updated CRD Implementation Document, to issue in late 2013, will include revised guidance on procedures for IRB model applications and permissions under CRR.

Maturity

6.18. In the past, the Bank required all credit institutions approved to use IRB Models to apply the alternative calculation of maturity to each exposure as specified in Annex VII of 2006/48/EC, Part 2, paragraphs 13-14. Article 162(1) paragraph 2 CRR states that competent authorities may, as part of the permission to use IRB Models, require an institution that has not received permission to use own LGDs and own conversion factors for exposures to corporates, institutions or central governments to use an alternative calculation of maturity (M) for each exposure to that laid down in Article 162(1). For the avoidance of doubt, credit institutions currently approved to use IRB Models should continue to apply the alternative calculation of M for each exposure.

Default of an Obligor

6.19. Pursuant to Article 178(1)(b) CRR competent authorities may supplant 90 days with 180 days past due for the purposes of determining default of an obligor with respect to exposures secured by residential or SME commercial real estate in the retail exposure class, as well as in relation to exposures to public sector entities (PSEs).

[31] See, e.g., Central Bank, *Regulatory Notices* [http://www.centralbank.ie/regulation/industry-sectors/credit-institutions/Pages/requirements-guidance.aspx].

6.20. The Bank confirms that it will not be exercising this discretion and considers that 90 days past due is an appropriate backstop definition of default across all exposure classes.

Chapter 7: Own Funds

7.1. This chapter highlights the Bank's proposed approaches and perspectives in relation to certain own funds provisions in CRR.

7.2. The global financial crisis illustrated that sufficiently plentiful and high quality capital is crucial to ensuring that institutions are better able to weather business model risks, as well as broader financial system shocks.

7.3. In furtherance of that objective, CRR and CRD IV will introduce a new capital requirements regime. This regime will require, inter alia, that the share of total regulatory capital of institutions (8 per cent), excluding buffers (see chapter 2 herein), which must be comprised of the highest quality and most loss absorbing form of capital (Common Equity Tier 1) will increase from a possible 2 per cent at present to 4.5 per cent under CRR. Moreover, CRR will be more prescriptive on the specific criteria that individual capital instruments will be required to satisfy before they may be approved for inclusion in Common Equity Tier 1 (CET1) or in other tiers (i.e. Additional Tier 1 (AT1) or Tier 2). Tier 3 capital will cease to exist under CRR.

7.4. The new competent authority discretions in the area of Own Funds are concentrated in the transitional provisions in Part Ten of the CRR, as indicated in sections 7.13-7.31 below. Before turning to the most significant of these, it is worth noting that there are a number of other discretions in the Recitals and Part Two of the CRR.

Pre-approval of Capital Instruments

7.5. Competent authorities are required to evaluate whether issuances of Common Equity Tier 1 ('CET1') instruments meet the criteria set out in Article 28 or, where applicable, Article 29 CRR. With respect to issuances after 28 June 2013, institutions shall classify capital instruments as Common Equity Tier 1 instruments only after permission is granted by the competent authorities.

7.6. Recital 75 CRR clarifies that competent authorities may also maintain pre-approval processes regarding contracts governing Additional Tier 1 and Tier 2 capital instruments, with such capital instruments only recognisable by the institution as Additional Tier 1 capital or Tier 2 capital once they have successfully completed these approval processes.

7.7. The Bank intends to require all new capital instruments and any associated arrangements to have received its prior permission before they may be included in Own Funds. In cases other than the issuance of ordinary shares, including amendment of the effective terms and conditions of Own Funds instruments, the Central Bank will require 30 days' notice, starting from the point at which all necessary information has been provided to the Bank. 'Necessary information" shall comprise a full description of the proposed issuance, accompanied by a legal confirmation addressed to the Bank from an external advisor of sufficient standing and experience in the area of financial services law. That confirmation must unequivocally state that the institution is entitled to recognise the proposed issue within the relevant tier of capital because it and its associated arrangements meet the applicable CRR eligibility criteria. The legal confirmation should take relevant draft and finalised technical standards into account and, in particular, should treat relevant EBA outputs (e.g. Guidelines, Recommendations and Q&As) as if they were binding.

7.8. It is intended that that BSD S 1/04 'Alternative Capital Instruments: Eligibility as Tier-1 Capital'[32] will be discontinued as of 31 December 2013.

Risk Weighting and Prohibition of Qualifying Holdings outside the Financial Sector

7.9. Under Regulation 62 of S.I. 661 of 2006, thresholds of own funds are specified which may not be exceeded by the qualifying holdings of a credit institution, other than on an exceptional basis. Under such exceptional circumstances, the Bank shall require the credit institution to increase its own funds or take equivalent measures.

7.10. Under Article 89(3) CRR, competent authorities are afforded the option to require a) the application of a 1,250 per cent risk weight to qualifying holdings in excess of specified thresholds or b) to prohibit holdings which incur such excesses. The Bank proposes to opt for a).

Initial Capital Requirements on Going Concern Basis

7.11. Article 93(6) CRR allows the Bank to prohibit certain institutions from having a level of own funds which falls below their initial capital requirement. The Bank is proposing to exercise this discretion on a case-by-case basis.

[32] Central Bank of Ireland, *Credit Institutions: Alternative Capital Instruments: Eligibility as Tier 1 Capital* (BSD S 1/04) [http://www.centralbank.ie/regulation/industry-sectors/credit-institutions/Documents/Alternative%20Capital%20Instruments%20%20Eligibility%20as%20Tier%201%20Capital%20%20BSD%20S%201%2004.pdf].

Reporting on Own Fund Requirements and Financial Information

7.12. Article 99(3) CRR is a discretion available to the Bank to require credit institutions reporting own funds on a consolidated basis in accordance with international accounting standards to also report financial information (FINREP). The Bank will require all Irish-licensed credit institutions to report financial information in the form of FINREP on a solo basis also.

Transitional Provisions for Own Funds

7.13. Under Article 465(1)(a) CRR, the Bank is entitled to determine the phase-in rate for CET1 and Tier 1. The Bank confirms that institutions will be required to hold a minimum level of CET1 of 4% and a minimum level of Tier 1 of 5.5% starting 1 January 2014. By 1 January 2015, all institutions must meet the CRR full phase-in requirement of 4.5% CET1 and 6% Tier 1.

7.14. The Bank proposes that ineligible non-state aid capital instruments and items will be 'grandfathered' within CET1, AT1 and Tier 2 at the following rates, with full de-recognition from 2022:[33]

CRR	Applicable percentage for determining the limits for grandfathering of items within CET 1, AT1 and Tier 2 items (% within the specified range)	Year	Proposed Treatment
Article 486(2)	60% to 80%	2014	80%
	40% to 70%	2015	70%
	20% to 60%	2016	60%
	0% to 50%	2017	50%
	0% to 40%	2018	40%
	0% to 30%	2019	30%
	0% to 20%	2020	20%
	0% to 10%	2021	10%

7.15. Under the fully-phased-in CRR, recognition in consolidated CET1 of capital instruments and reserves deriving from subsidiaries is more limited than under the current CRD. Subsidiary capital instruments and items will be mirrored at consolidated level in the tier in which they are recognised at subsidiary level, rather than all flowing

[33] Please note that the percentage rates included in the Own Funds tables under "proposed treatment" are applicable as of 1 January of each year specified.

through to consolidated CET1 reserves. Recognition in consolidated capital will only be given to capital instruments and items that are issued by an institution or an undertaking subject to the CRR/CRDIV which is included in the regulatory consolidation and, in the case of capital instruments, where they are held by third parties.

7.16. Pursuant to Article 479 CRR, a transitional treatment is permitted for capital instruments and items from subsidiaries currently recognised as consolidated CT1 to be derecognised/reclassified appropriately to end-2017. The Bank proposes to adhere to the following rates of de-recognition in this regard, with no recognition of those instruments and items in 2018:

CRR	Applicable percentage for the recognition in consolidated CET 1 capital of instruments and items that do not qualify in minority interests (% within specified range)	Year	Proposed Treatment
Article 479	0% to 80%	2014	80%
	0% to 60%	2015	60%
	0% to 40%	2016	40%
	0% to 20%	2017	20%

7.17. One of the elements that must be included in CET1 under CRR is accumulated other comprehensive income (AOCI) which includes the cumulative unrealised gains and losses of certain assets and liabilities measured at fair value. Under the current CRD, a filter is applied to the cumulative unrealised gains and losses of available-for-sale (AFS) assets to exclude them (and their volatility) from regulatory capital. CRR will phase out the filter over the period to end-2017.

7.18. The International Accounting Standards Board (IASB) is expected to announce amendments to IAS39 (on the accounting classification of assets) in the medium-term. In response, CRR provides for a competent authority discretion to maintain the filter on unrealised gains and losses on sovereign exposures measured at fair value until the adoption by the Commission of a Regulation endorsing the International Reporting Standard replacing IAS 39. The Bank is proposing to maintain this sovereign filter.

7.19. No recognition of such unrealised gains in CET1 is permitted during 2014, pending possible action following a report by EBA to the European Commission on appropriate alternative treatments to the full recognition of such gains on assets and liabilities measured at fair value. Mindful that the percentages specified by competent authorities for the transition period post-2014 may not therefore be relevant, given uncertainty

about that possible action, the Bank proposes to recognise unrealised gains within CET1 at the rates proposed in the table below. The Bank does not propose to exercise a further competent authority discretion (in Article 468(2) CRR) to allow, from 1 January 2015, a 100% recognition of unrealised gains measured at fair value where 100% recognition of unrealised losses is required.

7.20. From 1 January 2015, a competent authority may not set an applicable percentage of unrealised gains under Article 468(2) CRR that exceeds the applicable percentage of unrealised losses as specified under Article 467(2) CRR. By 1 January 2018, according to the CRR, all unrealised losses and gains must be fully recognised within CET1 (subject to Commission review).

CRR	Applicable percentage of unrealised losses that shall be included in calculation of CET 1 items (% within specified range)	Year	Proposed Treatment
Article 467(2)	20% to 100%	2014	20%
	40% to 100%	2015	60%
	60% to 100%	2016	60%
	80% to 100%	2017	80%
CRR	**Applicable percentage of unrealised gains that shall be removed from the CET 1 items (% within specified range)**	**Year**	**Proposed Treatment**
Article 468(2)	60% to 100%	2015	60%
	40% to 100%	2016	40%
	20% to 100%	2017	20%

7.21. CRR Article 36 requires that the following be deducted from CET1:

a. Losses for the current financial year;

b. Intangible assets;

c. Deferred tax assets (DTAs) that rely on future profitability;

d. Shortfall of expected loss amounts under IRB approaches;

e. Net defined benefit (DB) pension fund assets on the balance sheet of the institution;

f. Holdings by an institution of own CET1 instruments;

g. Reciprocal holdings in the CET1 of another institution designed to artificially inflate the own funds of the institution;

h. The amount of holdings by an institution in the CET1 of financial sector entities where the institution does not have a significant investment in those entities; and

i. The amount of holdings by an institution in the CET1 of financial sector entities where the institution has a significant investment in those entities.

7.22. CRR Article 56 requires that the following be deducted from AT1:

a. Reciprocal holdings in the AT1 of another institution designed to artificially inflate the own funds of the institution;
b. The amount of holdings by an institution in the AT1 of financial sector entities where the institution does not have a significant investment in those entities;
c. The amount of holdings by an institution in the AT1 of financial sector entities where the institution has a significant investment in those entities.

7.23. CRR Article 66 requires that the following be deducted from Tier 2:

a. Reciprocal holdings in the Tier 2 of another institution designed to artificially inflate the own funds of the institution;
b. The amount of holdings by an institution in the Tier 2 of financial sector entities where the institution does not have a significant investment in those entities;
c. The amount of holdings by an institution in the Tier 2 of financial sector entities where the institution has a significant investment in those entities.

7.24. Under Article 478(3) CRR, competent authorities are required to determine and publish an applicable percentage in the ranges specified in Article 478(1) and (2) CRR for the transitional phase-in of the following deductions:

a. The individual deductions required under points (a) to (h) of Article 36(1) CRR, (where these are not already deducted from Core Tier 1 under Pillar 1 or Pillar 2 measures) excluding DTAs that rely on future profitability and arise from temporary differences
b. The aggregate amount of DTAs that rely on future profitability and arise from temporary differences and the items referred to in point (i) of Article 36(1) that is required to be deducted under Article 48 CRR;
c. The deductions required in points (b) to (d) of Article 56 CRR;
d. The deductions required in points (b) to (d) of Article 66 CRR.

7.25. The Bank proposes to opt for the following rate of phase-in for these deductions, with full deduction required commencing 1 January 2018:

CRR	Applicable percentages for deduction from CET1, AT1 and Tier 2	Year	Proposed Treatment
Article 478(3)	20% to 100%	2014	20%
	40% to 100%	2015	40%
	60% to 100%	2016	60%
	80% to 100%	2017	80%

7.26. Article 478(2) CRR elaborates possible phase-in rates from 2014 to 2023 for deductions of DTAs relying on future profitability that existed prior to 1 January 2014. Full deduction of such DTAs is required from 1 January 2024.The Bank proposes to opt for the following phase-in rates in this regard, as per the below table:

CRR	CET 1 (exemption for DTAs that existed prior to the date of application of CRR)	Year	Proposed Treatment
Article 478(2)	0% to 100%	2014	0%
	10% to 100%	2015	10%
	20% to 100%	2016	20%
	30% to 100%	2017	30%
	40% to 100%	2018	40%
	50% to 100%	2019	50%
	60% to 100%	2020	60%
	70% to 100%	2021	70%
	80% to 100%	2022	80%
	90% to 100%	2023	90%

7.27. Article 471(1) CRR allows competent authorities to conditionally permit institutions not to deduct equity holdings in insurance undertakings, reinsurance undertakings and insurance holding companies until the end of 2022. The equity holdings of the institution in the insurance undertaking, reinsurance undertaking or insurance holding company must not exceed 15 per cent of the CET1 instruments issued by that insurance entity over the period YE2012 to YE2022. A risk-weight of 370 per cent is instead applied to these exposures. The Bank is proposing to exercise this discretion.

7.28. With respect to Article 481(1) CRR, no additional common deductions are required on a continuing basis by the Bank. While a number of prudential filters have been applied since the introduction of IFRS in 2005, those to be phased out should largely be dealt with under the 'Treatment of Unrealised Gains and Losses Measured at Fair Value', with the notable exception of the national filter for Defined Benefit Pension deficits and surpluses.

CRR	Inclusion of additional filters and deductions within CET1	Year	Proposed Treatment
Article 481 (1) – (5)	0% to 80%	2014	80%
	0% to 60%	2015	60%
	0% to 40%	2016	40%
	0% to 20%	2017	20%

7.29. According to the CRR Article 473, the net liability as recorded on the balance sheet in respect of a defined benefit pension fund should be recognised in the calculation of CET 1. In other words, the creation of the net liability on the balance sheet will automatically have resulted in a reduction in common equity (through a reduction in AOCI/Reserves) and no adjustment should be applied in respect of this in the calculation of CET1. This differs from the treatment until 1 January 2013 under IFRS, which allowed for the deferral of actuarial losses beyond a specified threshold (i.e. the 'corridor approach') without recognition in the financial statements. CRR introduces a competent authority option to allow institutions to phase out the corridor approach of IAS 19 for regulatory capital over 5 years.

7.30. Ireland did not implement the corridor regime but devised its own national filter. Therefore, the transitional treatment contained in Article 473 CRR will not be applicable. The Bank confirms that rates specified by the Central Bank in relation to Article 481 CRR on 'Additional Filters and Deductions' will apply instead (see proposed detailed treatment under p.112).

7.31. By way of derogation from the phased deduction of holdings by an institution in the CET1 of financial sector entities where the institution has a significant investment in those entities: until 31 December 2014 competent authorities may, under Article 481(2) CRR, require or permit institutions to apply the Financial Conglomerates Directive (FICOD) method even where the conditions for use are not met (e.g., the subsidiary is not part of the same prudential consolidation). The Bank is not proposing to exercise this discretion.

Chapter 8: Leverage

8.1. The global financial crisis was exacerbated by the activities of excessively leveraged institutions with risky cross-border exposures and interconnections. CRR thus introduces new leverage requirements.

Leverage Ratio Reporting Requirement

8.2. As per Articles 429 and 430 CRR institutions will be subject to a leverage ratio (LR) calculation and reporting requirement, with an observation period on the impact of the LR from January 2014 to mid-June 2016. Public disclosure of certain information pertaining to the LR will also be required from January 2015. Only certain investment firms are subject to this requirement as specified in Article 6(5) CRR and further elaborated on in Chapter 12.

8.3. Following the observation period, EBA will submit a report to the European Commission on the impact of the LR. Article 511 CRR provides that, by 31 December 2016, the European Commission will publish a report on the impact and effectiveness of the LR. If the European Commission deems it appropriate, that report will be accompanied by a legislative proposal on the introduction of an appropriate number of levels of the LR that institutions following different business models will be required to meet.

8.4. Under Article 430(1) CRR institutions must submit the information necessary for the EBA to prepare the report referred to in para. 8.3.

Calculation of the LR

8.5. As per Article 429(2) CRR institutions shall calculate the simple arithmetic mean of the monthly LR over a quarter in accordance with the methodology set out in paragraphs (2)-(11) of that same article.

8.6. However, competent authorities may, under Article 499(3) CRR, permit institutions to calculate an end of quarter LR where it is considered that institutions may not possess data of sufficient quality to enable calculation of an LR that is an arithmetic mean of monthly LRs over a quarter. The Bank is proposing to exercise this discretion on a general rather than case-by-case basis

Chapter 9: Liquidity

9.1. The global financial crisis demonstrated the damaging effects of liquidity stresses at institutions and across the financial system generally.

9.2. Basel III therefore established new global regulatory standards for liquidity - the Liquidity Coverage Ratio (LCR) and Net Stable Funding Ratio (NSFR)[34]. CRR contains the basis for their implementation at an EU level. It introduces reporting and quantitative liquidity requirements, developed to harmonise liquidity regulation across the EU and, in due course, replace individual Member States' liquidity standard. As the liquidity requirements are entirely new, so too are the related national discretions. The competent authority discretions related to the liquidity requirements can be found in Parts One and Six of CRR.

Accelerated Phase-in of the Liquidity Coverage Requirement

9.3. Article 412(5) contains a Member State or competent authority discretion to introduce a Liquidity Coverage Requirement of up to 100% ahead of the Article 460 phase-in schedule. This discretion is linked to a Member State discretion within the same provision to maintain existing national provisions in the area of liquidity requirements before the binding minimum standard is fully introduced. Member State discretions are a matter for the DoF.

Solo Waivers

9.4. The new liquidity requirements apply on a consolidated and individual basis. A derogation to the application of liquidity requirements on an individual basis can be considered in accordance with Recital 105 and Article 8 CRR. In these cases, the institutions will be supervised at a consolidated or single 'liquidity sub-group' basis. Provided the conditions outlined in Article 8(1) CRR are fulfilled, the Bank will exercise this discretion on a case-by-case basis. This derogation, which may be a full or partial waiver of the Part Six liquidity requirements, is not related to existing

[34] The Basel III 'International framework for liquidity risk measurement, standards and monitoring' framework was published in December 2010. The LCR element was revised in the January 2013 "Basel III: The Liquidity Coverage Ratio and liquidity risk monitoring tools" publication. The NSFR framework is expected to be revised by January 2014.

exemptions from the Central Bank's 'Requirements for the Management of Liquidity Risk'.[35]

9.5. From 1 January 2014, a competent authority may grant this derogation to an institution where all member institutions of the relevant single liquidity sub-group are authorised by the competent authority. Where this waiver is granted, the competent authority may also consider waiving the application of all or part of Article 86 of CRD IV (the Directive) on an individual basis. The granting of this waiver is subject to the European Commission report outlined in Article 8(1) CRR.

9.6. From 1 January 2015, in accordance with Article 8(3) CRR and subject to the joint decision process outlined in Article 21 CRR, waivers may be considered for institutions where members of the single liquidity sub-group are authorised in several Member States. The granting of this waiver is also subject to the European Commission report outlined in Article 8(1) CRR.

Intra-Group Liquidity Flows

9.7. Where a solo waiver to the liquidity requirements is not granted or sought, intra-group liquidity flows and committed facilities may receive preferential inflow and outflow rates, as appropriate, subject to the fulfilment of a set of objective criteria. The Bank is proposing to exercise this discretion on a case-by-case basis and subject to the methodology, criteria and parameters to be determined in accordance with the Article 460 CRR European Commission delegated act and the Article 422 and 425 CRR EBA RTSs. For cross-border intra-group liquidity flows, the Article 20 CRR joint decision process will be adhered to.

9.8. Similarly, in accordance with Article 425(1) CRR, where the Bank is the competent authority responsible for supervision on an individual basis, it proposes to review, on a case-by-case basis, applications to fully or partially exempt intra-group flows from the cap limiting inflows to 75% of liquidity outflows.

[35] Central Bank of Ireland, *Requirements for the Management of Liquidity Risk* (29 June 2009) [http://www.centralbank.ie/regulation/industry-sectors/credit-institutions/Documents/Requirements%20for%20management%20liquidity%20risk%20June%202009%20Final.pdf]

Reporting

9.9. Article 415(3)(b) CRR contains a discretion for competent authorities to continue to collect information through monitoring tools for existing national liquidity standards until the liquidity coverage requirement is fully introduced in accordance with Article 460 CRR. Subject to the exercise of the related Article 412(5) Member State discretion, the Bank is proposing to exercise the Article 415(3)(b) discretion. If exercised, existing liquidity regulatory reporting would continue until 1 January 2018, or an earlier date, if deemed appropriate by the Bank. The reporting process for these submissions would remain unchanged and run concurrently with the new CRR liquidity reporting requirements.

Trade Finance

9.10. The Article 420(2) CRR provision on trade finance is included so as not to unnecessarily inhibit trade finance though the imposition of a relatively high outflow rate on contingent funding obligations stemming from trade finance instruments. Outflow rates on relevant off-balance sheet exposures can be up to 100%. The Article 420(2) discretion permits competent authorities to set a reduced outflow rate of up to 5% for trade finance off-balance sheet products. The Bank proposes to assign an outflow rate of 5% for trade finance off-balance sheet products, as defined in Article 429 and Annex I of the Regulation

10 Counterparty Credit Risk and Market Risk

10.1. The global financial crisis was driven by risky counterparty credit exposures and dangerous levels of market risk, fuelled by speculative trading in opaque financial instruments, such as certain over-the-counter (OTC) derivatives.

10.2. In response, the EU is seeking to implement a G20 commitment to ensure that OTC derivative trading in particular is rendered safer and more transparent. In furtherance of that agenda, the EU has, for instance, already promulgated a framework to provide for central clearing of OTC derivatives as far as possible and appropriate.[36] CRR supplements this framework with certain new requirements for such exposures.

Credit Valuation Adjustment Charge

10.3. CRR introduces a new own funds requirement pertaining to credit valuation adjustment (CVA) risk for OTC derivative instruments; other than credit derivatives recognised to reduce risk-weighted exposure amounts for credit risk. Article 382 CRR thus provides that institutions must determine own funds requirements for CVA risk in accordance with i) a 'Standardised' method under Article 384 CRR or ii) an 'Advanced Method' under Article 383 CRR where institutions are permitted to use the internal model method (IMM). However, Article 382(4) CRR exempts certain transactions from own funds requirements for CVA risk, including, for instance:

a) Transactions with non-financial counterparties;
b) Transactions with a qualifying central clearing counterparty (CCP), as defined;
c) Intragroup transactions.

10.4. Article 383(5)(c) CRR on the Advanced Method stipulates that the multiplier of three used in the calculation of own funds requirements based on a Value-at-Risk (VaR) and a stressed VaR in accordance with 364(1) CRR will apply to the calculation of own funds requirements for CVA risk. Alternatively, this provision permits competent authorities to set a higher multiple than three for these purposes, subject to justification by the competent authority and monitoring by EBA. The Bank is proposing to retain the flexibility to exercise this discretion in the future, as needed.

[36] Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories [2012] OJ L 201/1.

10.5. The CVA risk charge regime will be monitored by EBA, which will submit a report to the European Commission by 1 January 2015 on the matter. On foot of that report, certain aspects of the CVA risk charge regime may subsequently be recalibrated by the European Commission.

Own Funds Requirements for Position Risk

10.6. With respect to own funds requirements for position risk, Article 329(2) CRR requires institutions to adequately reflect 'other risks associated with options, apart from the delta risk', in the own funds requirements. This will be subject to an EBA RTS to be submitted to the European Commission by 31 December 2013.

10.7. As per Article 329(4), before the entry into force of the relevant EBA RTS competent authorities are permitted to continue to apply existing national treatments, where competent authorities have applied those treatments before 31 December 2013. The Bank confirms that, for the purposes of any interim period between 1 January 2014 and the entry into force of the EBA RTS, the existing pre-processing model will, subject to the prior written approval of the Bank, continue to apply as previously invoked by the Bank under the competent authority discretion in Annex 1, paragraph 5 of Directive 2006/49/EC.

Own Funds Requirements for Commodities Risk

10.8. With respect to own funds requirements for commodities risk, Article 358(4) CRR requires institutions to 'adequately reflect other risks associated with options, apart from the delta risk', in the own funds requirements. This will also be subject to an EBA RTS to be submitted to the European Commission by 31 December 2013.

10.9. As per Article 358(4) CRR competent authorities may continue to apply existing national treatments in this respect, where the competent authorities have applied such treatments before 31 December 2013. The Bank confirms that, for the purposes of any interim period between 1 January 2014 and the entry into force of the EBA RTS, the Bank will continue to apply the following treatments subject to prior written approval:

a) The requirement for a written exchange-traded commodity option to be equal to the margin required by the exchange if the Bank 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 method set out in Annex IV of Directive 2006/49/EC or by applying the internal models method in Annex V of Directive 2006/49/EC;

b) The Bank will allow the capital requirement for an OTC commodity option cleared by a clearing house recognised by the Bank to be equal to the margin required by the clearing house if the Bank 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 treatment for an OTC option that would result from a calculation made using the method set out in Annex IV of Directive 2006/49/EC or by applying the internal models method in Annex V of Directive 2006/49/EC.

11 Consolidation

11.1. One of the lessons of the global financial crisis was that organisational structures, as well as the manner in which institutions and their affiliates are supervised, can have a significant bearing on the capacity of competent authorities to accurately track and manage risks to the stability of the financial system.

Individual Consolidation Method

11.2. Article 9 CRR envisages that competent authorities may permit, on a case-by-case basis, parent institutions to incorporate subsidiaries in the calculation of certain of their regulatory requirements under CRR. The Bank is already exercising a similar discretion under Article 70 of Directive 2006/48/EC and proposes to continue with this approach on a case-by-case basis.

11.3. For institutions in receipt of previous waivers under Article 70 of Directive 2006/48/EC, the waiver would apply automatically unless there has been a material change to their original application. In instances where there have been significant changes, the institution must re-apply under Article 9 CRR.

11.4. Institutions that do seek to avail of this treatment should also note the following prudential conditionality attaching to this discretion:

a. Subsidiaries to be included in the consolidation must be adequately covered by the risk evaluation, measurement and control procedures of the parent undertaking;
b. The parent undertaking must hold more than 50 per cent of the voting rights attaching to shares in the capital of the subsidiary or must have the right to appoint or remove a majority of the members of the management body of the subsidiary;
c. The subsidiary's material exposures or liabilities must be to the parent institution; and
d. The parent institution must be capable of fully demonstrating to the Bank that there is no material practical or legal impediment to the prompt transfer of own funds or repayment of liabilities due by the subsidiary to the parent undertaking.

Proportional Consolidation

11.5. Article 18(2) CRR permits competent authorities to apply proportional consolidation on a case-by-case basis, in accordance with the share capital held by a parent undertaking in a subsidiary, subject to the following conditions:

a. The liability of the parent undertaking is limited to the share of capital that the parent undertaking holds in the subsidiary in view of the liability of other shareholders or members;

b. The solvency of those other shareholders or members is satisfactory; and

c. The liability of the other shareholders and members is clearly established in a legally binding way.

11.6. The Bank is inviting comments from stakeholders on whether it should exercise this discretion on a case-by-case basis, particularly for jointly controlled entities.

12 MiFID' Investment Firms

12.1. This chapter is relevant for firms authorised under S.I. No. 60 of 2007, the European Communities (Markets in Financial Instruments) Regulations 2007 (hereafter referred to as 'MiFID firms'). It is not relevant for credit institutions. The chapter provides information on the impact of CRR and CRD IV on MiFID firms and in particular sets out the Bank's proposals for a number of discretions that are relevant for MiFID firms.

12.2. It should be noted that the preceding chapters of the consultation paper are also relevant for those MiFID firms that are captured under the definition of 'investment firm' in point 2 of Article 4(1) CRR and the term 'investment firm' used hereafter in this chapter will explicitly denote these firms. Given the differing business models of credit institutions and investment firms, it does not follow from the previous chapters that an approach adopted in relation to a credit institution should automatically be applied to investment firms. However, the proposals and analysis set out in the preceding chapters for 'institutions' is generally relevant to investment firms. Comments are therefore invited from investment firms on all those proposals having particular regard to the specific impacts on investment firms. You are encouraged to differentiate where there are specific considerations which apply to one business model and not the other. In this context the Bank will consider exercising discretions differently for investment firms than for credit institutions. In particular, the Bank will separately analyse whether the considerations concerning the timing of the introduction of new requirements apply equally to investment firms as they do to credit institutions, given the specific transitional challenges faced by the banking sector.

12.3. Competent authority discretions relevant for MiFID firms that exist in the current CRD and where it is proposed that current policy continues to apply are set out in Part 2 of Appendices A and B.

Scope of CRR / CRD IV for MiFID firms

12.4. The definition of 'investment firm' has changed under CRR. In the current CRD, Article 3(1)(b) of the Capital Adequacy Directive defines 'investment firms' as:

"institutions as defined in Article 4(1)(1) of Directive 2004/39/EC, which are subject to the requirements imposed by that Directive, excluding:

(i) credit institutions;

(ii) local firms as defined in point (p)[37]*; and*

(iii) firms which are only authorised to provide the service of investment advice and/or receive and transmit orders from investors without holding money or securities belonging to their clients and which for that reason may not at any time place themselves in debt with those clients;"

The MiFID firms referred to in Article 3(1)(b)(ii) and (iii) of the Capital Adequacy Directive are exempt from the current CRD other than the provisions on initial capital set out in Articles 6 and 7 respectively of the Capital Adequacy Directive.

12.5. Point 2 of Article 4(1) CRR refers to Directive 2004/39/EC (MiFID)[38] as a starting point for the definition of 'investment firm' for CRR and CRD IV and also excludes credit institutions and local firms from the definition. However point 2(c) of Article 4(1) CRR defines an excluded category of MiFID firms that is broader than that set out in Article 3(1)(b)(iii) of the Capital Adequacy Directive. Under the current CRD MiFID firms that are not authorised to hold client money *and* are only authorised to provide the MiFID investment services of reception and transmission of orders and/or investment advice are exempt from the CRD (other than the initial capital provisions). However, under the CRR MiFID firms that:

- are not authorised to hold client money,
- are not authorised to provide the MiFID ancillary service of safekeeping and administration, ***and***
- are only authorised for a combination of MiFID investment services and activities of reception and transmission of orders, execution of orders on behalf of clients, portfolio management and investment advice

are excluded from the definition of investment firm and therefore from the full scope of CRR and CRD IV (hereafter these firms are referred to as the 'CRD IV exempt firms'). It should be noted that *all three criteria* must be met for the

[37] 'local firm' is defined in Article 3(1)(p) as a "firm dealing for its own account on markets in financial futures or options or other derivatives and on cash markets for the sole purpose of hedging positions on derivatives markets, or dealing for the accounts of other members of those markets and being guaranteed by clearing members of the same markets, where responsibility for ensuring the performance of contracts entered into by such a firm is assumed by clearing members of the same markets".

[38] Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments amending Council Directives 85/611/EEC and 93/6/EEC and Directive 2000/12/EC of the European Parliament and of the Council and repealing Council Directive 93/22/EEC

exclusion to apply. The CRD IV exempt firms are still captured by a number of provisions of the CRR and CRD IV as noted below and there is also a competent authority discretion in relation to the prudential treatment of a sub-set of these firms for which we have set out our policy proposal below. There are about sixty Irish MiFID firms captured in this category, compared to thirteen Irish MiFID firms excluded from the definition of investment firm in the current CRD.

12.6. While there are a larger number of MiFID firms excluded from the definition of investment firm under the CRR, it should be noted that it is possible for a firm to be excluded from the definition of investment firm under the current CRD, yet not be excluded under the CRR. This is because in order to be excluded from the definition of investment firm under point 2(c) of Article 4(1) CRR a firm must not be authorised for the MiFID ancillary service of safekeeping and administration. This is a criterion that does not exist under Article 3(1)(b)(iii) of the Capital Adequacy Directive. The Bank's review of authorised Irish MiFID firms did not identify any firms impacted by this change.

12.7. The CRD IV exempt firms are subject to Article 31 CRD IV which requires these firms to hold initial capital of €50,000 or to have a certain specified level of professional indemnity insurance or to hold a combination of both. The €50,000 initial capital must comprise one or more of the items referred to in points (a) to (e) of Article 26(1) CRR[39], i.e. it must be made up of CET1 capital as defined under the CRR with its stricter criteria for eligibility than current CRD.

12.8. A sub-set of the CRD IV exempt firms are also captured by the Pillar 1 capital requirement set out in Article 95(2) CRR. Of the CRD IV exempt firms, those that are authorised to execute orders on behalf of clients and/or conduct portfolio management must calculate their Pillar 1 total risk exposure amount as the higher of (1) the sum of their total risk exposure amounts for credit and market risk[40] and (2) 12.5 multiplied by their fixed overhead requirement ('FOR')[41]. These firms must then comply with the capital ratios set out in Article 92(1) and (2) CRR on the basis of this total risk exposure amount. Hereafter this sub-set of the CRD IV exempt firms will be referred to as the 'CRD IV exempt FOR firms'. There are over forty Irish MiFID firms captured in this

[39] Article 4(51) CRR and Article 28(1) CRD IV
[40] specifically the sum of the items referred to in points (a) to (d) and (f) of Article 92(3) CRR after applying Article 92(4) CRR
[41] The fixed overhead requirement is set out in Article 97 CRR.

category. The capital requirement for the CRD IV exempt FOR firms is similar to how these firms calculate their Pillar 1 capital requirement under the current CRD, however the new criteria for eligibility of capital, the new requirements on deductions from capital, the new capital ratios, additional Pillar 1 capital charges and new reporting requirements apply.

12.9. As a derogation to the above rule, there is a competent authority discretion set out in Article 95(2) CRR. This discretion allows competent authorities to set the own fund requirements for the CRD IV exempt FOR firms as those that would be binding on these firms according to the national transposition measures in force on 31 December 2013 for the Capital Adequacy Directive and the Banking Consolidation Directive, instead of the CRR Pillar 1 capital requirement described in point 12.8. This has the effect that if the Bank exercises this discretion the current CRD Pillar 1 and Pillar 2 regime continues to apply to these firms.

12.10. To put this discretion in context, under the CRR the European Commission is required to review and report on an appropriate regime for the prudential supervision of investment firms, local firms[42] and the CRD IV exempt firms by 31 December 2015[43]. With this in mind, the Bank proposes to exercise this discretion and to maintain the current CRD Pillar 1 and Pillar 2 regime for the CRD IV exempt FOR firms. This will mean that these firms remain subject to the Pillar 1 binding capital requirements, the Pillar 2 Internal Capital Adequacy Assessment Process ('ICAAP') and the Supervisory Review and Evaluation Process ('SREP') as they exist under the current CRD (on both an individual and consolidated basis as applicable) until such time as a new legislative proposal comes into effect for these firms. The Bank believes that this is a proportionate approach for these firms and it fits well with the Bank's prudential objectives:

- It minimises changes for the CRD IV exempt FOR firms until such time as the European Commission review is complete and avoids these firms having to potentially prepare for and comply with two new regimes in a short space of time.
- The current Pillar 2 ICAAP and SREP processes are retained. The Bank believes that it is important that firms regularly review and assess the full range of risks to which they are exposed and ensures that there are appropriate mitigants in place as well as appropriate capital coverage. In addition the powers afforded the Bank under the Pillar 2 regime, for instance in relation to imposing additional capital

[42] as defined in point 4 of Article 4(1) CRR
[43] Article 508(3) CRR

requirements or restricting or limiting the business of firms, are important in order that the Bank can effectively carry out its financial regulatory role.

12.11. The Bank may revisit this discretion when the European Commission report referred to above is published depending on the outcome of the report and on any legislative changes proposed.

12.12. It should be noted that although the Bank proposes to exercise this discretion, the CRD IV exempt FOR firms will still be subject to the initial capital provision set out in Article 31 CRD IV and will have to ensure that their initial capital requirement of €50,000 is met with CET1 capital as defined in CRR with its stricter criteria for eligibility than current CRD.

12.13. Comments are invited on the Bank's proposal to exercise the discretion set out in Article 95(2) CRR to maintain the current CRD Pillar 1 and Pillar 2 regime for the CRD IV exempt FOR firms.

Liquidity Requirements

12.14. Part Six of the CRR introduces new liquidity requirements for institutions. Initially these are liquidity reporting requirements, with a binding Pillar 1 liquidity coverage ratio then phased in from 2015 to 2018. Article 6(4) CRR requires investment firms that are authorised to provide the MiFID investment services and activities of 'dealing on own account' and/or 'underwriting of financial instruments and/or placing of financial instruments on a firm commitment basis' to comply with the obligations laid down in Part Six on an individual basis. There are currently about twenty Irish investment firms captured by this requirement.

12.15. Article 11(3) CRR requires EU parent institutions[44] and institutions controlled by an EU parent financial holding company[45] or an EU parent mixed financial holding company[46] to comply with the obligations laid down in Part Six on a consolidated basis if the group comprises one or more credit institutions or investment firms that are authorised to provide the MiFID investment services and activities of 'dealing on own account' and/or 'underwriting of financial instruments and/or placing of financial instruments on

[44] Article 4(29) CRR
[45] Article 4(31) CRR
[46] Article 4(33) CRR

a firm commitment basis'. There are currently seven Irish investment firms captured by this requirement.

12.16. As noted above, the European Commission is required to review and report on an appropriate regime for the prudential supervision of investment firms by 31 December 2015. In addition, Article 508(2) CRR specifically requires the European Commission to review and report, by the same date, on whether and how the liquidity coverage requirement laid down in Part Six should apply to investment firms. Pending the outcome of these reviews, Article 6(4) CRR gives competent authorities the discretion to exempt investment firms from compliance with the obligations laid down in Part Six. Similarly, Article 11(3) affords competent authorities discretion to exempt investment firms from the obligation to comply with the requirements laid down in Part Six on a consolidated basis provided the relevant group comprises only investment firms.

12.17. The development of the liquidity reporting templates and the liquidity coverage ratio has been very much bank-focused to date. The European Commission review to be completed by 31 December 2015 will focus on an appropriate prudential liquidity regime for investment firms. If the Bank did not exercise the competent authority discretions set out in Articles 6(4) and 11(3) CRR, investment firms in scope of the requirements would potentially have to prepare for and comply with two different liquidity regimes in a short space of time. Considering this, and considering the nature of the relevant investment firms' activities, the Bank proposes to exercise these two discretions.

12.18. Until the European Commission reports on an appropriate prudential liquidity regime for investment firms, the Bank will continue to monitor the liquidity position of Irish investment firms through the Monthly Metrics Report[47] and through the Pillar 2 supervisory review process as well as through full risk assessments of firms.

12.19. It should be noted that if, at any stage, the Bank considers it necessary for a particular investment firm or category of investment firms to comply with the CRR liquidity requirements due to the potential impact a firm failure could have on the Irish financial system, the Bank may withdraw the exemption from the CRR liquidity requirements for that investment firm or category of investment firms.

[47] Details of the Monthly Metrics Report are available on the Central Bank's website: http://www.centralbank.ie/regulation/industry-sectors/investment-firms/mifid-firms/Pages/reporting.aspx

12.20. Finally in order to facilitate the European Commission review on an appropriate prudential liquidity regime for investment firms, it may be necessary to request a number of investment firms to submit liquidity information either on the liquidity reporting templates developed for the CRR requirements, or on other templates, on a voluntary basis. If this need arises relevant investment firms will be contacted by their supervisor.

12.21. Comments are invited on the Bank's proposal to exercise the competent authority discretions set out in Articles 6(4) and 11(3) of the CRR to exempt investment firms from the obligation to comply with the liquidity requirements set out in Part Six of the CRR until such time as the European Commission complete their review of an appropriate prudential liquidity regime for investment firms.

Capital Buffers

12.22. As discussed in Chapter 2, CRD IV introduces a number of capital buffers including the Capital Conservation Buffer (CCB) and the Counter-cyclical Buffer (CCyB). The requirements for institutions to hold these two buffers are set out in Articles 129 and 130 CRD IV respectively. These requirements apply to investment firms that are authorised to provide the MiFID investment services and activities of 'dealing on own account' and/or 'underwriting of financial instruments and/or placing of financial instruments on a firm commitment basis'[48].

12.23. Articles 129 and 130 CRD IV include Member State discretions to exempt small and medium-sized investment firms from the requirement to hold, respectively, a CCB and a CCyB provided such an exemption does not threaten the stability of the financial system of the Member State. Paragraph 3 of both Article 129 and Article 130 note that the Member State shall designate the authority in charge of making decisions with regard to the Member State discretions on the two buffers. The Bank is not currently the designated authority with responsibility for these discretions. If the Bank is nominated as designated authority we will consult on these discretions at that stage.

12.24. There are currently about twenty Irish investment firms that are initially captured by the requirement to hold a CCB and a CCyB. If the Article 129 and 130 discretions are exercised, in order to qualify for the exemption, investment firms must meet the

[48] Paragraph 2 of Article 128 of Directive 2013/36/EU

definition of 'small or medium-sized' as specified in the European Commission Recommendation 2003/361/EC of 6 May 2003 ('Commission Recommendation'). The Commission Recommendation defines small and medium-sized enterprises as those that employ fewer than 250 persons and which have an annual turnover not exceeding €50m and/or an annual balance sheet total not exceeding €43m. However where a firm is linked to other enterprises, for example where a firm is part of a group, the criteria apply to the wider set of linked enterprises and not just to the firm on a standalone basis. The specific rules for the calculation of the data for determining if the criteria are met are set out in the Commission Recommendation.

Leverage Ratio

12.25. Chapter 8 discusses the introduction of leverage ratio and reporting requirements under the CRR. It should be noted that these requirements only apply to certain investment firms as follows. Article 6(5) CRR applies these requirements to investment firms that do not use the FOR as part of their Pillar 1 capital requirements calculation[49]. Article 11 CRR applies the leverage ratio and reporting requirements on a consolidated basis to parent institutions in a Member State[50] and to institutions controlled by a parent financial holding company in a Member State[51] or a parent mixed financial holding company in a Member State[52]. Therefore any investment firms captured by these definitions are captured by the leverage requirements on a consolidated basis. However Article 16 CRR provides a derogation to this rule and allows that where "all entities in a group of investment firms … are investment firms that are exempt from the application of the (leverage) requirements" on an individual basis, the parent investment firm may choose not to apply the requirements on a consolidated basis.

Fixed Overhead Requirement

12.26. Investment firms that fall within one of the categories set out in Article 95(1) or 96(1) CRR and therefore use the FOR as part of their Pillar 1 capital requirements calculation should note that Article 97 CRR mandates the EBA, in consultation with ESMA, to develop draft RTS to specify the calculation of the FOR in greater detail. These draft RTS are to be submitted to the European Commission by 1 March 2014. The EBA has

[49] The leverage requirements apply to investment firms **other than** investment firms that fall within one of the categories set out in Article 95(1) or 96(1) CRR.
[50] Article 4(28) CRR
[51] Article 4(30) CRR
[52] Article 4(32) CRR

already published draft RTS for consultation and a copy of the consultation paper and draft RTS are available on the EBA website[53].

Initial Capital Requirements on Going Concern Basis

12.27. Articles 28 to 32 CRD IV set out requirements for the initial capital of MiFID firms. Article 32 sets out certain grandfathering provisions in relation to initial capital levels similar to those included in Article 20 of the Capital Adequacy Directive in the current CRD. Article 32(5) CRD IV allows the Bank to dis-apply these grandfathering provisions in order to ensure the solvency of the relevant firms. The Bank is proposing to exercise this discretion for all relevant MiFID firms. From the Bank's review there are, at present, no Irish MiFID firms availing of these grandfathering provisions – all are complying with the initial capital requirements as specified for their category of firm. However comments are invited on this approach.

Corporate Governance

12.28. Chapter 3 above refers to a number of corporate governance provisions and competent authority discretions. The Bank would like to highlight here its approach to the application of two of these discretions to Irish investment firms. Firstly, Article 76 CRD IV provides that the Bank may allow an institution which is not considered as significant in terms of its size, internal organisation and the nature, scope and complexity of its activities to combine its risk committee with its audit committee. As noted above, it is not proposed to exercise this discretion for banks in Ireland, however because of the differences in the nature, scale and complexity of Irish investment firms, it is proposed that that this discretion will be exercised on a case-by-case basis for smaller, less complex investment firms. Comments are invited on this proposal.

12.29. Article 88 CRD IV generally prohibits the chairman of the management body in its supervisory function from exercising simultaneously the role of chief executive officer within the same institution, unless justified by the institution and authorised by the Bank. As noted above, the Bank affirms the importance it attaches to the separateness of the roles of chairman and chief executive officer and does not propose to exercise this discretion for any Irish investment firms. Comments are again invited on this approach

[53] http://www.eba.europa.eu/regulation-and-policy/own-funds/draft-regulatory-technical-standards-on-own-funds-requirements-for-investment-firms-based-on-fixed-overheads

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Appendix A (Part I) – New Competent Authority Discretions and Options in CRD IV

Directive Reference	Text of Article	Area	Type of Discretion / Option	Nature	Exercise	Comment
Article 32(5) (Grandfathering provision)	Where competent authorities consider it necessary, in order to ensure the solvency of such investment firms and firms, that the requirements set out in paragraph 4 are met, paragraphs 1, 2 and 3 shall not apply.	Investment Firms	Competent Authority	General or Case-by-case	Yes	The Bank intends to exercise this discretion for all relevant investment firms and firms.
Article 40 (Reporting requirements)	The competent authorities of the host Member States may require that all credit institutions having branches within their territories shall report to them periodically on their activities in those host Member States. Such reports shall only be required for information or statistical purposes, for the application of Article 51(1), or for supervisory purposes in accordance with this Chapter. They shall be subject to professional secrecy requirements at least equivalent to those referred to in Article 53(1). The competent authorities of the host Member States may in particular require information from the credit institutions referred to in the first subparagraph in order to allow those competent authorities to assess whether a branch is significant in accordance with Article 51(1).	Home-Host/Branches	Competent Authority	General	Yes	The Bank intends to continue exercising the discretion in subparagraph 1, subject to the (new) provisions in subparagraphs 2 and 3
Article 74(4) (Internal governance and recovery and resolution plans)	Competent authorities shall ensure that recovery plans for the restoration of an institution's financial situation following a significant deterioration, and resolution plans are put in place. In accordance with the principle of proportionality, the requirements for an institution to draw up, maintain and update recovery plans and for the resolution authority, after consulting the competent authority, to prepare resolution plans, may be reduced if, after consulting the national macroprudential authority, competent authorities consider that the failure of a specific institution due, inter alia, to its size, to its business model, to its interconnectedness to other institutions, or to the financial system in general, will	Recovery & Resolution	Competent Authority	General or case-by-case	Yes	The Bank intends to exercise this discretion on a proportionate basis

	not have a negative effect on financial markets, on other institutions or on funding conditions.					
Article 76(3) (Treatment of risks)	Competent authorities may allow an institution which is not considered systemically significant to combine the risk committee with the audit committee, as referred to in Article 41 of Directive 2006/43/EC. Members of the combined risk-audit committee shall have the knowledge, skills and expertise required for the risk committee and the audit committee	Corporate Governance	Competent Authority	General or case-by-case	Yes for investment firms	The Bank intends to exercise this discretion on a case-by-case basis for investment firms; subject to the prior written approval of the Bank
Article 78(2) (Supervisory benchmarking of internal approaches for calculating own funds requirements)	Competent authorities shall ensure that institutions submit the results of the calculations referred to in paragraph 1 in accordance with the template developed by EBA in accordance with paragraph 8 to the competent authorities and to EBA. Where competent authorities choose to develop specific portfolios, they shall do so in consultation with EBA and ensure that institutions report the results of the calculations separately from the results of the calculations for EBA portfolios	Benchmarking	Competent Authority	General	Yes	The Bank intends to retain the flexibility to develop 'specific portfolios' for the purposes of this provision
Article 88(1)(e) (Governance arrangements)	the chairman of the management body in its supervisory function of an institution must not exercise simultaneously the functions of a chief executive officer within the same institution, unless justified by the institution and authorised by competent authorities	Corporate Governance	Competent Authority	Case-by-case	No	The Bank affirms the importance it attaches to the maintenance of separate roles for the chairman and chief executive officer and does not intend to exercise this discretion
Article 91(6) (Management body)	Competent authorities may authorise members of the management body to hold one additional non-executive directorship. Competent authorities shall regularly inform EBA of such authorisations	Corporate Governance	Competent Authority	Case-by-case	Yes	The Bank intends to exercise this discretion on a case-by-case basis

Article 94(1)(l)(ii) (Variable elements of remuneration)	The instruments referred to in this point shall be subject to an appropriate retention policy designed to align incentives with the longer-term interests of the institution. Member States or their competent authorities may place restrictions on the types and designs of those instruments or prohibit certain instruments as appropriate. This point shall be applied to both the portion of the variable remuneration component deferred in accordance with point (m) and the portion of the variable remuneration component not deferred	Remuneration	Member State or Competent Authority	General	N/A	Member State to confirm allocation of decision-making on this discretion.
Article 99(2)(c) (Supervisory examination programme)	Supervisory examination programmes shall include the following institutions… any other institution for which the competent authorities deem it to be necessary	Supervisory Review & Evaluation	Competent Authority	Case-by-case	Yes	The Bank intends to retain the flexibility to exercise this discretion on a case-by-case basis
Article 103(1) (Application of supervisory measures to institutions with similar risk profiles)	Where the competent authorities determine under Article 97 that institutions with similar risk profiles such as similar business models or geographical location of exposures, are or might be exposed to similar risks or pose similar risks to the financial system, they may apply the supervisory review and evaluation process referred to in Article 97 to those institutions in a similar or identical manner. For those purposes, Member States shall ensure that competent authorities have the necessary legal powers to impose requirements under this Directive and under Regulation (EU) No 575/2013 on those institutions in a similar or identical manner, including in particular the exercise of supervisory powers under Articles 104, 105 and 106. The types of institution referred to in the first subparagraph may in particular be determined in accordance with the criteria referred to in Article 98(1)(j).	Supervisory Review & Evaluation	Competent Authority	Case-by-case	Yes	The Bank proposes to retain the flexibility to exercise this discretion, if necessary, on a case-by-case basis

Article 129(2)-(3) (Requirement to maintain a capital conservation buffer)	2. By way of derogation from paragraph 1, a Member State may exempt small and medium-sized investment firms from the requirements set out in that paragraph if such an exemption does not threaten the stability of the financial system of that Member State. The decision on the application of such an exemption shall be fully reasoned, shall include an explanation as to why the exemption does not threaten the stability of the financial system of the Member State and shall contain the exact definition of the small and medium-sized investment firms which are exempt. Member States which decide to apply such an exemption shall notify the Commission, the ESRB, EBA and the competent authorities of the Member States concerned accordingly. 3. For the purpose of paragraph 2, the Member State shall designate the authority in charge of the application of this Article. That authority shall be the competent authority or the designated authority.	Capital Buffers/Investment Firms	Competent Authority	General	N/A	The responsible authority has yet to be confirmed by the Department of Finance
Article 130(2)-(3) (Requirement to maintain an institution-specific countercyclical capital buffer)	By way of derogation from paragraph 1, a Member State may exempt small and medium-sized investment firms from the requirements set out in that paragraph if such an exemption does not threaten the stability of the financial system of that Member State. The decision on the application of such an exemption shall be fully reasoned, shall include an explanation as to why the exemption does not threaten the stability of the financial system of the Member State and shall contain the exact definition of small and medium-sized investment firms which are exempt. Member States which decide to apply such an exemption shall notify the Commission, the ESRB, EBA and the competent authorities of the Member	Capital Buffers/Investment Firms	Competent or Designated Authority	General	N/A	The responsible authority has yet to be confirmed by the Department of Finance

	States concerned accordingly. 3. For the purpose of paragraph 2, the Member State shall designate the authority in charge of the application of this Article. That authority shall be the competent authority or the designated authority.					
Article 131(5) (Global and other systemically important institutions)	The competent authority or designated authority may require each O-SII, on a consolidated or sub-consolidated or individual basis, as applicable, to maintain an O-SII buffer of up to 2 % of the total risk exposure amount calculated in accordance with Article 92(3) of Regulation (EU) No 575/2013, taking into account the criteria for the identification of the O-SII. That buffer shall consist of and shall be supplementary to Common Equity Tier 1 capital	Capital Buffers	Competent or Designated Authority	Case-by-case	N/A	The responsible authority has yet to be confirmed by the Department of Finance
Article 131(10) (Global and other systemically important institutions)	Without prejudice to paragraphs 1 and 9, the competent authority or the designated authority may, in the exercise of sound supervisory judgment: (a) re- allocate a G-SII from a lower sub-category to a higher sub-category; (b) allocate an entity as referred to in paragraph 1 that has an overall score that is lower than the cut-off score of the lowest sub-category to that sub-category or to a higher sub-category, thereby designating it as a G-SII.	Capital Buffers	Competent or Designated Authority	Case-by-case	N/A	The responsible authority has yet to be confirmed by the Department of Finance
Article 133(1) (see also Article 133(2)) (Requirement to maintain a systemic risk buffer)	Each Member State may introduce a systemic risk buffer of Common Equity Tier 1 capital for the financial sector or one or more subsets of that sector, in order to prevent and mitigate long term non-cyclical systemic or macroprudential risks not covered by Regulation (EU) No 575/2013, in the meaning of a risk of disruption in the financial system with the potential to have serious negative consequences to the financial system and the real economy in a specific Member State.	Capital Buffers	Competent or Designated Authority	General or case-by-case	N/A	The responsible authority has yet to be confirmed by the Department of Finance

Article 133(8) (Requirement to maintain a systemic risk buffer)	The systemic risk buffer may apply to exposures located in the Member State that sets that buffer and may also apply to exposures in third countries. The systemic risk buffer may also apply to exposures located in other Member States, subject to paragraphs 15 and 18.	Capital Buffers	Competent or Designated Authority	General or case-by-case	N/A	The responsible authority has yet to be confirmed by the Department of Finance
Article 133(9) (Requirement to maintain a systemic risk buffer)	The systemic risk buffer shall apply to all institutions, or one or more subsets of those institutions, for which the authorities of the Member State concerned are competent in accordance with this Directive and shall be set in gradual or accelerated steps of adjustment of 0,5 percentage point. Different requirements may be introduced for different subsets of the sector.	Capital Buffers	Competent or Designated Authority	General or case-by-case	N/A	The responsible authority has yet to be confirmed by the Department of Finance
Article 133(13) (Requirement to maintain a systemic risk buffer)	The competent authority or the designated authority may from 1 January 2015 set or reset a systemic risk buffer rate that applies to exposures located in that Member State and may also apply to exposures in third countries of up to 5 % and follow the procedures set out in paragraph 11. When setting or resetting a systemic risk buffer rate above 5 % the procedures set out in paragraph 12 shall be complied with.	Capital Buffers	Competent or Designated Authority	General or case-by-case	N/A	The responsible authority has yet to be confirmed by the Department of Finance
Article 133(17) (Requirement to maintain a systemic risk buffer)	Where an institution fails to meet fully the requirement under paragraph 1 of this Article, it shall be subject to the restrictions on distributions set out in Article 141(2) and (3). Where the application of those restrictions on distributions leads to an unsatisfactory improvement of the Common Equity Tier 1 capital of the institution in the light of the relevant systemic risk, the competent authorities may take additional measures in accordance with Article 64	Capital Buffers	Competent Authority	Case-by-case	Yes	The Bank intends to retain the flexibility to exercise this discretion on a case by case basis
Article 133(18) (Requirement to maintain a	Following notification as referred to in paragraph 11, Member States may apply the buffer to all exposures. Where the competent authority or the designated authority decides to set the buffer up to 3 % on the	Capital Buffers	Competent or Designated Authority	Case-by-case	N/A	The responsible authority has yet to be confirmed by the Department of Finance

systemic risk buffer)	basis of exposures in other Member States, the buffer shall be set equally on all exposures located within the Union					
Article 136(4)-(6) (Setting countercyclica l buffer rates)	A designated authority may determine the calibration of a countercyclical buffer rate, which shall be between 0 and 2.5 per cent, calibrated in steps of 0.25 percentage points. A rate above 2.5 per cent may be applied where this is deemed warranted and subject to certain conditions. A designated authority may also determine the date of application for the purposes of calculating the institution-specific countercyclical buffer	Capital Buffers	Designated Authority	General	N/A	The responsible authority has yet to be confirmed by the Department of Finance
Article 137(1)-(2) (Recognition of countercyclica l buffer rates in excess of 2,5 %)	A designated authority may recognise a countercyclical buffer rate above 2.5 per cent set by other designated authorities in Member States or third countries for the purposes of the calculation by domestically authorised institutions of their institution-specific countercyclical capital buffers.	Capital Buffers	Designated Authority	General	N/A	The responsible authority has yet to be confirmed by the Department of Finance
Article 138(b) (ESRB recommendati on on third country countercyclica l buffer rates)	the ESRB considers that a countercyclical buffer rate which has been set and published by the relevant third-country authority for a third country is not sufficient to protect Union institutions appropriately from the risks of excessive credit growth in that country, or a designated authority notifies the ESRB that it considers that buffer rate to be insufficient for that purpose.	Capital Buffers	Designated Authority	General	N/A	The responsible authority has yet to be confirmed by the Department of Finance
Article 139(2)-(4) (Decision by designated authorities on third country countercyclica	2. In the circumstances referred to in point (a) of Article 138, designated authorities may set the countercyclical buffer rate that domestically authorised institutions must apply for the purposes of the calculation of their institution-specific countercyclical capital buffer. 3. Where a countercyclical buffer rate has been set and	Capital Buffers	Designated Authority	Case-by-case	N/A	The responsible authority has yet to be confirmed by the Department of Finance

l buffer rates)	published by the relevant third-country authority for a third country, a designated authority may set a different buffer rate for that third country for the purposes of the calculation by domestically authorised institutions of their institution-specific countercyclical capital buffer if they reasonably consider that the buffer rate set by the relevant third-country authority is not sufficient to protect those institutions appropriately from the risks of excessive credit growth in that country. When exercising the power under the first subparagraph, a designated authority shall not set a countercyclical buffer rate below the level set by the relevant third-country authority unless that buffer rate exceeds 2,5 %, expressed as a percentage of the total risk exposure amount calculated in accordance with Article 92(3) of Regulation (EU) No 575/2013 of institutions that have credit exposures in that third country. In order to achieve coherence for the buffer settings for third countries the ESRB may give recommendations for such settings. 4. Where a designated authority sets a countercyclical buffer rate for a third country pursuant to paragraph 2 or 3 which increases the existing applicable countercyclical buffer rate, the designated authority shall decide the date from which domestically authorised institutions must apply that buffer rate for the purposes of calculating their institution-specific countercyclical capital buffer. That date shall be no later than 12 months from the date when the buffer rate is announced in accordance with paragraph 5. If that date is less than 12 months after the setting is announced, that shorter deadline for application shall be justified on the basis of exceptional circumstances.					

Article 142(3)-(4) (Capital Conservation Plan)	3. The competent authority shall assess the capital conservation plan, and shall approve the plan only if it considers that the plan, if implemented, would be reasonably likely to conserve or raise sufficient capital to enable the institution to meet its combined buffer requirements within a period which the competent authority considers appropriate. 4. If the competent authority does not approve the capital conservation plan in accordance with paragraph 3, it shall impose one or both of the following: (a) require the institution to increase own funds to specified levels within specified periods; (b) exercise its powers under Article 102 to impose more stringent restrictions on distributions than those required by Article 141.	Capital Buffers	Competent Authority	Case-by-case	Yes	The Bank intends to retain the flexibility to exercise the discretion in subparagraph 4 on a case-by-case basis

Appendix A (Part II) – Pre-existing Competent Authority Discretions and Options in CRD IV

Directive Reference	Text of Article	Area	Type of Discretion/Option	Nature	Exercise	Comment
Article 21 (Waiver for credit institutions permanently affiliated to a central body)	The competent authorities may waive the requirements set out in Articles 10 and 12 and Article 13(1) of this Directive with regard to a credit institution referred to in Article 10 of Regulation (EU) No 575/2013 in accordance with the conditions set out therein.	Authorisations	Competent authority	Case-by-case	No	See comment on Article 10 CRR
Article 22(3)-(5),(7) (Notification and assessment of proposed acquisitions)	3. The competent authorities may, during the assessment period if necessary, and no later than on the 50th working day of the assessment period, request further information that is necessary to complete the assessment. Such a request shall be made in writing and shall specify the additional information needed. For the period between the date of request for information by the competent authorities and the receipt of a response thereto by the proposed acquirer, the assessment period shall be suspended. The suspension shall not exceed 20 working days. Any further requests by the competent authorities for completion or clarification of the information shall be at their discretion but shall not result in a suspension of the assessment period. 4. The competent authorities may extend the suspension referred to in the second subparagraph of paragraph 3 up to 30 working days if the proposed acquirer is situated or regulated in a third country or is a natural or legal person not subject to supervision under this Directive or under Directives 2009/65/EC, 2009/138EC, or 2004/39/EC. 5. If the competent authorities decide to oppose the proposed acquisition, they shall, within two working days of completion of the assessment, and not exceeding the assessment period, inform the proposed acquirer in writing, providing the reasons. Subject to national law, an appropriate statement of the reasons for the decision may be made accessible to the public at the request of the proposed acquirer. This shall not prevent a Member State from allowing the competent authority to publish such information in the absence of a request by the proposed acquirer.	Qualifying Holdings	Competent Authority	Case-by-case	Yes	The Bank intends to continue exercising these discretions on a case-by-case basis

	7. The competent authorities may fix a maximum period for concluding the proposed acquisition and extend it where appropriate					
Article 23(2) (Assessment criteria)	The competent authorities may oppose the proposed acquisition only if there are reasonable grounds for doing so on the basis of the criteria set out in paragraph 1 or if the information provided by the proposed acquirer is incomplete	Qualifying Holdings	Competent Authority	Case-by-case	Yes	The Bank intends to continue exercising this discretion on a case-by-case basis
Article 29(2) (Initial capital of particular types of investment firms)	2. The competent authorities 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 capital; (c) the firm meets the requirements set out in Articles 92 to 95 and Part Four of Regulation (EU) No 575/2013; (d) such positions are incidental and provisional in nature and strictly limited to the time required to carry out the transaction in question.	Investment Firms	Competent Authority	Case-by-case	Yes	The Bank intends to continue exercising this discretion on a case-by-case basis subject to prior written approval from the Bank
Article 93(b) (Institutions that benefit from government intervention)	In the case of institutions that benefit from exceptional government intervention, the following principles shall apply in addition to those set out in Article 92(2)…(b) the relevant competent authorities require institutions to restructure remuneration in a manner aligned with sound risk management and long-term growth, including, where appropriate, establishing limits to the remuneration of the members of the management body of the institution	Remuneration	Competent Authority	Case-by-case	Yes	The Bank intends to maintain the flexibility to exercise this discretion on a case-by-case basis
Article 108(1) (Internal capital adequacy assessment process)	Competent authorities shall require every institution which is neither a subsidiary in the Member State where it is authorised and supervised, nor a parent undertaking, and every institution not included in the consolidation pursuant to Article 19 of Regulation (EU) No 575/2013, to meet the obligations set out in Article 73 of	Level of Application	Competent Authority	Case-by-case	No	See comment on Article 10 CRR

	this Directive on an individual basis. Competent authorities may waive the requirements set out in Article 73 of this Directive in regard to a credit institution in accordance with Article 10 of Regulation (EU) No 575/2013.					
Article 109(1) (Institutions' arrangements, processes and mechanisms)	Competent authorities shall require institutions to meet the obligations set out in Section II of this Chapter on an individual basis, unless competent authorities make use of the derogation provided for in Article 7 of Regulation (EU) No 575/2013.	Level of Application	Competent Authority	Case-by-case	No	See comment on Article 7 CRR
Article 111(5) (Determination of the consolidating supervisor)	In particular cases, the competent authorities may, by common agreement, waive the criteria referred to in paragraphs 3 and 4 if their application would be inappropriate, taking into account the institutions and the relative importance of their activities in different countries, and appoint a different competent authority to exercise supervision on a consolidated basis. In such cases, before taking their decision, the competent authorities shall give the EU parent institution, EU parent financial holding company, EU parent mixed financial holding company, or institution with the largest balance sheet total, as appropriate, an opportunity to state its opinion on that decision.	Consolidated Supervision	Competent Authority	Case-by-case	Yes	The Bank intends to retain the flexibility to exercise this discretion on a case-by-case basis
Article 115(2) (Coordination and cooperation arrangements)	The competent authorities responsible for authorising the subsidiary of a parent undertaking which is an institution may, by bilateral agreement, in accordance with Article 28 of Regulation (EU) No 1093/2010, delegate their responsibility for supervision to the competent authorities which authorised and supervise the parent undertaking so that they assume responsibility for supervising the subsidiary in accordance with this Directive. EBA shall be kept informed of the existence and content of such agreements. It shall forward such information to the competent authorities of the other Member States and to the European Banking Committee	Consolidated Supervision	Competent Authority	Case-by-case	Yes	The Bank intends to retain the flexibility to exercise this discretion on a case-by-case basis
Article 127(3) (Assessment of equivalence of third countries' consolidated	Competent authorities may in particular require the establishment of a financial holding company or mixed financial holding company which has its head office in the Union, and apply the provisions on consolidated supervision to the consolidated position of that financial holding company or the consolidated position of the	Holding Companies	Competent Authority	Case-by-case	Yes	The Bank intends to retain the flexibility to exercise this

supervision)	institutions of that mixed financial holding company.					discretion on a case-by-case basis

Appendix B (Part I) – New Competent Authority Discretions and Options in CRR

Regulation Reference	Text of Article	Area	Type of Discretion/ Option	Nature	Exercise	Comment
Recital 75 (Approval of Additional Tier 1 and 2 instruments)	This Regulation should not affect the ability of competent authorities to maintain pre-approval processes regarding the contracts governing Additional Tier 1 and Tier 2 capital instruments. In those cases such capital instruments should only be computed towards the institution's Additional Tier 1 capital or Tier 2 capital once they have successfully completed these approval processes.	Own Funds	Competent Authority	General	Yes	The eligibility criteria in the CRR are far clearer as to what AT1/T2 instruments should conform to. Notwithstanding this greater clarity, in the interests of prudency and consistency of approach, it is proposed that all capital instruments must receive the Bank's prior approval before they may be included in Own Funds.
Article 4(2)(Definitions)	Where reference in this Regulation is made to real estate or residential or commercial immovable property or a mortgage on such property, it shall include shares in Finnish residential housing companies operating in accordance with the Finnish Housing Company Act of 1991 or subsequent equivalent legislation. Member States or their competent authorities may allow shares constituting an equivalent indirect holding of real estate to be treated as a direct holding of real estate provided that such an indirect holding is specifically regulated in the national law of the Member State concerned and that, when pledged as collateral, it provides equivalent protection to creditors.	Credit Risk	Member State or Competent Authority	Case by Case	N/A	Member State to confirm allocation of decision-making on this discretion.

6(4)(General Principles)	Credit institutions and investment firms that are authorised to provide the investment services and activities listed in points (3) and (6) of Section A of Annex I to Directive 2004/39/EC shall comply with the obligations laid down in Part Six on an individual basis. Pending the report from the Commission in accordance with Article 508(3), competent authorities may exempt investment firms from compliance with the obligations laid down in Part Six taking into account the nature, scale and complexity of the investment firms' activities.	Investment Firms	Competent authority	General	Yes	Pending the report from the Commission, due 31 December 2015, the Bank intends to exercise this discretion for all investment firms in scope of the requirements. It should be noted that if, at any stage, the Bank considers it necessary for a particular investment firm or category of investment firms to comply with the liquidity requirements due to the potential impact a firm failure could have on the Irish financial system, the Bank may withdraw the exemption from the CRR liquidity requirements for that investment firm or category of investment firms.
Article 8 (Derogation to the application of liquidity requirements on an individual basis)	The competent authorities may waive in full or in part the application of Part Six to an institution and to all or some of its subsidiaries in the Union and supervise them as a single liquidity sub group so long as they fulfil all of the following conditions: (a) the parent institution on a consolidated basis or a subsidiary institution on a sub consolidated basis complies with the obligations laid down in Part Six; (b) the parent institution on a consolidated basis or the subsidiary institution on a sub consolidated basis monitors and has oversight at all times over the liquidity positions of all institutions within the group or sub group, that are subject to the waiver and ensures a sufficient level of liquidity for all of these institutions; (c) the institutions have entered into contracts that, to	Liquidity	Competent Authority	Case by Case	Yes	From 1 Jan 2014 derogations may be granted where all institutions of the single liquidity sub-group are authorised by the Bank. From 1 Jan 2015, following a joint-decision process, derogations may be granted where institutions of the relevant single liquidity sub-group are authorised in several Member States. These derogations are subject to a European Commission review of one

	the satisfaction of the competent authorities, provide for the free movement of funds between them to enable them to meet their individual and joint obligations as they come due; (d) there is no current or foreseen material practical or legal impediment to the fulfilment of the contracts referred to in (c). By 1 January 2014 the Commission shall report to the European Parliament and the Council on any legal obstacles which are capable of rendering impossible the application of point (c) of the first subparagraph and is invited to make a legislative proposal, if appropriate, by 31 December 2015 on which of those obstacles should be removed. 2. The competent authorities may waive in full or in part the application of Part Six to an institution and to all or some of its subsidiaries where all institutions of the single liquidity sub group are authorised in the same Member State and provided that the conditions in paragraph 1 are fulfilled. 3. Where institutions of the single liquidity sub group are authorised in several Member States, paragraph 1 shall only be applied after following the procedure laid down in Article 21 and only to the institutions whose competent authorities agree about the following elements: (a) their assessment of the compliance of the organisation and of the treatment of liquidity risk with the conditions set out in Article 86 of Directive 2013/…/EU* across the single liquidity sub group; (b) the distribution of amounts, location and ownership of the required liquid assets to be held within the single liquidity sub group; (c) the determination of minimum amounts of liquid assets to be held by institutions for which the application of Part Six will be waived; (d) the need for stricter parameters than those set out in					of the conditions by 1 Jan 2014 and a possible legislative proposal by 31 Dec 2015 if appropriate. When granting the derogation to domestic institutions, a derogation to the application of the Directive's Article 86 qualitative liquidity requirements may also be granted. A derogation may also apply to institutional protection scheme members - n/a to banks in Ireland.

	Part Six; (e) unrestricted sharing of complete information between the competent authorities; (f) a full understanding of the implications of such a waiver. 4. Competent authorities may also apply paragraphs 1, 2 and 3 to institutions which are members of the same institutional protection scheme referred to in Article 113(7)(b), provided that they meet all the conditions laid down in Article 113(7), and to other institutions linked by a relationship referred to in Article 113(6) provided that they meet all the conditions laid down therein. Competent authorities shall in that case determine one of the institutions subject to the waiver to meet Part Six on the basis of the consolidated situation of all institutions of the single liquidity sub group. 5. Where a waiver has been granted under paragraph 1 or paragraph 2, the competent authorities may also apply Article 86 of Directive 2013/…/EU*, or parts thereof, at the level of the single liquidity sub group and waive the application of Article 86 of Directive 2013/…/EU*, or parts thereof, on an individual basis.					
Article 9 (Individual consolidation method)	1. Subject to paragraphs 2 and 3 of this Article and to Article 144(3) of Directive 2013/…/EU*, the competent authorities may permit on a case by case basis parent institutions to incorporate in the calculation of their requirement under Article 6(1) subsidiaries which meet the conditions laid down in points (c) and (d) of Article 7(1), and whose material exposures or material liabilities are to that parent institution. 2. The treatment set out in paragraph 1 shall be permitted only where the parent institution demonstrates fully to the competent authorities the circumstances and arrangements, including legal arrangements, by virtue of which there is no material	Level of Application	Competent Authority	Case by Case	Yes	For institutions in receipt of previous waivers under CRD Article 70, the waiver will continue to apply automatically unless there has been a material change since their original application (e.g., to their business model or in the parent-subsidiary relationship). In instances where there have been such significant changes the institution must re-apply

	practical or legal impediment, and none are foreseen, to the prompt transfer of own funds, or repayment of liabilities when due by the subsidiary to its parent undertaking. 3. Where a competent authority exercises the discretion laid down in paragraph 1, it shall on a regular basis and not less than once a year inform the competent authorities of all the other Member States of the use made of paragraph 1 and of the circumstances and arrangements referred to in paragraph 2. Where the subsidiary is in a third country, the competent authorities shall provide the same information to the competent authorities of that third country as well					under Article 9(4).
11(3) (General Treatment)	EU parent institutions and institutions controlled by an EU parent financial holding company and institutions controlled by an EU parent mixed financial holding company shall comply with the obligations laid down in Part Six on the basis of the consolidated situation of that parent institution, financial holding company or mixed financial holding company, if the group comprises one or more institutions that are authorised to provide the investment services and activities listed in points (3) and (6) of Section A of Annex I to Directive 2004/39/EC. Pending the report from the Commission in accordance with Article 508(2), and if the group comprises only investment firms, competent authorities may exempt investment firms from compliance with the obligations laid down in Part Six on a consolidated basis, taking into account the nature, scale and complexity of the investment firm’s activities	Investment Firms	Competent Authority	General	Yes	Pending the report from the Commission due 31 December 2015, the Bank intends to exercise this discretion for all investment firms in scope of the requirements. It should be noted that if, at any stage, the Bank considers it necessary for a particular investment firm or category of investment firms to comply with the liquidity requirements due to the potential impact a firm failure could have on the Irish financial system, the Bank may withdraw the exemption from the CRR liquidity requirements for that investment firm or category of investment firms.

Article 11(5)	5. In addition to the requirements in paragraphs 1 to 4, and without prejudice to other provisions of this Regulation and Directive 2013/36/EU, when it is justified for supervisory purposes by the specificities of the risk or of the capital structure of an institution or where Member States adopt national laws requiring the structural separation of activities within a banking group, competent authorities may require the structurally separated institutions to comply with the obligations laid down in Parts Two to Four and Parts Six to Eight of this Regulation and in Title VII of Directive 2013/36/EU on a sub-consolidated basis.	Level of Application	Competent Authority	Case by Case	Yes	The EBA has produced a Q&A which clarifies that "Institutions may be required to comply with the prudential requirements laid down in CRR on a sub-consolidated basis in the following cases: - where Member States adopt national laws requiring the structural separation of activities within a banking group" and - when it is justified for supervisory purposes by the specificities of the risk or of the capital structure of an institution Cases for supervisory purposes are not limited to those specified in Article 22 or Article 11 (1) to (3) of Regulation (EU) No 575/2013. The Bank may wish to impose sub-consolidated supervision on institutions for reasons other than structural separation of activities and therefore intends to leave open the possibility of exercising this discretion.

Article 18(2)(Methods for Prudential Consolidation)	However, the competent authorities may on a case-by-case basis permit proportional consolidation according to the share of capital that the parent undertaking holds in the subsidiary. Proportional consolidation may only be permitted where all of the following conditions are fulfilled: (a) the liability of the parent undertaking is limited to the share of capital that the parent undertaking holds in the subsidiary in view of the liability of the other shareholders or members; (b) the solvency of those other shareholders or members is satisfactory; (c) the liability of the other shareholders and members is clearly established in a legally binding way.	Level of Application	Competent authority	Case by Case	Yes	The Bank intends to retain the flexibility to exercise this discretion on a case-by-case basis only.
Article 18(5)&(6)	The competent authorities shall determine whether and how consolidation is to be carried out in the following cases: (a) where, in the opinion of the competent authorities, an institution exercises a significant influence over one or more institutions or financial institutions, but without holding a participation or other capital ties in these institutions; and (b) where two or more institutions or financial institutions are placed under single management other than pursuant to a contract or clauses of their memoranda or Articles of association. In particular, the competent authorities 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 consolidated supervision.	Level of Application	Competent authority	Case by Case	Yes	The Bank intends to retain the flexibility to exercise this discretion on a case-by-case basis only.

Article 24(2)(Valuation of assets and off-balance sheet items)	By way of derogation from paragraph 1, competent authorities may require that institutions effect the valuation of assets and off-balance sheet items and the determination of own funds in accordance with International Accounting Standards as applicable under Regulation (EC) No 1606/2002.	Own Funds	Competent Authority	Case by Case	Yes	The main change to existing Article 74 of 2006/48/EC is to specify that where the applicable accounting framework is not international accounting standards (IAS), competent authorities may still require the valuation of assets and off-balance sheet liabilities and determination of own funds in accordance with International Accounting Standards.
Article 27(1) & (2) (Capital instruments of mutuals, cooperative societies, savings institutions or similar institutions entities in Common Equity Tier 1 items)	1. Common Equity Tier 1 items shall include any capital instrument issued by an institution under its statutory terms provided the following conditions are met: (a) the institution is of a type that is defined under applicable national law and which competent authorities consider to qualify as any of the following: (i) a mutual; (ii) a co-operative society; (iii) a savings institution; (iv) a similar institution; (v) a credit institution which is wholly owned by one of the institutions referred to in points (i) to (iv), and has approval from the relevant competent authority to make use of the provisions in this Article, and provided that, and for as long as, 100 % of the ordinary shares in issue in the credit institution are held directly or indirectly by an institution referred to in those points (b) the conditions laid down in Articles 28 or, where applicable, Article 29, are met. Those mutuals, cooperative societies or savings institutions recognised as such under applicable national law prior to 31 December 2012 shall continue to be classified as such for the purposes of this Part,	Own Funds	Competent Authority	Case by Case	No	The Bank does not consider that this discretion is relevant within the Irish context.

	provided that they continue to meet the criteria that determined such recognition.					
Article 31(Capital instruments subscribed by public authorities in emergency situations)	1. In emergency situations, competent authorities may permit institutions to include in Common Equity Tier 1 capital instruments that comply at least with the conditions laid down in points (b) to (e) of Article 28(1) where all the following conditions are met: (a) the capital instruments are issued after 1 January 2014; (b) the capital instruments are considered State aid by the Commission; (c) the capital instruments are issued within the context of recapitalisation measures pursuant to State aid- rules existing at the time; (d) the capital instruments are fully subscribed and held by the State or a relevant public authority or public-owned entity; (e) the capital instruments are able to absorb losses; (f) except for the capital instruments referred to in Article 27, in the event of liquidation, the capital instruments entitle their owners to a claim on the residual assets of the institution after the payment of all senior claims; (g) there are adequate exit mechanisms of the State or, where applicable, a relevant public authority or public-owned entity; (h) the competent authority has granted its prior permission and has published its decision together with an explanation of that decision. 2. Upon reasoned request by and in cooperation with the relevant competent authority, EBA shall consider the capital instruments referred to in paragraph 1 as equivalent to Common Equity Tier 1 instruments for the purposes of this Regulation.	Own Funds	Competent authority	Case by Case	Yes	The Bank intends to retain the flexibility to exercise this discretion on a case-by-case basis

Article 49(Requirement for deduction, supplementary supervision or institutional protection schemes have been applied)	1. For the purposes of calculating own funds on an individual basis, a sub-consolidated basis and a consolidated basis, where the competent authorities require or permit institutions to apply method 1, 2 or 3 of Annex I to Directive 2002/87/EC, the competent authorities may permit institutions not to deduct the holdings of own funds instruments of a financial sector entity in which the parent institution, parent financial holding company or parent mixed financial holding company or institution has a significant investment, provided that the conditions laid down in points (a) to (e) of this paragraph are met: (a) the financial sector entity is an insurance undertaking, a re- insurance undertaking or an insurance holding company; (b) that insurance undertaking, re-insurance undertaking or insurance holding company is included in the same supplementary supervision under Directive 2002/87/EC as the parent institution, parent financial holding company or parent mixed financial holding company or institution that has the holding; (c) the institution has received the prior permission of the competent authorities; (d) prior to granting the permission referred to in point (c), and on a continuing basis, the competent authorities are satisfied that the level of integrated management, risk management and internal control regarding the entities that would be included in the scope of consolidation under method 1, 2 or 3 is adequate; (e) the holdings in the entity belong to one of the following: (i) the parent credit institution; (ii) the parent financial holding company; (iii) the parent mixed financial holding company; (iv) the institution; (v) a subsidiary of one of the entities referred to in points (i) to (iv) that is included in the scope of	Own Funds	Competent Authority	Case by Case	Yes	The Bank intends to exercise this discretion, though considers that it is a constrained discretion subject to RTS conditionality

	consolidation pursuant to Chapter 2 of Title II of Part One. The method chosen shall be applied in a consistent manner over time. 2. For the purposes of calculating own funds on an individual basis and a sub-consolidated basis, institutions subject to supervision on a consolidated basis in accordance with Chapter 2 of Title II of Part One shall not deduct holdings of own funds instruments issued by financial sector entities included in the scope of consolidated supervision, unless the competent authorities determine those deductions to be required for specific purposes, in particular structural separation of banking activities and resolution planning. Applying the approach referred to in the first subparagraph shall not entail disproportionate adverse effects on the whole or parts of the financial system in other Member States or in the Union as a whole forming or creating an obstacle to the functioning of the internal market. 3. Competent authorities may, for the purposes of calculating own funds on an individual or sub-consolidated basis permit institutions not to deduct holdings of own funds instruments in the following cases: (a) where an institution has a holding in another institution and the conditions referred to in points (i) to (v) are met: (i) the institutions fall within the same institutional protection scheme referred to in Article 113(7); (ii) the competent authorities have granted the permission referred to in Article 113(7); (iii) the conditions laid down in Article 113(7) are satisfied; (iv) the institutional protection scheme draws up a consolidated balance sheet referred to in point (e) of Article 113(7) or, where it is not required to draw up					

	consolidated accounts, an extended aggregated calculation that is, to the satisfaction of the competent authorities, equivalent to the provisions of Directive 86/635/EEC, which incorporates certain adaptations of the provisions of Directive 83/349/EEC or of Regulation (EC) No 1606/2002, governing the consolidated accounts of groups of credit institutions. The equivalence of that extended aggregated calculation shall be verified by an external auditor and in particular that the multiple use of elements eligible for the calculation of own funds as well as any inappropriate creation of own funds between the members of the institutional protection scheme is eliminated in the calculation. The consolidated balance sheet or the extended aggregated calculation shall be reported to the competent authorities no less frequently than the frequency laid down in Article 99;EN 27.6.2013 Official Journal of the European Union L 176/47 (v) the institutions included in an institutional protection scheme meet together on a consolidated or extended aggregated basis the requirements laid down in Article 92 and carry out reporting of compliance with those requirements in accordance with Article 99. Within an institutional protection scheme the deduction of the interest owned by co-operative members or legal entities, which are not members of the institutional protection scheme, is not required, provided that the multiple use of elements eligible for the calculation of own funds as well as any inappropriate creation of own funds between the members of the institutional protection scheme and the minority shareholder, when it is an institution, is eliminated. (b) where a regional credit institution has a holding in its central or another regional credit institution and the conditions laid down in points (a)(i) to (v) are met. 4. The holdings in respect of which deduction is not made in accordance with paragraph 1, 2 or 3 shall					

	qualify as exposures and shall be risk weighted in accordance with Chapter 2 or 3 of Title II of Part Three, as applicable. 5. Where an institution applies methods 1 or 2 of Annex I to Directive 2002/87/EC, the institution shall disclose the supplementary own funds requirement and capital adequacy ratio of the financial conglomerate as calculated in accordance with Article 6 of and Annex I to that Directive. 6. EBA, EIOPA and the European Supervisory Authority (European Securities and Markets Authority) (ESMA) established by Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 (1) shall, through the Joint Committee, develop draft regulatory technical standards to specify for the purposes of this Article the conditions of application of the calculation methods listed in Annex I, Part II of Directive 2002/87/EC for the purposes of the alternatives to deduction referred to in paragraph 1 of this Article. EBA, EIOPA and ESMA shall submit those draft regulatory technical standards to the Commission by 1 February 2015. Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010, of Regulation (EU) No 1094/2010 and of Regulation (EU) No 1095/2010 respectively.					

Article 78 (Supervisory permission for reducing own funds)	1. The competent authority shall grant permission for an institution to reduce, repurchase, call or redeem Common Equity Tier 1, Additional Tier 1 or Tier 2 instruments where any of the following conditions is met: (a) earlier than or at the same time as the action referred to in Article 77, the institution replaces the instruments referred to in Article 77 with own funds instruments of equal or higher quality at terms that are sustainable for the income capacity of the institution; (b) the institution has demonstrated to the satisfaction of the competent authority that the own funds of the institution would, following the action in question, exceed the requirements laid down in Article 92(1) of this Regulation and the combined buffer requirement as defined in point (6) of Article 128 of Directive 2013/36/EU by a margin that the competent authority may consider necessary on the basis of Article 104(3) of Directive 2013/36/EU. 2. When assessing under point (a) of paragraph 1 the sustainability of the replacement instruments for the income capacity of the institution, competent authorities shall consider the extent to which those replacement capital instruments would be more costly for the institution than those they would replace. 3. Where an institution takes an action referred to in point (a) of Article 77 and the refusal of redemption of Common Equity Tier 1 instruments referred to in Article 27 is prohibited by applicable national law, the competent authority may waive the conditions laid down in paragraph 1 of this Article provided the competent authority requires the institution to limit the redemption of such instruments on an appropriate basis. 4. The competent authorities may permit institutions to redeem Additional Tier 1 or Tier 2 instruments before five years of the date of issue only where the conditions laid down in paragraph 1 and point (a) or (b)	Own Funds	Competent authority	Case by Case	Yes	The Bank intends to retain the flexibility to exercise this discretion on a case-by-case basis. Interpretation of 1(a) will also be subject to an EBA RTS.

	of this paragraph are met: (a) there is a change in the regulatory classification of those instruments that would be likely to result in their exclusion from own funds or reclassification as a lower quality form of own funds, and both the following conditions are met: (i) the competent authority considers such a change to be sufficiently certain; (ii) the institution demonstrates to the satisfaction of the competent authorities that the regulatory reclassification of those instruments was not reasonably foreseeable at the time of their issuance; (b) there is a change in the applicable tax treatment of those instruments which the institution demonstrates to the satisfaction of the competent authorities is material and was not reasonably foreseeable at the time of their issuance.					
Article 83(1)	1. Additional Tier 1 and Tier 2 instruments issued by special purpose entity, and the related share premium accounts are included in qualifying Additional Tier 1, Tier 1 or Tier 2 capital or qualifying own funds, as applicable, only where the following conditions are met: (a) the special purpose entity issuing those instruments is included fully in the consolidation pursuant to Chapter 2 of Title II of Part One; (b) the instruments, and the related share premium accounts, are included in qualifying Additional Tier 1 capital only where the conditions laid down in Article 52(1) are satisfied; (c) the instruments, and the related share premium accounts, are included in qualifying Tier 2 capital only where the conditions laid down in Article 63 are satisfied; (d) the only asset of the special purpose entity is its investment in the own funds of the parent undertaking or a subsidiary thereof that is included fully in the consolidation pursuant to Chapter 2 of Title II of Part	Own Funds	Competent Authority	Case by Case	Yes	The Bank intends to retain the flexibility to exercise this discretion on a case-by-case basis

	One, the form of which satisfies the relevant conditions laid down in Articles 52(1) or 63, as applicable. Where the competent authority considers the assets of a special purpose entity other than its investment in the own funds of the parent undertaking or a subsidiary thereof that is included in the scope of consolidation pursuant to Chapter 2 of Title II of Part One, to be minimal and insignificant for such an entity, the competent authority may waive the condition specified in point (d) of the first subparagraph.					
Article 84(5)(Minority interests included in consolidated Common Equity Tier 1 capital)	5. Competent authorities may grant a waiver from the application of this Article to a parent financial holding company that satisfies all the following conditions: (a) its principal activity is to acquire holdings; (b) it is subject to prudential supervision on a consolidated basis; (c) it consolidates a subsidiary institution in which it has only a minority holding by virtue of the control relationship defined in Article 1 of Directive 83/349/EEC; (d) more than 90 % of the consolidated required Common Equity Tier 1 capital arises from the subsidiary institution referred to in point c) calculated on a sub-consolidated basis. Where, after 31 December 2014, a parent financial holding company that meets the conditions laid down in the first subparagraph becomes a parent mixed financial holding company, competent authorities may grant the waiver referred to in the first subparagraph to that parent mixed financial holding company provided that it meets the conditions laid down in that subparagraph.	Own Funds	Competent Authority	Case by Case	No	The Bank does not consider that any Irish banks would meet all of the conditions for the granting of this waiver.

Article 89(3)(Risk weighting and prohibition of qualifying holdings outside the financial sector)	Competent authorities shall apply the requirements laid down in point (a) or (b) to qualifying holdings of institutions referred to in paragraphs 1 and 2: (a) for the purpose of calculating the capital requirement in accordance with Part Three of this Regulation, institutions shall apply a risk weight of 1 250 % to the greater of the following: (i) the amount of qualifying holdings referred to in paragraph 1 in excess of 15 % of eligible capital; (ii) the total amount of qualifying holdings referred to in paragraph 2 that exceed 60 % of the eligible capital of the institution; (b) the competent authorities shall prohibit institutions from having qualifying holdings referred to in paragraphs 1 and 2 the amount of which exceeds the percentages of eligible capital laid down in those paragraphs. Competent authorities shall publish their choice of (a) or (b).	Own Funds	Competent Authority	General	Apply 1250% risk weight	Under Part 7 of S.I. No.661 of 2006, banks may have a qualifying holding outside the financial sector in excess of 15% of own funds or on an aggregated basis in excess of 60% of Own Funds on an exceptional basis. Under such circumstances, the Bank shall require the institution to increase its own funds or take equivalent measures. Under the CRR, the discretion for the competent authority is whether to permit a risk-weighting of 1250% for the excess or to prohibit such excesses entirely. The Bank does not consider that a prohibition is prudentially-warranted. The choice of 1250% risk-weighting or deduction is left to institutions under Article 90 CRR.
Article 93(6)(Initial capital requirement on going concern)	Where competent authorities consider it necessary to ensure the solvency of an institution that the requirement laid down in paragraph 1 is met, the provisions laid down in paragraphs 2 to 5 shall not apply.	Own Funds	Competent Authority	Case by Case	Yes	The Bank intends to retain the flexibility to exercise this discretion on a case-by-case basis

Article 95(2) (Own funds requirements for investment firms with limited authorisation to provide investment services))	Competent authorities may set the own fund requirements for firms referred to in point (2)(c) of Article 4(1) that provide the investment services and activities listed in points (2) and (4) of Section A of Annex I to Directive 2004/39/EC as the own fund requirements that would be binding on those firms according to the national transposition measures in force on 31 December 2013 for Directives 2006/49/EC and 2006/48/EC.	Investment Firms	Competent Authority	General	Yes	Pending the report from the Commission referred to in Article 508(3) CRR, due 31 December 2015, the Bank intends to exercise this discretion in order to maintain the Pillar 1 and Pillar 2 regime according to S.I. No. 660 of 2006 (as amended) and S.I. No. 661 of 2006 (as amended) as at 31 December 2013 for these firms.
Article 99(3)(Reporting on own funds requirements and financial information)	Competent authorities may require those credit institutions applying International Accounting Standards as applicable under Regulation (EC) No 1606/2002 for the reporting of own funds on a consolidated basis pursuant to Article 24(2) of this Regulation to also report financial information as laid down in the previous subparagraph 2 of this Article	Reporting	Competent Authority	Case by Case	Yes	This Bank intends to exercise this discretion as all Irish-licensed banks will be required to report FINREP.
Article 107(4)(Approaches to credit risk)	4. For the purposes of paragraph 3, the Commission may adopt, by way of implementing acts, and subject to the examination procedure referred to in Article 464(2), a decision as to whether a third country applies prudential supervisory and regulatory requirements at least equivalent to those applied in the Union. In the absence of such a decision, until 1 January 2015, institutions may continue to treat exposures to the entities referred to in paragraph 3 as exposures to institutions provided that the relevant competent authorities had approved the third country as eligible for that treatment before 1 January 2014.	Credit Risk	Competent Authority	General	Yes	Australia, Canada, Singapore, Switzerland and US are deemed equivalent for the purposes of this credit risk provision by the Bank

Article 114(7)(Exposures to central governments or central banks)	For the purposes of this paragraph, the Commission may adopt, by way of implementing acts, and subject to the examination procedure referred to in Article 464(2), a decision as to whether a third country applies supervisory and regulatory arrangements at least equivalent to those applied in the Union. In the absence of such a decision, until 1 January 2015, institutions may continue to apply the treatment set out in this paragraph to the exposures to the central government or central bank of the third country where the relevant competent authorities had approved the third country as eligible for that treatment before 1 January 2014.	Credit Risk	Competent Authority	General	Yes	Australia, Canada, Singapore, Switzerland and US are deemed equivalent for the purposes of this credit risk provision by the Bank.
Article 115(3)(Exposures to Regional Governments or Local Authorities)	Exposures to churches or religious communities constituted in the form of a legal person under public law shall, in so far as they raise taxes in accordance with legislation conferring on them the right to do so, be treated as exposures to regional governments and local authorities. In this case, paragraph 2 shall not apply and, for the purposes of Article 150(1)(a), permission to apply the Standardised Approach shall not be excluded.	Credit Risk	Competent Authority	General	Yes	
Article 115(4)	For the purposes of this paragraph, the Commission may adopt, by way of implementing acts, and subject to the examination procedure referred to in Article 464(2), a decision as to whether a third country applies supervisory and regulatory arrangements at least equivalent to those applied in the Union. In the absence of such a decision, until 1 January 2015, institutions may continue to apply the treatment set out in this paragraph to the third country where the relevant competent authorities had approved the third country as eligible for that treatment before 1 January 2014.	Credit Risk	Competent Authority	General	Yes	Australia, Canada, Singapore, Switzerland and US are deemed equivalent for the purposes of this credit risk provision by the Bank
Article 116(4) and (5)(Exposures to public sector	4. In exceptional circumstances, exposures to public-sector entities may be treated as exposures to the central government, regional government or local authority in whose jurisdiction they are established where in the opinion of the competent authorities of	Credit Risk	Competent Authority	General	Yes	Australia, Canada, Singapore, Switzerland and US are deemed equivalent for the purposes of this credit risk provision by the

entities)	this jurisdiction there is no difference in risk between such exposures because of the existence of an appropriate guarantee by the central government, regional government or local authority. 5. When competent authorities of a third country jurisdiction, which apply supervisory and regulatory arrangements at least equivalent to those applied in the Union, treat exposures to public sector entities in accordance with paragraph 1 or 2, institutions may risk weight exposures to such public sector entities in the same manner. Otherwise the institutions shall apply a risk weight of 100 %. For the purposes of this paragraph, the Commission may adopt, by way of implementing acts, and subject to the examination procedure referred to in Article 464(2), a decision as to whether a third country applies supervisory and regulatory arrangements at least equivalent to those applied in the Union. In the absence of such a decision, until 1 January 2015, institutions may continue to apply the treatment set out in this paragraph to the third country where the relevant competent authorities had approved the third country as eligible for that treatment before 1 January 2014.					Central Bank
Article 129(1)(g)(3rd subparagraph) (Exposures in the form of covered bonds)	The competent authorities may, after consulting EBA, partly waive the application of point (c) of the first subparagraph and allow credit quality step 2 for up to 10 % of the total exposure of the nominal amount of outstanding covered bonds of the issuing institution, provided that significant potential concentration problems in the Member States concerned can be documented due to the application of the credit quality step 1 requirement referred to in that point	Credit Risk	Competent Authority	Case by Case	Yes	The Bank intends to retain the flexibility to exercise this discretion on a case-by-case basis.

Article 132(3)(c)	For the purposes of point (a), the Commission may adopt, by way of implementing acts, and subject to the examination procedure referred to in Article 464(2), a decision as to whether a third country applies supervisory and regulatory arrangements at least equivalent to those applied in the Union. In the absence of such a decision, until 1 January 2015, institutions may continue to apply the treatment set out in this paragraph to exposures in the form of units or shares of CIUs from third countries where the relevant competent authorities had approved the third country as eligible for that treatment before 1 January 2014.	Credit Risk	Competent Authority	General	Yes	Australia, Canada, Singapore, Switzerland and US are deemed equivalent for the purposes of this credit risk provision by the Bank
Article 142(2)(Definitions)	For the purposes of point (4)(b) of paragraph 1 of this Article, the Commission may adopt, by way of implementing acts, and subject to the examination procedure referred to in Article 464(2), a decision as to whether a third country applies supervisory and regulatory arrangements at least equivalent to those applied in the Union. In the absence of such a decision,until 1 January 2015, institutions may continue to apply the treatment set out in this paragraph to a third country where the relevant competent authorities had approved the third country as eligible for this treatment before 1 January 2014.	Credit Risk	Competent Authority	General	Yes	Australia, Canada, Singapore, Switzerland and US are deemed equivalent for the purposes of this credit risk provision by the Bank
Article 162(1)-(2)(Maturity)	1. Institutions that have not received permission to use own LGDs and own conversion factors for exposures to corporates, institutions or central governments and central banks shall assign to exposures arising from repurchase transactions or securities or commodities lending or borrowing transactions a maturity value (M) of 0,5 years and to all other exposures an M of 2,5 years. Alternatively, as part of the permission referred to in Article 143, the competent authorities shall decide on whether the institution shall use maturity (M) for each exposure as set out under paragraph 2. 2. Institutions that have received the permission of the	Credit Risk	Competent Authority	Case by Case	Yes. Irish banks using IRB all applying alternative calculation	The Bank believes the alternative calculation to be the more risk sensitive treatment. Evidence suggests that maturity, M, can be a significant driver of risk, particularly for low PD portfolios. The Bank sees no reason to link maturity with the ability to use own estimates of LGD and conversion factors (where M becomes mandatory). All

	competent authority to use own LGDs and own conversion factors for exposures to corporates, institutions or central governments and central banks pursuant to Article 143 shall calculate M for each of these exposures as set out in points (a) to (e) of this paragraph and subject to paragraphs 3 to 5 of this Article. M shall be no greater than five years except in the cases specified in Article 384(1) where M as specified there shall be used: (a) for an instrument subject to a cash flow schedule, M shall be calculated according to the following formula: where CFt denotes the cash flows (principal, interest payments and fees) contractually payable by the obligor in period t; (b) for derivatives subject to a master netting agreement, M shall be the weighted average remaining maturity of the exposure, where M shall be at least 1 year, and the notional amount of each exposure shall be used for weighting the maturity; (c) for exposures arising from fully or nearly-fully collateralised derivative instruments listed in Annex II and fully or nearly-fully collateralised margin lending transactions which are subject to a master netting agreement, M shall be the weighted average remaining maturity of the transactions where M shall be at least 10 days; (d) for repurchase transactions or securities or commodities lending or borrowing transactions which are subject to a master netting agreement, M shall be the weighted average remaining maturity of the transactions where M shall be at least 5 days. The notional amount of each transaction shall be used for weighting the maturity; (e) an institution that has received the permission of the competent authority pursuant to Article 143 to use own PD estimates for purchased corporate receivables, for drawn amounts M shall equal the purchased					banks approved for IRB models should continue to use the alternative calculation.

	receivables exposure weighted average maturity, where M shall be at least 90 days. This same value of M shall also be used for undrawn amounts under a committed purchase facility provided the facility contains effective covenants, early amortisation triggers, or other features that protect the purchasing institution against a significant deterioration in the quality of the future receivables it is required to purchase over the facility's term. Absent such effective protections, M for undrawn amounts shall be calculated as the sum of the longest-dated potential receivable under the purchase agreement and the remaining maturity of the purchase facility, where M shall be at least 90 days; (f) for any other instrument than those mentioned in this paragraph or when an institution is not in a position to calculate M as set out in (a), M shall be the maximum remaining time (in years) that the obligor is permitted to take to fully discharge its contractual obligations, where M shall be at least 1 year; (g) for institutions using the Internal Model Method set out in Section 6 of Chapter 6 to calculate the exposure values, M shall be calculated for exposures to which they apply this method and for which the maturity of the longest-dated contract contained in the netting set is greater than one year according to the following formula: where: = a dummy variable whose value at future period tk is equal to 0 if tk > 1 year and to 1 if tk ≤ 1; = the expected exposure at the future period tk; = the effective expected exposure at the future period tk; = the risk-free discount factor for future time period tk; ;					

	(h) an institution that uses an internal model to calculate a one-sided credit valuation adjustment (CVA) may use, subject to the permission of the competent authorities, the effective credit duration estimated by the internal model as M. Subject to paragraph 2, for netting sets in which all contracts have an original maturity of less than one year the formula in point (a) shall apply; (i) for institutions using the Internal Model Method set out in Section 6 of Chapter 6, to calculate the exposure values and having an internal model permission for specific risk associated with traded debt positions in accordance with Part Three, Title IV, Chapter 5, M shall be set to 1 in the formula laid out in Article 153(1), provided that an institution can demonstrate to the competent authorities that its internal model for Specific risk associated with traded debt positions applied in Article 383 contains effects of rating migrations; (j) for the purposes of Article 153(3), M shall be the effective maturity of the credit protection but at least 1 year					
Article 164(5)	Based on the data collected under Article 101 and taking into account forward-looking property market developments and any other relevant indicators, the competent authorities shall periodically, and at least annually, assess whether the minimum LGD values in paragraph 4 of this Article are appropriate for exposures secured by residential or commercial immovable property located in their territory. Competent authorities may, where appropriate on the basis of financial stability considerations, set higher minimum values of exposure weighted average LGD for exposures secured by property in their territory.	Credit Risk	Competent Authority	General	Yes	This competent authority discretion will be subject to an EBA RTS (due by end 31 Dec 2014) specifying the conditions to be taken into account when determining higher minimum LGD values. The Bank intends to retain the flexibility to exercise this discretion in future.

Article 311(2)	Where only the condition in point (a) of paragraph 1 has been met, the competent authority of the institution shall verify the reasons why the CCP has stopped calculating KCCP. Where the competent authority considers that the reasons referred to in the first subparagraph are valid, it may permit institutions in its Member State to apply the treatment set out in Article 310 to their trade exposures and default fund contributions to that CCP. Where it grants such permission, it shall disclose the reasons for its decision. Where the competent authority considers that the reasons referred to in the first subparagraph are not valid, all institutions in its Member State, irrespective of the treatment they chose in accordance with Article 301(2), shall apply the treatment set out in points (a) to (d) of paragraph 3 of this Article.	Market Risk - CCR	Competent Authority	Case by Case	Yes	The Bank intends to retain the flexibility to exercise this discretion on a case-by-case basis
Article 315(3)(Capital requirement)	Where an institution can prove to its competent authority that, due to a merger, an acquisition or a disposal of entities or activities, using a three year average to calculate the relevant indicator would lead to a biased estimation for the own funds requirement for operational risk, the competent authority may permit the institution to amend the calculation in a way that would take into account such events and shall duly inform EBA thereof. In such circumstances, the competent authority may, on its own initiative, also require an institution to amend the calculation.	Op Risk	Competent Authority	Case by Case	Yes	The Bank intends to retain the flexibility to exercise this discretion on a case-by-case basis
Article 329(4)(Options and Warrants)	Before the entry into force of the technical standards referred to in paragraph 3, competent authorities may continue to apply the existing national treatments, where the competent authorities have applied those treatments before 31 December 2013.	Market Risk	Competent Authority	General	Yes	The relevant RTS is due to be submitted to the European Commission before 31 December 2013. For the purposes of any interim period, the Bank intends to continue to apply the existing pre-processing model invoked by the Bank

						under the competent authority discretion in Annex 1, paragraph 5 of Directive 2006/49/EC. However, continuance of this national treatment is only likely to apply for a very short period of time, if at all.
Article 352(6)(Calculation of the overall net foreign exchange provision)	EBA shall develop draft regulatory technical standards defining a range of methods to reflect in the own funds requirements other risks, apart from delta risk, in a manner proportionate to the scale and complexity of institutions' activities in options. EBA shall submit those draft regulatory technical standards to the Commission by 31 December 2013. Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with the procedure laid down in Articles 10 to 14 of Regulation (EU) No 1093/2010. Before the entry into force of the technical standards referred to in the first subparagraph, competent authorities may continue to apply the existing national treatments, where the competent authorities have applied those treatments before 31 December 2013	Market Risk	Competent Authority	General	Yes	The relevant RTS is due to be submitted to the European Commission before 31 December 2013. However, continuance of this national treatment is only likely to apply for a very short period of time, if at all.

Article 358(4)(Particular instruments)	EBA shall develop draft regulatory technical standards defining a range of methods to reflect in the own funds requirements other risks, apart from delta risk, in a manner proportionate to the scale and complexity of institutions' activities in options. EBA shall submit those draft regulatory technical standards to the Commission by 31 December 2013. Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010 Before the entry into force of the technical standards referred to in the first subparagraph, competent authorities may continue to apply the existing national treatments, where the competent authorities have applied that those treatments before 31 December 2013	Market Risk	Competent Authority	General	Yes	The relevant RTS is due to be submitted to the European Commission before 31 December 2013. For the purposes of any interim period, the Bank intends to continue to apply the existing national discretion invoked under Annex IV (10) of Directive 2006/49/EC. However, continuance of this national treatment is only likely to apply for a very short period of time, if at all.
Article 382(4)	intragroup transactions as provided for in Article 3 of Regulation (EU) No 648/2012 [EMIR]unless Member States enact national laws requiring the structural separation within a banking group, in which case competent authorities may require those intragroup transactions between the structurally separated institutions to be included in the own funds requirements	Market Risk	Competent Authority	Case by Case	N/A	Structural separation measures have not been taken in Ireland. The Bank therefore considers that this discretion is not relevant for Irish institutions.
Article 383(5)(c)	(c) the three-times multiplier used in the calculation of own funds requirements based on a Value-at-Risk and a stressed Value-at-Risk in accordance with 364(1) will apply to these calculations. EBA shall monitor for consistency any supervisory discretion used to apply a higher multiplier than that three-times multiplier to the Value-at-Risk and stressed Value-at-Risk inputs to the CVA charge. Competent authorities applying a multiplier higher than three shall provide a written justification to EBA;	Market Risk	Competent Authority	Case by Case	Yes	The Bank intends to retain the flexibility to exercise this discretion on a case-by-case basis.

Article 395(6)-(8)	6. For the purpose of this paragraph, structural measures mean measures adopted by a Member State and implemented by the relevant competent authorities of that Member State before the entry into force of a legal act explicitly harmonising such measures, that require credit institutions authorised in that Member State to reduce their exposures to different legal entities depending on their activities, irrespective of where those activities are located, with a view to protecting depositors and preserving financial stability. Notwithstanding paragraph 1 of this Article and Article 400(1)(f), where Member States adopt national laws requiring structural measures to be taken within a banking group, competent authorities may require the institutions of the banking group which hold deposits that are covered by a Deposit Guarantee Scheme in accordance with Directive 94/19/EC of the European Parliament and of the Council of 30 May 1994 on deposit-guarantee schemes (1) or an equivalent deposit guarantee scheme in a third country to apply a large exposure limit below 25 % but not lower than 15 % between 31 December 2014 and 30 June 2015, and than 10 % from 1 July 2015 on a sub-consolidated basis in accordance with Article 11(5) to intragroup exposures where these exposures consist of exposures to an entity that does not belong to the same subgroup as regards the structural measures. 7. Before adopting the specific structural measures as referred to in paragraph 6 relating to large exposures, the competent authorities shall notify the Council, the Commission, the competent authorities concerned and EBA at least two months prior to the publication of the decision to adopt the structural measures, and submit relevant quantitative or qualitative evidence of all of the following: (a) the scope of the activities that are subject to the structural measures; (b) an explanation as to why such draft measures are	Large Exposures	Competent Authority	Case by Case	No	Structural separation measures have not been taken in Ireland. The Bank therefore considers that this discretion is not relevant for Irish institutions.

	deemed to be suitable, effective and proportionate to protect depositors; (c) an assessment of the likely positive or negative impact of the measures on the internal market based on information which is available to the Member State. 8. The power to adopt an implementing act to accept or reject the proposed national measures referred to in paragraph 7 is conferred on the Commission acting in accordance with the procedure referred to in Article 464(2).					
Article 396(1)(Compliance with Large Exposures Requirements)	If, in an exceptional case, exposures exceed the limit set out in Article 395(1), the institution shall report the value of the exposure without delay to the competent authorities which may, where the circumstances warrant it, allow the institution a limited period of time in which to comply with the limit. Where the amount of EUR 150 million referred to in Article 395(1) is applicable, the competent authorities may allow on a case by case basis the 100 % limit in terms of the institution's eligible capital to be exceeded	Large Exposures	Competent Authority	Case by Case	Yes	The Bank intends to retain the flexibility to exercise this discretion on a case-by-case basis
Article 400(2)-(3)(Exemptions)	Competent authorities may fully or partially exempt the following exposures: (a) covered bonds falling within the terms of Article 129(1), (3) and (6); (b) asset items constituting claims on regional governments or local authorities of Member States where those claims would be assigned a 20 % risk weight under Part Three, Title II, Chapter 2 and other exposures to or guaranteed by those regional governments or local authorities, claims on which would be assigned a 20 % risk weight under Part Three, Title II, Chapter 2; (c) exposures, including participations or other kinds of holdings, incurred by an institution to its parent undertaking, to other subsidiaries of that parent undertaking or to its own subsidiaries, in so far as those undertakings are covered by the supervision on a	Large Exposures	Competent Authority	General	To be determined following European Commission review. In the interim period, transitional measures in Article 493(3) apply; these are at the discretion of the Member State	The Commission is mandated to review and report on the application of Article 400(1)(j) (exposures to CCPs) and Article 400(2), including whether the exemptions set out in Article 400(2) are to be discretionary, and shall submit that report to the European Parliament and to the Council, together with a legislative proposal if appropriate by 31 December 2015.

	consolidated basis to which the institution itself is subject, in accordance with this Regulation, Directive 2002/87/EC or with equivalent standards in force in a third country; exposures that do not meet these criteria, whether or not exempted from Article 395(1), shall be treated as exposures to a third party; (d) asset items constituting claims on and other exposures, including participations or other kinds of holdings, to regional or central credit institutions with which the credit institution is associated in a network in accordance with legal or statutory provisions and which are responsible, under those provisions, for cash clearing operations within the network; (e) asset items constituting claims on and other exposures to credit institutions incurred by credit institutions, one of which operates on a non competitive basis and provides or guarantees loans under legislative programmes or its statutes, to promote specified sectors of the economy under some form of government oversight and restrictions on the use of the loans, provided that the respective exposures arise from such loans that are passed on to the beneficiaries via credit institutions or from the guarantees of these loans; (f) asset items constituting claims on and other exposures to institutions, provided that those exposures do not constitute such institutions' own funds, do not last longer than the following business day and are not denominated in a major trading currency; (g) asset items constituting claims on central banks in the form of required minimum reserves held at those central banks which are denominated in their national currencies; (h) asset items constituting claims on central governments in the form of statutory liquidity requirements held in government securities which are denominated and funded in their national currencies provided that, at the discretion of the competent authority, the credit assessment of those central					

	governments assigned by a nominated ECAI is investment grade; (i) 50 % of medium/low risk off balance sheet documentary credits and of medium/low risk off balance sheet undrawn credit facilities referred to in Annex I and subject to the competent authorities' agreement, 80 % of guarantees other than loan guarantees which have a legal or regulatory basis and are given for their members by mutual guarantee schemes possessing the status of credit institutions; (j) legally required guarantees used when a mortgage loan financed by issuing mortgage bonds is paid to the mortgage borrower before the final registration of the mortgage in the land register, provided the guarantee is not used as reducing the risk in calculating the risk weighted exposure amounts; (k) assets items constituting claims on and other exposures to recognised exchanges. 3. Competent authorities may only make use of the exemption provided for in paragraph 2 where the following conditions are met: (a) the specific nature of the exposure, the counterparty or the relationship between the institution and the counterparty eliminate or reduce the risk of the exposure; and (b) any remaining concentration risk can be addressed by other equally effective means such as the arrangements, processes and mechanisms provided for in Article 81 of Directive 2013/…/EU*. Competent authorities shall inform EBA whether or not they intend to use any of the exemptions provided for in paragraph 2 in accordance with points (a) and (b) of this paragraph and shall consult EBA on this choice.					

Article 412(5) (Liquidity Coverage Requirement)	Member States or competent authorities may require domestically authorised institutions, or a subset of those institutions, to maintain a higher liquidity coverage requirement up to 100 % until the binding minimum standard is fully introduced at a rate of 100 % in accordance with Article 460.	Liquidity	Member State or Competent Authority	General	Tbc	The responsibility for this discretion has yet to be confirmed by the Department of Finance. This discretion is also related to the Article 412(5) Member State discretion to maintain existing national provisions. Member state discretions are a matter for the Department of Finance.
Article 415(3)(b) (Reporting obligation and reporting format)	EBA shall develop draft implementing technical standards to specify the following: (b) additional liquidity monitoring metrics required, to allow competent authorities to obtain a comprehensive view of the liquidity risk profile, proportionate to the nature, scale and complexity of an institution's activities. EBA shall submit to the Commission those draft implementing technical standards for the items specified in point (a) by …*and for the items specified in point (b) by 1 January 2014. Until the full introduction of binding liquidity requirements, competent authorities may continue to collect information through monitoring tools for the purpose of monitoring compliance with existing national liquidity standards. Power is conferred on the Commission to adopt the implementing technical standards referred to in the first subparagraph in accordance with Article 15 of Regulation (EU) No 1093/2010.	Liquidity	Competent Authority	General	Yes	Subject to the exercise of the related Article 412(5) Member State discretion, the Bank is proposing to exercise this discretion. If exercised, existing liquidity regulatory reporting would continue until 1 January 2018, or an earlier date, if deemed appropriate by the Bank. The reporting process for these submissions would remain unchanged and run concurrently with the new CRR liquidity reporting requirements.

Article 416(1) last para (Reporting on Liquid Assets)	Pending specification of a uniform definition in accordance with Article 460 of high and extremely high liquidity and credit quality, institutions shall identify themselves in a given currency transferable assets that are respectively of high or extremely high liquidity and credit quality. Pending specification of a uniform definition, competent authorities may, taking into account the criteria listed in Article 509(3), (4) and (5) provide general guidance that institutions shall follow in identifying assets of high and extremely high liquidity and credit quality. In the absence of such guidance, institutions shall use transparent and objective criteria to this end, including some or all of the criteria listed in Article 509(3), (4) and (5).	Liquidity	Competent Authority	General	No	The EBA will issue a report to the European Commission in December 2013 on the uniform definition of high and extremely high liquidity and credit quality. The European Commission will specify this uniform definition in the liquidity delegated act by 30 June 2014. Pending this specification, institutions shall identify transferable assets that are respectively of high or extremely high liquidity and credit quality, using transparent and objective criteria, including some or all of the criteria listed in Article 509(3), (4) and (5). Further instruction or guidance on this matter may be issued by the Bank in due course.
Article 420(2)(Liquidity Outflows)	For this assessment, institutions shall take particular account of material reputational damage that could result from not providing liquidity support to such products or services. Institutions shall report not less than annually to the competent authorities those products and services for which the likelihood and potential volume of the liquidity outflows referred to in the first subparagraph are material and the competent authorities shall determine the outflows to be assigned. The competent authorities may apply an outflow rate up to 5 % for trade finance off balance sheet related products, as referred to in Article 429 and Annex I.	Liquidity	Competent Authority	General	Yes	The Bank intends to assign an outflow rate of 5% for relevant trade finance off-balance sheet products, as defined in Article 429 and Annex I of the Regulation.

Article 422(4)(Outflows on other liabilities)	Pending a uniform definition of an established operational relationship as referred to in point (c) of subparagraph 3 4.1 above, institutions shall establish themselves establish the criteria to identify an established operational relationship for which they have evidence that the client is unable to withdraw amounts legally due over a 30 day horizon without compromising their operational functioning and shall report these criteria to the competent authorities. Competent authorities may, in the absence of a uniform definition, provide general guidance that institutions shall follow in identifying deposits maintained by the depositor in a context of an established operational relationship	Liquidity	Competent Authority	General	No	The EBA will issue a report to the European Commission in December 2013 on the uniform definition of an established operational relationship in the context of Article 422(3)(c). The European Commission will specify this uniform definition in the liquidity delegated act by 30 June 2014. Pending this specification, institutions shall identify deposits maintained by the depositor in the context of an established operational relationship, in accordance with Article 422(4). Further instruction or guidance on this matter may be issued by the Bank in due course.

Article 422(8)-(9)	8. Competent authorities may grant the permission to apply a lower outflow percentage on a case by case basis, to the liabilities referred to in paragraph 7, when all of the following conditions are fulfilled: (a) the depositor is: (i) a parent or subsidiary institution of the institution or another subsidiary of the same parent institution; (ii) linked to the institution by a relationship within the meaning of Article 12(1) of Directive 83/349/EEC; (iii) an institution falling within the same institutional protection scheme meeting the requirements of Article 113(7); (iv) the central institution or a member of a network compliant with Article 400 (2)(d); (b) there are reasons to expect a lower outflow over the next 30 days even under a combined idiosyncratic and market wide stress scenario; (c) a corresponding symmetric or more conservative inflow is applied by the depositor by way of derogation from Article 425; (d) the institution and the depositor are established in the same Member State. 9. Competent authorities may waive the conditions set out in point (d) of paragraph 8 where point (b) of Article 20(1) is applied. In that case additional objective criteria as set out in the delegated act referred to in Article 460 have to be met. Where such lower outflow is permitted to be applied, the competent authorities shall inform EBA about the result of the process referred to in point (b) of Article 20(1). The fulfilment of the conditions for such lower outflows shall be regularly reviewed by the competent authorities.	Liquidity	Competent Authority	Case by Case	Yes	The Bank will assess this permission on a case-by-case basis. Where the institution and the depositor are not established in Ireland and as part of the joint decision process with the relevant competent authority, objective criteria must be fulfilled before this permission will be granted. These objective criteria will be outlined in the European Commission liquidity delegated act and further specified in an RTS to be submitted to the European Commission by 1 January 2015.

Article 425(1)(Inflows)	Institutions shall report their liquidity inflows. Capped liquidity inflows shall be the liquidity inflows limited to 75 % of liquidity outflows. Institutions may exempt liquidity inflows from deposits placed with other institutions and qualifying for the treatments set out in Article 113(6) or Article 108(7) from this limit. Institutions may exempt liquidity inflows from monies due from borrowers and bond investors related to mortgage lending funded by bonds eligible for the treatment set out in Article 124129(34), (45) or (56) or by bonds as defined referred to in Article 52(4) of Directive 2009/65/EC from this limit. Institutions may exempt inflows from promotional loans that the institutions have passed through. Subject to the prior approval of the competent authority responsible for supervision on an individual basis, the institution may fully or partially exempt inflows where the provider is a parent or a subsidiary institution of the institution or another subsidiary of the same parent institution or linked to the institution by a relationship within the meaning of Article 12(1) of Directive 83/349/EEC.	Liquidity	Competent Authority	Case by Case	Yes	This discretion will be available on a case-by-case basis when reporting liquidity inflows for liquidity reporting purposes. The Bank may fully or partially exempt relevant inflows as appropriate. These exemptions are subject to change following the adoption of the European Commission delegated act by 30 June 2014.
Article 425(4)-(5)	By way of derogation from point (g) of paragraph 2, competent authorities may grant the permission to apply a higher inflow on a case by case basis for credit and liquidity facilities when all of the following conditions are fulfilled: (a) there are reasons to expect a higher inflow even under a combined market and idiosyncratic stress of the provider; (b) the counterparty is a parent or subsidiary institution of the institution or another subsidiary of the same parent institution or linked to the institution by a relationship within the meaning of Article 12(1) of Directive 83/349/EEC or a member of the same institutional protection scheme referred to in Article 113(7) of this Regulation or the central institution or a member of a network that is subject to the waiver referred to in Article 10 of this Regulation;	Liquidity	Competent Authority	Case by Case	Yes	The Bank will assess this permission on a case-by-case basis. Where the institution and the counterparty are not established in Ireland and as part of the joint decision process with the relevant competent authority, objective criteria must be fulfilled before this permission will be granted. These objective criteria will be outlined in the European Commission liquidity delegated act and further specified in an RTS to be

	(c) a corresponding symmetric or more conservative outflow is applied by the counterparty by way of derogation from Articles 422, 423 and 424; (d) the institution and the counterparty are established in the same Member State. 5. Competent authorities may waive the condition set out in point (d) of paragraph 4 where Article 20(1)(b) is applied. In that case additional objective criteria as set out in the delegated act referred to in Article 460 have to be met. Where such higher inflow is permitted to be applied, the competent authorities shall inform EBA about the result of the process referred to in Article 20(1)(b). Fulfilment of the conditions for such higher inflows shall be regularly reviewed by the competent authorities					submitted to the European Commission by 1 January 2015.
Article 450(1) (Disclosure of remuneration policy)	Institutions shall disclose at least the following information, regarding the remuneration policy and practices of the institution for those categories of staff whose professional activities have a material impact on its risk profile; (i) upon demand from the Member State or competent authority, the total remuneration for each member of the management body or senior management.	Disclosure	Member State or Competent Authority	Case by Case	Yes	Case-by-case dependent at the option of Member State or Competent Authority. The Bank intends to retain the flexibility to exercise this discretion on a case-by-case basis
Article 458(4)-(5), (8)-(9) (Macroprudential or systemic risk identified at the level of a Member State)	4. The power to adopt an implementing act to reject the draft national measures referred to in point (d) of paragraph 2 is conferred on the Council, acting by qualified majority, on a proposal from the Commission. Within one month of receiving the notification referred to in paragraph 2, the ESRB and EBA shall provide their opinions on the points mentioned in that paragraph to the Council, the Commission and the Member State concerned. Taking utmost account of the opinions referred to in the second subparagraph and if there is robust, strong and detailed evidence that the measure will have a negative impact on the internal market that outweighs the financial stability benefits resulting in a reduction	Macroprudential Measures	Designated Authority	Case-by-case	N/A	Designated Authority to be confirmed by the Department of Finance

	of the macroprudential or systemic risk identified, the Commission may, within one month, propose to the Council an implementing act to reject the draft national measures. In the absence of a Commission proposal within that period of one month, the Member State concerned may immediately adopt the draft national measures for a period of up to two years or until the macroprudential or systemic risk ceases to exist if that occurs sooner. The Council shall decide on the proposal by the Commission within one month after receipt of the proposal and state its reasons for rejecting or not rejecting the draft national measures. The Council shall only reject the draft national measures if it considers that one or more of the following conditions are not complied with: (a) the changes in the intensity of macroprudential or systemic risk are of such nature as to pose risk to financial stability at national level; (b) Articles 124 and 164 of this Regulation and Articles 101, 103, 104, 105, 133, and 136 of Directive 2013/36/EU cannot adequately address the macroprudential or systemic risk identified, taking into account the relative effectiveness of those measures; (c) the draft national measures are more suitable to address the identified macroprudential or systemic risk and do not entail disproportionate adverse effects on the whole or parts of the financial system in other Member States or in the Union as a whole, thus forming or creating an obstacle to the functioning of the internal market; (d) the issue concerns only one Member State; and (e) the risks have not already been addressed by other measures in this Regulation or in Directive 2013/36/EU. The assessment of the Council shall take into account the opinion of the ESRB and EBA and shall be based on the evidence presented in accordance with					

	paragraph 2 by the authority determined in accordance with paragraph 1. In the absence of a Council implementing act to reject the draft national measures within one month after receipt of the proposal by the Commission, the Member State may adopt the measures and apply them for a period of up to two years or until the macroprudential or systemic risk ceases to exist if that occurs sooner. 5. Other Member States may recognise the measures set in accordance with this Article and apply them to domestically authorised branches located in the Member State authorised to apply the measures. 8. The Member State authorised to apply the measures may ask the ESRB to issue a recommendation as referred to in Article 16 of Regulation (EU) No 1092/2010 to one or more Member States which do not recognise the measures. 9. Before the expiry of the authorisation issued in accordance with paragraph 4, the Member State shall, in consultation with the ESRB and EBA, review the situation and may adopt, in accordance with the procedure referred to in paragraph 4, a new decision for the extension of the period of application of national measures for one additional year each time. After the first extension, the Commission shall in consultation with the ESRB and EBA review the situation at least annually.					
Article 465(1)-(2)(Own Funds Requirements -Transitional Provisions)	1. By way of derogation from points (a) and (b) of Article 92(1) the following own funds requirements shall apply during the period from 1 January 2014 to 31 December 2014: (a) a Common Equity Tier 1 capital ratio of a level that falls within a range of 4 % to 4,5 %; (b) a Tier 1 capital ratio of a level that falls within a range of 5,5 % to 6 %. 2. Competent authorities shall determine and publish the levels of the Common Equity Tier 1 and Tier 1	Transitional Own Funds	Competent Authority	General	4% CET1 in 2014, 5.5% Tier 1	This discretion applies only in 2014. From 1 Jan. 2015, all banks must meet or exceed a CET1 ratio of 4.5% and a Tier 1 ratio of 6%.

	capital ratios in the ranges specified in paragraph 1 that institutions shall meet or exceed.					
Article 467(2) &(3)(Unrealised losses measured at fair value)	2. The applicable percentage for the purposes of paragraph 1 shall fall within following ranges: (a) 20 % to 100 % during the period from 1 January 2014 to 31 December 2014; (b) 40 % to 100 % during the period from 1 January 2015 to 31 December 2015; (c) 60 % to 100 % during the period from 1 January 2016 to 31 December 2016; and (d) 80 % to 100 % for the period from 1 January 2017 to 31 December 2017. By way of derogation from paragraph 1, the competent authorities may, in cases where such treatment was applied before 1 January 2014, allow institutions not to include in any element of own funds unrealised gains or losses on exposures to central governments classified in the "Available for Sale" category of EU-endorsed IAS 39. The treatment set out in the second subparagraph shall be applied until the Commission has adopted a regulation on the basis of Regulation (EC) No 1606/2002 endorsing the International Financial Reporting Standard replacing IAS 39. 3. Competent authorities shall determine and publish the applicable percentage in the ranges specified in points (a) to (d) of paragraph 2.	Transitional Own Funds	Competent Authority	General	Applicable percentage of unrealised losses that can be included in calculation of CET 1 items are as follows; 2014; 20% 2015; 60% 2016; 60% 2017;80%	From 1 January 2015, a competent authority may not set an applicable percentage of unrealised gains that exceeds the applicable percentage of unrealised losses. The Bank will permit banks to maintain their filter on both unrealised gains or losses on exposures to central governments classified in the 'Available for Sale" category'
Article 468(2)-(3)(Unrealised Gains Measured at Fair Value)	2. For the purposes of paragraph 1, the applicable percentage shall be 100 % during the period from 1 January 2014 to 31 December 2014, and shall, after that date, fall within the following ranges: (a) 60 % to 100 % during the period from 1 January 2015 to 31 December 2015; (b) 40 % to 100 % during the period from 1 January 2016 to 31 December 2016; (c) 20 % to 100 % for the period from 1 January 2017	Transitional Own Funds	Competent Authority	General	Applicable percentage of unrealised gains that can be excluded in calculation of CET 1 items are as follows; 2015; 60%	No recognition of unrealised gains in general in CET1 is permitted during 2014, pending a report by the EBA to the EU Commission on appropriate alternative treatments to the full recognition of such gains on assets and liabilities

	to 31 December 2017. From 1 January 2015, where under Article 467 a competent authority requires institutions to include in the calculation of Common Equity Tier 1 capital 100 % of their unrealised losses measured at fair value, that competent authority may also permit institutions to include in that calculation 100 % of their unrealised gains at fair value. From 1 January 2015, where under Article 467 a competent authority requires institutions to include a percentage of unrealised losses measured at fair value in the calculation of Common Equity Tier 1 capital that competent authority may not set an applicable percentage of unrealised gains under paragraph 2 of this Article that exceeds the applicable percentage of unrealised losses set in accordance with Article 467. 3. Competent authorities shall determine and publish the applicable percentage of unrealised gains in the ranges specified in points (a) to (c) of paragraph 2 that is not removed from Common Equity Tier 1 capital.				2016; 40% 2017;20%	measured at fair value. The Bank will not exercise the permission contained in Article 468(2), paragraph 2.
Article 471(1)(Exemption from Deduction of Equity Holdings in Insurance Companies from Common Equity Tier 1 Items)	By way of derogation from Article 49(1), during the period from 1 January 2014 to 31 December 2022, competent authorities may permit institutions to not deduct equity holdings in insurance undertakings, reinsurance undertakings and insurance holding companies where the following conditions are met: (a) the conditions laid down in points (a), (c) and (e) of Article 49(1); (b) the competent authorities are satisfied with the level of risk control and financial analysis procedures specifically adopted by the institution in order to supervise the investment in the undertaking or holding company; (c) the equity holdings of the institution in the insurance undertaking, reinsurance undertaking or insurance holding company do not exceed 15 % of the Common Equity Tier 1 instruments issued by that insurance entity as at 31 December 2012 and during the	Transitional Own Funds	Competent Authority	General	Yes	The granting of this exemption carries strict conditionality (e.g., max. 15% shareholding in the insurance entity). The Bank is of the view that the transitional exemption is of limited use to Irish banks but intends to exercise this discretion for level-playing field reasons.

	period from 1 January 2013 to 31 December 2022; (d) the amount of the equity holding which is not deducted does not exceed the amount held in the Common Equity Tier 1 instruments in the insurance undertaking, reinsurance undertaking or insurance holding company as at 31 December 2012.					
Article 473(1) (Introduction of amendments to IAS 19)	1. By way of derogation from Article 481 during the period from 1 January 2014 until 31 December 2018, competent authorities may permit institutions that prepare their accounts in conformity with the international accounting standards adopted in accordance with the procedure laid down in Article 6(2) of Regulation (EC) No 1606/2002 to add to their Common Equity Tier 1 capital the applicable amount in accordance with paragraph 2 or 3 of this Article, as applicable, multiplied by the factor applied in accordance with paragraph 4.	Transitional Own Funds	Competent Authority	General	No	The Bank does not intend to exercise this discretion as it is considered not considered relevant to Irish banks, given they do not use the 'Corridor Approach'.
Article 478 (Applicable percentages for deduction from Common Equity Tier 1, Additional Tier 1 and Tier 2 items)	1. The applicable percentage for the purposes of Article 468(4), points (a) and (c) of Article 469(1), point (a) of Article 474 and point (a) of Article 476 shall fall within the following ranges: (a) 20 % to 100 % for the period from 1 January 2014 to 31 December 2014; (b) 40 % to 100 % for the period from 1 January 2015 to 31 December 2015; (c) 60 % to 100 % for the period from 1 January 2016 to 31 December 2016; (d) 80 % to 100 % for the period from 1 January 2017 to 31 December 2017. 2. By way of derogation from paragraph 1, for the items referred in point (c) of Article 36(1) that existed prior to …, the applicable percentage for the purpose of point (c) of Article 469(1) shall fall within the following ranges: (a) 0 % to 100 % for the period from 1 January 2014 to 2 January 2015; (b) 10 % to 100 % for the period from 2 January 2015	Transitional Own Funds	Competent Authority	General	Applicable percentage for deductions under a)i), ii), iii) and iv) are as follows; 2014; 20% 2015; 60% 2016; 60% 2017;80% The derogation for the items referred to in point (c) of Article 36(1) that existed prior to 31 December 2013 is applied, the applicable	The phase-in rates are applied to all new deductions against each of CET1, Tier 1 and total Own Funds. Items currently deducted from Core Tier 1 under Pillar 1 or Pillar 2 will not benefit from phase-in against CET1.

	to 2 January 2016; (c) 20 % to 100 % for the period from 2 January 2016 to 2 January 2017; (d) 30 % to 100 % for the period from 2 January 2017 to 2 January 2018; (e) 40 % to 100 % for the period from 2 January 2018 to 2 January 2019; (f) 50 % to 100 % for the period from 2 January 2019 to 2 January 2020; (g) 60 % to 100 % for the period from 2 January 2020 to 2 January 2021; (h) 70 % to 100 % for the period from 2 January 2021 to 2 January 2022; (i) 80 % to 100 % for the period from 2 January 2022 to 2 January 2023; (j) 90 % to 100 % for the period from 2 January 2023 to 2 January 2024. 3. Competent authorities shall determine and publish an applicable percentage in the ranges specified in paragraphs 1 and 2 for each of the following deductions: (a) the individual deductions required pursuant to points (a) to (h) of Article 36(1), excluding deferred tax assets that rely on future profitability and arise from temporary differences; (b) the aggregate amount of deferred tax assets that rely on future profitability and arise from temporary differences and the items referred to in point (i) of Article 36(1) that is required to be deducted pursuant to Article 48; (c) each deduction required pursuant to points (b) to (d) of Article 56; (d) each deduction required pursuant to points (b) to (d) of Article 66.				percentage for the phase-in by year being 0% in 2014, 10% in 2015 .... 90% in 2023 (10 percentage points increase p.a.).	

Article 479(4) (rate of minority interest de-recognition from CET1)	Competent authorities shall determine and publish the applicable percentage in the ranges specified in paragraph 3;	Transitional Own Funds	Competent Authority	General	Applicable percentage for the recognition in consolidated CET 1 capital of instruments and items that do not qualify in minority interests as follows; 2014; 80% 2015; 60% 2016; 40% 2017;20%	
Article 480(3) (De-recognition in consolidated own funds of minority interests and qualifying Additional Tier 1 and Tier 2 capital)	3. Competent authorities shall determine and publish the value of the applicable factor in the ranges specified in paragraph 2.	Transitional Own Funds	Competent Authority	General	Applicable factor for the recognition in consolidated own funds of minority interests and qualifying AT 1 and Tier 2 capital as follows; 2014; 20% 2015; 40% 2016; 60% 2017;80%	Where subsidiary capital is eligible for inclusion in consolidated own funds, it can be included in consolidated CET1/Tier 1/Tier 2 subject to the excess attributable to third parties being phased in as a deduction from 1 January 2014.

Article 481(1)-(5) Additional filters and deductions)	1. By way of derogation from Articles 32 to 36, 56 and 66, during the period from 1 January 2014 to 31 December 2017, institutions shall make adjustments to include in or deduct from Common Equity Tier 1 items, Tier 1 items, Tier 2 items or own funds items the applicable percentage of filters or deductions required under national transposition measures for Articles 57, 61, 63, 63a, 64 and 66 of Directive 2006/48/EC, and for Articles 13 and 16 of Directive 2006/49/EC, and which are not required in accordance with Part Two of this Regulation. 2. By way of derogation from Article 36(1)(i) and Article 49(1) and (3), during the period from the 1 January 2014 to 31 December 2014, competent authorities may require or permit institutions to apply the methods referred to in Article 49(1) where the requirements laid down in points (b) and (e) of Article 49(1) are not met, rather than the deduction required pursuant to Article 36(1). In such cases, the proportion of holdings of the own funds instruments of a financial sector entity in which the parent undertaking has a significant investment that is not required to be deducted in accordance with Article 49(1) shall be determined by the applicable percentage referred to in paragraph 4 of this Article. The amount that is not deducted shall be subject to the requirements of Article 49(4), as applicable. 3. For the purposes of paragraph 1, the applicable percentage shall fall within the following ranges: (a) 0 % to 80 % for the period from 1 January 2014 to 31 December 2014; (b) 0 % to 60 % for the period from 1 January 2015 to 31 December 2015; (c) 0 % to 40 % for the period from 1 January 2016 to 31 December 2016; (d) 0 % to 20 % for the period from 1 January 2017 to 31 December 2017. 4. For the purpose of paragraph 2, the applicable	Transitional Own Funds	Competent Authority	General	Additional filters and deductions will be removed at the following rates p.a. to end-2017; 2014; 80% 2015; 60% 2016; 40% 2017;20% The derogation in 2) will not be applied.	1. Irish financial institutions were notified by letter (dated 18 February 2009) of the current capital treatment required for Defined Benefit pension schemes and are required to: • Reverse out the accounting surplus or deficit on the defined benefit scheme; • If the plan is in deficit, the bank must apply a "prudential filter" deduction to Tier 1 Own Funds by deducting three years supplementary contributions. • In addition to the above, the Institution must also include an add-on for Pension Risk under its Pillar II calculation if the bank has identified that capital must be held in respect of Pension Risk. The add-on must be for at least the amount of the bank's Minimum Funding Requirement. The current Pillar I treatment must be phased out from 2014 onwards. As such, where a plan is in deficit, its full recognition in CET1 required by 01 Jan. 2018 should be phased in according to the percentages indicated for the next four years. The Current Tier 1 deduction and Pillar 2

	percentage shall fall between 0 % and 50 % for the period from 1 January 2014 to 31 December 2014. 5. For each filter or deduction referred to in paragraphs 1 and 2, competent authorities shall determine and publish the applicable percentages in the ranges specified in paragraphs 3 and 4.					treatment for this aspect of pension risk should be adjusted appropriately as CET1 recognition is phased in.
Article 486(5)-(6)(Limits for grandfathering of items within Common Equity Tier 1, Additional Tier 1 and Tier 2 items)	5. For the purposes of this Article, the applicable percentages referred to in paragraphs 2 to 4 shall fall within the following ranges: (a) 60 % to 80 % during the period from 1 January 2014 to 31 December 2014; (b) 40 % to 70 % during the period from 1 January 2015 to 31 December 2015; (c) 20 % to 60 % during the period from 1 January 2016 to 31 December 2016; (d) 0 % to 50 % during the period from 1 January 2017 to 31 December 2017; (e) 0 % to 40 % during the period from 1 January 2018 to 31 December 2018; (f) 0 % to 30 % during the period from 1 January 2019 to 31 December 2019; (g) 0 % to 20 % during the period from 1 January 2020 to 31 December 2020; (h) 0 % to 10 % during the period from 1 January 2021 to 31 December 2021. 6. Competent authorities shall determine and publish the applicable percentages in the ranges specified in paragraph 5.	Transitional Own Funds	Competent Authority	General	Applicable percentages for determining the limits for grandfathering of items within CET1, AT1 and Tier 2 are as follows; 2014; 80% 2015;70% 2016; 60% 2017; 50% 2018; 40% 2019; 30% 2020; 20% 2021; 10%	Recognition as indicated should be applied as of 1 January of each year rather than on a straight-line basis during the year.

Article 496(1)(Own funds requirements for covered bonds)	1. Until 31 December 2017 competent authorities may waive in full or in part the 10 % limit for senior units issued by French Fonds Communs de Créances or by securitisation entities which are equivalent to French Fonds Communs de Créances laid down in points (d) and (e) of Article 129(1), provided that both of the following conditions are fulfilled: (a) the securitised residential or commercial immovable property exposures were originated by a member of the same consolidated group of which the issuer of the covered bonds is a member, or by an entity affiliated to the same central body to which the issuer of the covered bonds is affiliated, where that common group membership or affiliation shall be determined at the time the senior units are made collateral for covered bonds; (b) a member of the same consolidated group of which the issuer of the covered bonds is a member, or an entity affiliated to the same central body to which the issuer of the covered bonds is affiliated, retains the whole first loss tranche supporting those senior units.	Transitional Own Funds	Competent Authority	General	No	
Article 499(3)(Leverage)	3. By way of derogation from Article 429(2), during the period from 1 January 2014 to 31 December 2017 competent authorities may permit institutions to calculate the end-of-quarter leverage ratio where they consider that institutions may not have data of sufficiently good quality to calculate a leverage ratio that is an arithmetic mean of the monthly leverage ratios over a quarter.	Leverage/Transitional	Competent Authority	General	Yes	The Bank intends to exercise this discretion
Article 500(5)	The competent authorities may, after having consulted EBA, waive the application of point (b) of paragraph 1(b) to institutions provided that all the requirements for the Internal Ratings Based Approach set out in Part Three, Title II, Chapter 3, Section 6 or the qualifying criteria for the use of the Advanced Measurement Approach set out in Part Three, Title III, Chapter 4, as applicable, are met	Transitional/ Basel I Floor	Competent Authority	Case by Case	Yes	The Bank intends to exercise this discretion on a case-by-case basis

Article 520(3)-(4)(Amendment of Regulation (EU) No 648/2011)	3. A CCP shall undertake the calculation required by paragraph 2 at least quarterly or more frequently where required by the competent authorities of those of its clearing members which are institutions. 4. EBA shall develop draft implementing technical standards to specify the following for the purpose of paragraph 3: (a) the frequency and dates of the calculation laid down in paragraph 2; (b) the situations in which the competent authority of an institution acting as a clearing member may require higher frequencies of calculation and reporting than those referred to in point (a). EBA shall submit those draft implementing technical standards to the Commission by 1 January 2014. Power is conferred on the Commission to adopt the implementing technical standards referred to in the first subparagraph in accordance withArticle 15 of Regulation (EU) No 1093/2010	EMIR Amendment	Competent Authority	Case by Case	Yes	Subject to EBA RTS by 1 Jan. 2014 which will specify the situations in which the competent authority of an institution acting as a clearing member may require higher frequencies of calculation and reporting than those referred to in point (a).

Appendix B (Part II) – Pre-existing Competent Authority Discretions and Options in CRR

Regulation Reference	Text of Article	Area	Type of Discretion/Option	Nature	Exercise	Comment
Article 7 (Derogation to the application of prudential requirements on an individual basis)	Competent authorities may waive the application of Article 6(1) to any subsidiary of an institution, where both the subsidiary and the institution are subject to authorisation and supervision by the Member State concerned, and the subsidiary is included in the supervision on a consolidated basis of the institution which is the parent undertaking, and all of the following conditions are satisfied, in order to ensure that own funds are distributed adequately between the parent undertaking and the subsidiary: (a) there is no current or foreseen material practical or legal impediment to the prompt transfer of own funds or repayment of liabilities by its parent undertaking; (b) either the parent undertaking satisfies the competent authority regarding the prudent management of the subsidiary and has declared, with the permission of the competent authority, that it guarantees the commitments entered into by the subsidiary, or the risks in the subsidiary are of negligible interest; (c) the risk evaluation, measurement and control procedures of the parent undertaking cover the subsidiary; (d) the parent undertaking holds more than 50 % of the voting rights attached to shares in the capital of the subsidiary or has the right to appoint or remove a majority of the members of the management body of the subsidiary. 2. Competent authorities may exercise the option provided for in paragraph 1 where the parent undertaking is a financial holding company or a mixed financial holding company set up in the same Member State as the institution, provided that it is subject to the same supervision as that exercised over institutions, and in particular to the standards laid down in Article 11(1).	Level of Application	Competent Authority	Case by Case	No	This discretion has not been exercised in the past and the Bank is not intending to alter its approach.

	3. Competent authorities may waive the application of Article 6(1) to a parent institution in a Member State where that institution is subject to authorisation and supervision by the Member State concerned, and it is included in the supervision on a consolidated basis, and all the following conditions are satisfied, in order to ensure that own funds are distributed adequately among the parent undertaking and the subsidiaries: (a) there is no current or foreseen material practical or legal impediment to the prompt transfer of own funds or repayment of liabilities to the parent institution in a Member State; (b) the risk evaluation, measurement and control procedures relevant for consolidated supervision cover the parent institution in a Member State. The competent authority which makes use of this paragraph shall inform the competent authorities of all other Member States					
Article 10 (Waiver for credit institutions permanently affiliated to a central body)	1. Competent authorities may, in accordance with national law, partially or fully waive the application of the requirements set out in Parts Two to Eight to one or more credit institutions situated in the same Member State and which are permanently affiliated to a central body which supervises them and which is established in the same Member State, if the following conditions are met: (a) the commitments of the central body and affiliated institutions are joint and several liabilities or the commitments of its affiliated institutions are entirely guaranteed by the central body; (b) the solvency and liquidity of the central body and of all the affiliated institutions are monitored as a whole on the basis of consolidated accounts of these institutions; (c) the management of the central body is empowered to issue instructions to the management of the affiliated institutions. Member States may maintain and make use of existing national legislation regarding the application of the waiver referred to in the first subparagraph as long as it does not conflict with this Regulation and Directive 2013/36/EU. 2. Where the competent authorities are satisfied that the conditions set out in paragraph 1 are met, and where the	Level of Application	Competent Authority	Case by Case	No	The Bank does not intend to exercise this discretion as it considers that no such 'central bodies' exist in Ireland.

	liabilities or commitments of the central body are entirely guaranteed by the affiliated institutions, the competent authorities may waive the application of Parts Two to Eight to the central					
Article 15 (Derogation to the application of own funds requirements on a consolidated basis for groups of investment firms)	Derogation to the application of own funds requirements on a consolidated basis for groups of investment firms 1. The consolidating supervisor may waive, on a case-by-case basis, the application of Part Three of this Regulation and Title VII, Chapter 4 of Directive 2013/36/EU on a consolidated basis provided that the following conditions exist: (a) each EU investment firm in the group uses the alternative calculation of total risk exposure amount referred to in Article 95(2); (b) all investment firms in the group fall within the categories in Articles 95(1) and 96(1); (c) each EU investment firm in the group meets the requirements imposed in Article 95 on an individual basis and at the same time deducts from its Common Equity Tier 1 items any contingent liability in favour of investment firms, financial institutions, asset management companies and ancillary services undertakings, which would otherwise be consolidated; (d) any financial holding company which is the parent financial holding company in a Member State of any investment firm in the group holds at least as much capital, defined here as the sum of the items referred to in Articles 26(1), 51(1) and 62(1), as to cover the sum of the following: (i) the sum of the full book value of any holdings, subordinated claims and instruments referred to in Article 36(1)(h) and (i), Article 56(1)(c) and (d), and Article 66(1)(c) and (d) in investment firms, financial institutions, asset management companies and ancillary services undertakings which would otherwise be consolidated; and (ii) the total amount of any contingent liability in favour of investment firms, financial institutions, asset management companies and ancillary services undertakings which would otherwise be consolidated; (e) the group does not include credit institutions 2. The competent authorities may also apply the waiver if the	Investment Firms	Competent Authority	Case-by-case	Yes	The Bank intends to continue to exercise this discretion on a case-by-case basis subject to prior written approval from the Bank.

	financial holding companies holds a lower amount of own funds than the amount calculated under paragraph 1(d), but no lower than the sum of the own funds requirements imposed on an individual basis to investment firms, financial institutions, asset management companies and ancillary services undertakings which would otherwise be consolidated and the total amount of any contingent liability in favour of investment firms, financial institutions, asset management companies and ancillary services undertakings which would otherwise be consolidated. For the purposes of this paragraph, the own funds requirement for investment undertakings of third countries, financial institutions, asset management companies and ancillary services undertakings is a notional own funds requirement.					
Article 19(2)(Entities excluded from the scope of prudential consolidation)	2. The competent authorities responsible for exercising supervision on a consolidated basis pursuant to Article 111 of Directive 2013/36/EU may on a case-by-case basis decide in the following cases that an 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: (a) where the undertaking concerned is situated in a third country where there are legal impediments to the transfer of the necessary information; (b) where the undertaking concerned is of negligible interest only with respect to the objectives of monitoring credit institutions; (c) where, in the opinion of the competent authorities responsible for exercising supervision on a consolidated basis, the consolidation of the financial situation of the undertaking concerned would be inappropriate or misleading as far as the objectives of the supervision of credit institutions are concerned.	Level of Application	Competent Authority	Case by Case	Yes	

Article 79(1)-(2)(Temporary waiver from deduction from own funds)	1. Where an institution holds capital instruments or has granted subordinated loans, as applicable, that qualify as Common Equity Tier 1, Additional Tier 1 or Tier 2 instruments in a financial sector entity temporarily and the competent authority deems those holdings to be for the purposes of a financial assistance operation designed to reorganise and save that entity, the competent authority may waive on a temporary basis the provisions on deduction that would otherwise apply to those instruments. 2. EBA shall develop draft regulatory technical standards to specify the concept of temporary for the purposes of paragraph 1 and the conditions according to which a competent authority may deem those temporary holdings to be for the purposes of a financial assistance operation designed to reorganise and save a relevant entity.	Own Funds	Competent Authority	Case by Case	Yes	RTS defines "temporary" and the conditions according to which a competent authority may deem those temporary holdings to be for the purposes of a financial assistance operation designed to reorganise and save a relevant entity. The Bank intends to retain the flexibility to exercise this discretion on a case-by-case basis
Article 113(6)-(7)(Calculation of risk weighted exposure amounts)	6. With the exception of exposures giving rise to Common Equity Tier 1, Additional Tier 1 or Tier 2 items, an institution may, subject to the prior approval of the competent authorities, decide not to apply the requirements of paragraph 1 of this Article to the exposures of that institution to a counterparty which is its parent undertaking, its subsidiary, a subsidiary of its parent undertaking or an undertaking linked by a relationship within the meaning of Article 12(1) of Directive 83/349/EEC. Competent authorities are empowered to grant approval if the following conditions are fulfilled: (a) the counterparty is an institution, a financial holding company or a mixed financial holding company, financial institution, asset management company or ancillary services	Credit Risk	Competent Authority	Case by Case	Yes to (6). No to (7).	The Bank proposes to maintain the flexibility to exercise the discretion in paragraph 6 on a case-by-case basis. The Bank is not intending to exercise the discretion in paragraph 7.

	undertaking subject to appropriate prudential requirements; (b) the counterparty is included in the same consolidation as the institution on a full basis; (c) the counterparty is subject to the same risk evaluation, measurement and control procedures as the institution; (d) the counterparty is established in the same Member State as the institution; (e) there is no current or foreseen material practical or legal impediment to the prompt transfer of own funds or repayment of liabilities from the counterparty to the institution. Where the institution, in accordance with this paragraph, is authorised not to apply the requirements of paragraph 1, it may assign a risk weight of 0 %. 7. With the exception of exposures giving rise to Common Equity Tier 1, Additional Tier 1 and Tier 2 items, institutions may, subject to the prior permission of the competent authorities, not apply the requirements of paragraph 1 of this Article to exposures to counterparties with which the institution has entered into an institutional protection scheme that is a contractual or statutory liability arrangement which protects those institutions and in particular ensures their liquidity and solvency to avoid bankruptcy where necessary. Competent authorities are empowered to grant permission if the following conditions are fulfilled: (a) the requirements set out in points (a), (d) and (e) of paragraph 6 are met; (b) the arrangements ensure that the institutional protection scheme is able to grant support necessary under its commitment from funds readily available to it; (c) the institutional protection scheme disposes of suitable and uniformly stipulated systems for the monitoring and classification of risk, which gives a complete overview of the risk situations of all the individual members and the institutional protection scheme as a whole, with corresponding possibilities to take influence; those systems shall suitably monitor defaulted exposures in accordance with Article 178(1);EN 27.6.2013 Official Journal of the European Union L 176/75					

	(d) the institutional protection scheme conducts its own risk review which is communicated to the individual members; (e) the institutional protection scheme draws up and publishes on an annual basis, a consolidated report comprising the balance sheet, the profit-and-loss account, the situation report and the risk report, concerning the institutional protection scheme as a whole, or a report comprising the aggregated balance sheet, the aggregated profit-and-loss account, the situation report and the risk report, concerning the institutional protection scheme as a whole; (f) members of the institutional protection scheme are obliged to give advance notice of at least 24 months if they wish to end the institutional protection scheme; (g) the multiple use of elements eligible for the calculation of own funds (hereinafter referred to as 'multiple gearing') as well as any inappropriate creation of own funds between the members of the institutional protection scheme shall be eliminated; (h) The institutional protection scheme shall be based on a broad membership of credit institutions of a predominantly homogeneous business profile; (i) the adequacy of the systems referred to in points (c) and (d) is approved and monitored at regular intervals by the relevant competent authorities. Where the institution, in accordance with this paragraph, decides not to apply the requirements of paragraph 1, it may assign a risk weight of 0 %					
Article 124(2)(Exposures secured by mortgages on immovable property)	Competent authorities may set a higher risk weight or stricter criteria than those set out in Article 125(2) and Article 126(2), where appropriate, on the basis of financial stability considerations.	Credit Risk	Competent Authority	General	Yes	The Bank intends to continue to restrict the 35% risk weight to a) owner-occupied housing and b) loans with an LTV of up to 75% and to require banks to apply a 100% risk weight

						to exposures secured by commercial real estate. Exercise of the Bank's discretion in this area will be subject to notification to the EBA and to the relevant RTS.
Article 143(2)-(3)(Permission to use the IRB Approach)	Prior permission to use the IRB Approach, including own estimates of Loss Given Default (hereinafter referred to as 'LGD') and conversion factors, shall be required for each exposure class and for each rating system and internal model approaches to equity exposures and for each approach to estimating LGDs and conversion factors used. 3. Institutions must shall obtain the prior permission of the competent authorities for the following: (a) material changes to the range of application of a rating system or an internal models approach to equity exposures that the institution has received permission to use; (b) material changes to a rating system or an internal models approach to equity exposures that the institution has received permission to use. The range of application of a rating system shall comprise all exposures of the relevant type of exposure for which that rating system was developed.	Credit Risk	Competent Authority	Case by Case	Yes	Permission subject to RTS to be developed by end-2014. See Section on IRB Models in the main text.

Article 148(1)-(6)(Conditions for implementing the IRB Approach across different classes of exposure and business units)	1. Institutions and any parent undertaking and its subsidiaries shall implement the IRB Approach for all exposures,unless they have received the permission of the competent authorities to permanently use the Standardised Approach in accordance with Article 150. Subject to the prior permission of the competent authorities, implementation may be carried out sequentially across the different exposure classes, referred to in Article 147, within the same business unit, across different business units in the same group or for the use of own estimates of LGDs or conversion factors for the calculation of risk weights for exposures to corporates, institutions, and central governments and central banks. In the case of the retail exposure class referred to in Article 147(5), implementation may be carried out sequentially across the categories of exposures to which the different correlations in Article 154 correspond. 2. Competent authorities shall determine the time period over which an institution and any parent undertaking and its subsidiaries shall be required to implement the IRB Approach for all exposures. This time period shall be one that competent authorities consider to be appropriate on the basis of the nature and scale of the activities of the institutions, or any parent undertaking and its subsidiaries, and the number and nature of rating systems to be implemented. 3. Institutions shall carry out implementation of the IRB Approach according to conditions determined by the competent authorities. The competent authority shall design those conditions such that they ensure that the flexibility under paragraph 1 is not used selectively for the purposes of achieving reduced own funds requirements in respect of those exposure classes or business units that are yet to be included in the IRB Approach or in the use of own estimates of LGDs and conversion factors. 4. Institutions that have begun to use the IRB Approach only after 1 January 2013 or have until that date been required by the competent authorities to be able to calculate their capital requirements using the Standardised Approach shall retain	Credit Risk	Competent Authority	Case by Case	Yes	Institutions should indicate and justify requests for temporary exemptions. Such requests must be accompanied by a binding, credible and realisable rollout plan. See Section on IRB Models in the main text.

	their ability to calculate capital requirements using the Standardised Approach for all their exposures during the implementation period until the competent authorities notify them that they are satisfied that the implementation of the IRB Approach will be completed with reasonable certainty. 5. An institution that is permitted to use the IRB Approach for any exposure class shall use the IRB Approach for the equity exposure class laid down in point (e) of Article 147(2), except where that institution is permitted to apply the Standardised Approach for equity exposures pursuant to Article 150 and for the other non credit-obligation assets exposure class laid down in point (g) of Article 147(2). 6. EBA shall develop draft regulatory technical standards to specify the conditions according to which competent authorities shall determine the appropriate nature and timing of the sequential roll out of the IRB Approach across exposure classes referred to in paragraph 3.					
Article 150 (Conditions for permanent partial use)	Where institutions have received the prior permission of the competent authorities, institutions permitted to use the IRB Approach in the calculation of risk weighted exposure amounts and expected loss amounts for one or more exposure classes may apply the Standardised Approach for the following exposures: (a) the exposure class laid down in Article 147(2)(a), where the number of material counterparties is limited and it would be unduly burdensome for the institution to implement a rating system for these counterparties; (b) the exposure class laid down in Article 147(2)(b), where the number of material counterparties is limited and it would be unduly burdensome for the institution to implement a rating system for these counterparties; (c) exposures in non significant business units as well as exposure classes or types of exposures that are immaterial in terms of size and perceived risk profile;	Credit Risk	Competent Authority	Case by Case	Yes, though with the continuing exception of h), i) and j)	The Bank does not consider that (h) and (j) are material in an Irish context while i) carries a 0% risk-weight where exposures are to the ECB (where to the Central Bank, it should be dealt with under a). It should be noted that conditions of application of points (a), (b) and

	(d) exposures to central governments and central banks of the Member States and their regional governments, local authorities, administrative bodies and public sector entities provided: (i) there is no difference in risk between the exposures to that central government and central bank and those other exposures because of specific public arrangements; and (ii) exposures to the central government and central bank are assigned a 0 % risk weight under Article 114(2), (4) or (5); (e) exposures of an institution to a counterparty which is its parent undertaking, its subsidiary or a subsidiary of its parent undertaking provided that the counterparty is an institution or a financial holding company, mixed financial holding company, financial institution, asset management company or ancillary services undertaking subject to appropriate prudential requirements or an undertaking linked by a relationship within the meaning of Article 12(1) of Directive 83/349/EEC; (f) exposures between institutions which meet the requirements set out in Article 113(7); (g) equity exposures to entities whose credit obligations are assigned a 0 % risk weight under Chapter 2 including those publicly sponsored entities where a 0 % risk weight can be applied; (h) equity exposures incurred under legislative programmes to promote specified sectors of the economy that provide significant subsidies for the investment to the institution and involve some form of government oversight and restrictions on the equity investments where such exposures may in aggregate be excluded from the IRB Approach only up to a limit of 10 % of own funds; (i) the exposures identified in Article 119(4) meeting the conditions specified therein; (j) State and State reinsured guarantees referred to in Article 215(2). The competent authorities shall permit the application of Standardised Approach for equity exposures referred to in points (g) and (h) of the first subparagraph which have been permitted for that treatment in other Member States. EBA shall					(c) of paragraph 1 will be subject to an EBA RTS.

	publish on its website and regularly update a list with the exposures referred to in those points (to be treated according to the Standardised Approach. 2. For the purposes of paragraph 1, the equity exposure class of an institution shall be material if their aggregate value, excluding equity exposures incurred under legislative programmes as referred to in point (g) of paragraph 1, exceeds on average over the preceding year 10 % of the own funds of the institution. Where the number of those equity exposures is less than 10 individual holdings, that threshold shall be 5 % of the own funds of the institution. 3. EBA shall develop draft regulatory technical standards to determine the conditions of application of points (a), (b) and (c) of paragraph 1. EBA shall submit those draft regulatory technical standards to the Commission by 31 December 2014. Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010. 4. EBA shall issue guidelines on the application of point (d) of paragraph 1 in 2018, recommending limits in terms of a percentage of total balance sheet and/or risk weighted assets to be calculated in accordance with the Standardised Approach. Those guidelines shall be adopted in accordance with Article 16 of Regulation (EU) No 1093/2010					
Article 178(1)(b)(Default of an obligor)	1. A default shall be considered to have occurred with regard to a particular obligor when either or both of the following have taken place: (a) the institution considers that the obligor is unlikely to pay its credit obligations to the institution, the parent undertaking or any of its subsidiaries in full, without recourse by the institution to actions such as realising security; (b) the obligor is past due more than 90 days on any material credit obligation to the institution, the parent undertaking or any of its subsidiaries. Competent authorities may replace the 90 days with 180 days for exposures secured by residential or	Definition of Default	Competent Authority	General	No	The Bank considers that 90 days is an appropriate backstop definition of default across all exposure classes.

	SME commercial real estate in the retail exposure class, as well as exposures to public sector entities). The 180 days shall not apply for the purposes of Article 127.					
Article 178(2)(d)	(d) materiality of a credit obligation past due shall be assessed against a threshold, defined by the competent authorities. This threshold shall reflect a level of risk that the competent authority considers to be reasonable;	Credit Risk	Competent Authority	General	Yes, once EBA RTS available	EBA is mandated to develop draft regulatory technical standards to specify the conditions according to which a competent authority shall set the threshold referred to in paragraph 2(d) for submission to the European Commission by 31 Dec 2014.
Article 179(1)(f) (Overall Requirements for Estimation)	Where institutions use different estimates for the calculation of risk weights and for internal purposes, it shall be documented and be reasonable. If institutions can demonstrate to their competent authorities that for data that have been collected prior to 1 January 2007 appropriate adjustments have been made to achieve broad equivalence with the definition of default laid down in Article 178 or with loss, competent authorities may permit the institutions some flexibility in the application of the required standards for data.	Credit Risk	Competent Authority	Case by Case	Yes	This discretion is important in order not to invalidate historic data sets. EBA shall submit draft regulatory technical standards on this point to the Commission by 31 December 2014.

Article 225(2)(e)	the length of the historical observation period institutions use for calculating volatility adjustments shall be at least one year. For institutions that use a weighting scheme or other methods for the historical observation period, the length of the effective observation period shall be at least one year. The competent authorities may also require an institution to calculate its volatility adjustments using a shorter observation period where, in the competent authorities' judgement, this is justified by a significant upsurge in price volatility;	Credit Risk Mitigation	Competent Authority	Case by Case	Yes	
Article 243(2)(b) and 244(2)(c)(Traditional and Synthetic Securitisations)	Where the possible reduction in risk weighted exposure amounts, which the originator institution would achieve by this securitisation is not justified by a commensurate transfer of credit risk to third parties, competent authorities may decide on a case-by-case basis that significant credit risk shall not be considered to have been transferred to third parties.	Securitisation	Competent Authority	Case by Case	Yes	
Article 244(2)	Where the possible reduction in risk weighted exposure amounts, which the originator institution would achieve by this securitisation is not justified by a commensurate transfer of credit risk to third parties, competent authorities may decide on a case-by-case basis that significant credit risk shall not be considered to have been transferred to third parties.	Securitisation	Competent Authority	Case by Case	Yes	
Article 282(6)(Hedging sets)	For transactions with a non-linear risk profile or for payment legs and transactions with debt instruments as underlying for which the institution cannot determine the delta or the modified amended duration, as the case may be, with an instrument model that the competent authority has approved for the purposes of determining the own funds requirements for market risk, the competent authority shall either determine the size of the risk positions and the applicable CCRMjs conservatively, or require the institution to use of the method set out in Section 3.Netting shall not be recognised (that is, the exposure value shall be determined as if there were a netting set that comprises just an individual transaction).	Market Risk - CCR	Competent Authority	General	Yes	While the Bank reserves the right to specify an alternative methodology, in the absence of such, the methodology set out in Section 3 should be used.

Article 283(1)-(3) (Permission to use the Internal Model)	Provided that the competent authorities are satisfied that the requirement in paragraph 2 have been met by an institution, they shall permit that institution to use the Internal Model Method (IMM) to calculate the exposure value for any of the following transactions: (a) transactions in Article 273(2)(a); (b) transactions in Article 273(2)(b), (c) and (d); (c) transactions in Article 273(2)(a) to (d), Where an institution is permitted to use the IMM to calculate exposure value for any of the transactions mentioned in points (a) to (c) of the first subparagraph, it may also use the IMM for the transactions in Article 273(2)(e). Notwithstanding the third subparagraph of Article 273(1), an institution may choose not to apply this method to exposures that are immaterial in size and risk. In such case, an institution shall apply one of the methods set out in Sections 3 to 5 to these exposures where the relevant requirements for each approach are met. 2. Competent authorities shall permit institutions to use IMM for the calculations referred to in paragraph 1 only if the institution has demonstrated that it complies with the requirements set out in this Section, and the competent authorities verified that the systems for the management of CCR maintained by the institution are sound and properly implemented. 3. The competent authorities may permit institutions for a limited period to implement the IMM sequentially across different transaction types. During this period of sequential implementation institutions may use the methods set out in Section 3 or Section 5 for transaction type for which they do not use the IMM	Market Risk - CCR	Competent Authority	Case by Case	Yes	Exercise subject to prior written approval from the Bank. The Bank confirms that its updated CRD Implementation Document, to issue in late 2013, will include revised guidance on procedures for IRB model applications and permissions under CRR.

Article 284(4)	Except for counterparties identified as having Specific Wrong-Way Risk that fall within the scope of Article 291(4) and (5), institutions shall calculate the exposure value as the product of alpha (α) times Effective EPE, as follows: where: α = 1.4, unless competent authorities require a higher α or permit institutions to use their own estimates in accordance with paragraph 9; Effective EPE shall be calculated by estimating expected exposure (EEt) as the average exposure at future date t, where the average is taken across possible future values of relevant market risk factors. The model shall estimate EE at a series of future dates t1, t2, t3, etc.	Market Risk - CCR	Competent Authority	General	Not at present	For the time-being, we regard an alpha of 1.4 to be appropriate, as per the current implementation.
Article 284(9) and (12) (Exposure Value)	Notwithstanding paragraph 4, competent authorities may permit institutions to use their own estimates of alpha, where: (a) alpha shall equal the ratio of internal capital from a full simulation of CCR exposure across counterparties (numerator) and internal capital based on EPE (denominator); (b) in the denominator, EPE shall be used as if it were a fixed outstanding amount. When estimated in accordance with this paragraph, alpha shall be no lower than 1.2. 12. In supervising the use of estimates under paragraph 9, competent authorities shall have regard to the significant variation in estimates of alpha that arises from the potential for mis-specification in the models used for the numerator, especially where convexity is present	Market Risk - CCR	Competent Authority	Case by Case	Yes	

Article 317(4)(Own funds requirement)	Institutions shall calculate the average over three years of the sum referred to in paragraph 2 on the basis of the last three twelve-monthly observations at the end of the financial year. When audited figures are not available, institutions may use business estimates. Where an institution can prove to its competent authority that, due to a merger, an acquisition or a disposal of entities or activities, using a three year average to calculate the relevant indicator would lead to a biased estimation for the own funds requirement for operational risk, the competent authority may permit institutions to amend the calculation in a way that would take into account such events and shall duly inform EBA thereof. In such circumstances, the competent authority may, on its own initiative, also require an institution to amend the calculation. Where an institution has been in operation for less than three years it may use forward-looking business estimates in calculating the relevant indicator, provided that it starts using historical data as soon as it is available.	Op Risk	Competent Authority	Case by Case	Yes	
Article 327(2)(Netting)	No netting shall be allowed between a convertible and an offsetting position in the instrument underlying it, unless the competent authorities adopt an approach under which the likelihood of a particular convertible's being converted is taken into account or require an own funds requirement to cover any loss which conversion might entail. Such approaches or own funds requirements shall be notified to EBA. EBA shall monitor the range of practices in this area and shall, in accordance with Article 16 of Regulation (EU) No 1093/2010, issue guidelines.	Market Risk	Competent Authority	General	Yes	

Article 366(4)-(5)(Regulatory Back-testing and Multiplication Factors)	4. The competent authorities may in individual cases limit the addend to that resulting from overshootings under hypothetical changes, where the number of overshootings under actual changes does not result from deficiencies in the internal model. 5. In order to allow competent authorities to monitor the appropriateness of the multiplication factors on an ongoing basis, institutions shall notify promptly, and in any case no later than within five working days, the competent authorities of overshootings that result form their back-testing programme	Market Risk	Competent Authority	Case by Case	Yes	
Article 380(Waiver)	Where a system wide failure of a settlement system, a clearing system or a CCP occurs, competent authorities may waive the own funds requirements calculated as set out in Articles 378 and 379 until the situation is rectified. In this case, the failure of a counterparty to settle a trade shall not be deemed a default for purposes of credit risk.	Settlement Risk	Competent Authority	Case by Case	Yes	The Bank intends to retain the flexibility to exercise this discretion to deal with such system-wide failures.
Article 395(1)(Limits to Large Exposures)	1. An institution shall not incur an exposure, after taking into account the effect of the credit risk mitigation in accordance with Articles 399 to 403, to a client or group of connected clients the value of which exceeds 25 % of its eligible capital. Where that client is an institution or where a group of connected clients includes one or more institutions, that value shall not exceed 25 % of the institution's eligible capital or EUR 150 million, whichever the higher, provided that the sum of exposure values, after taking into account the effect of the credit risk mitigation in accordance with Articles 399 to 403, to all connected clients that are not institutions does not exceed 25 % of the institution's eligible capital. Where the amount of EUR 150 million is higher than 25 % of the institution's eligible capital the value of the exposure, after taking into account the effect of credit risk mitigation in accordance with Articles 399 to 403 shall not exceed a reasonable limit in terms of the institution's eligible capital. That limit shall be determined by the institution in accordance with the policies and procedures referred to in Article 81 of	Large Exposures and Investment Firms	Competent Authority	Case by Case	Yes	As currently, the Bank may apply a lower limit of €250k to investment firms on a case by case basis.

	Directive 2013/36/EU, to address and control concentration risk. This limit shall not exceed 100 % of the institution's eligible capital. Competent authorities may set a lower limit than EUR 150 million and shall inform EBA and the Commission thereof.					
Article 495(1)(Treatment of equity exposures under the IRB approach)	1. By way of derogation from Chapter 3 of Part Three, until 31 December 2017, the competent authorities may exempt from the IRB treatment certain categories of equity exposures held by institutions and EU subsidiaries of institutions in that Member State as at 31 December 2007. The competent authority shall publish the categories of equity exposures which benefit from that treatment in accordance with Article 143 of Directive 2013/36/EU. The exempted position shall be measured as the number of shares as at 31 December 2007 and any additional share arising directly as a result of owning those holdings, provided they do not increase the proportional share of ownership in a portfolio company. If an acquisition increases the proportional share of ownership in a specific holding the part of the holding which constitutes the excess shall not be subject to the exemption. Nor shall the exemption apply to holdings that were originally subject to the exemption, but have been sold and then bought back. Equity exposures subject to this provision shall be subject to the capital requirements calculated in accordance with the Standardised Approach under Part Three, Title II, Chapter 2 and the requirements set out in Title IV of Part Three, as applicable. Competent authorities shall notify the Commission and EBA of the implementation of this paragraph.	Transitional Credit Risk	Competent Authority	General	No	The Bank does not consider that this exemption is justified on a general basis. If there are specific cases, these can be considered in terms of the roll-out rules for equity exposures.

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