Banc Ceannais na hÉireann
Central Bank of Ireland
Eurosystem

Implementation Notice for Competent Authority discretions in the Capital Requirements Regulation and Capital Requirements Directive

May 2025

Contents

Version control:

- 5 December 2018 – Notice amended to implement Commission Delegated Regulation 2018/171 in accordance with Article 178(2)(d) CRR.
- 25 November 2021 – Notice amended to incorporate amendments to the Central Bank's approach in relation to the implementation of Article 124 and 164 CRR.
- 20 December 2022 – Notice amended to incorporate updates to the SSM options and discretions framework and legislative revisions related to the prudential regime for investment firms as a result of the adoption of the Investment Firm Directive (2019/2034) and Investment Firm Regulation (2019/2033).
- 1 May 2025 – Notice amended to incorporate revised guidance and template agreement for capital contributions. See in particular Paragraphs 1.7 and 3.8.

List of Abbreviations

CRD IV	Capital Requirements Directive IV (Directive 2013/36/EU)
CRR	Capital Requirements Regulation (Regulation (EU) No 575/2013)
EBA	European Banking Authority
ECB	European Central Bank
ESA	European Supervisory Authority
ESRB	European Systemic Risk Board
IFD	Investment Firms Directive (Directive 2019/2034)
IFR	Investment Firms Regulation (Regulation 2019/2033)
LCR	Liquidity Coverage Requirement
LSI	SSM Less Significant Credit Institution
MiFID	Markets in Financial Instruments Directive
NCA	National Competent Authority
NDA	National Designated Authority
O&D	Option/Discretion
SI	SSM Significant Credit Institution
SSM	Single Supervisory Mechanism
SSMR	Single Supervisory Mechanism Regulation
SSMFR	Single Supervisory Mechanism Framework Regulation

1 Overview

1.1. This Implementation Notice outlines Central Bank of Ireland ('Central Bank') requirements and guidance in relation to the implementation of certain competent authority options and discretions (O&Ds) arising under:

- the *European Union (Capital Requirements) Regulations 2014* ('the CRD Regulations),[1] transposing Directive 2013/36/EU (CRD IV);[2]
- *Regulation (EU) No. 575/2013* (CRR);[3] and
- *European Commission Delegated Regulation (EU) No. 2015/61* (the 'LCR Regulation').[4]

This Implementation Notice does not address 'Member State' discretions retained by the Minister for Finance in the CRD Regulations.[5]

1.2. This Implementation Notice supersedes the Central Bank's November 2021 Implementation Notice and may be periodically updated from time-to-time.[6]

1.3. For avoidance of doubt, the Central Bank distinguishes O&Ds broadly as follows:

Option: refers to a situation in which competent authorities are given a choice on how to comply with a given provision, selecting from a range of alternatives set forth in EU legislation.
Discretion: refers to a situation in which competent authorities are given a choice whether to apply or not to apply a given provision in EU legislation.

[1] S.I. 158 of 2014, and as specifically amended by SI 710/2020.

[2] 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, and as specifically amended by Directive 2019/878

[3] 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, and as specifically amended by Regulation 2019/876.

[4] Commission Delegated Regulation (EU) 2015/61 of 10 October 2014 to supplement Regulation (EU) No 575/2013 of the European Parliament and the Council with regard to liquidity coverage requirement for credit institutions [2015] OJ L 11/1, and as specifically amended by Commission Delegated Regulation (EU) 2018/1620

[5] For example, Regulation 82(3)(b) of the CRD Regulations and Article 133 of CRD IV.

[6] The 2014 Implementation Notice exercise of CRR Article 478(2) applies for banks subject to Commission-approved restructuring plans per Regulation (EU) 2016/445 and Guideline (EU) 2017/697.

1.4. References to Irish and EU legislation in this Implementation Notice should be read as a citation of, or reference to, the legislation as amended from time-to-time (including as amended by way of extension, application, adaptation or other modification of the legislation). References to Central Bank and European Banking Authority (EBA) codes and guidelines in this Implementation Notice should, if they have since been amended or replaced since the issuance of this Implementation Notice, be construed as references to the relevant amended or replaced codes or guidelines.

1.5. This Implementation Notice is not an exhaustive account of the CRD Regulations or CRR and should not be interpreted as such. For further information, and avoidance of doubt, stakeholders should consult the applicable legal texts and/or relevant European Commission websites directly.

Legal Basis for the Proposed Revised Notice

1.6. Under Regulations 4, 120, 121, 124 and 125 of the CRD Regulations the Central Bank is designated as the national competent authority (NCA) that carries out the functions and duties of the competent authority in CRD IV and CRR and the national designated authority (NDA) in charge of certain capital buffer requirements. Under Regulation 3 of the European Union (Capital Requirements) (No. 2) Regulations 2014 (S.I. 159 of 2014) the Central Bank is designated as the NDA in charge of the application of Article 458 of CRR. The Central Bank's powers and requirements in this area generally are exercised pursuant to the provisions of the CRD Regulations, CRR, S.I. 159 of 2014 and, *inter alia,* the Central Bank Acts, including the *Central Bank (Supervision and Enforcement) Act 2013*.[7]

Scope of this Implementation Notice

1.7. This Implementation Notice addresses the manner in which the Central Bank intends to exercise the competent authority O&Ds that are provided for in the CRD Regulations and CRR, without prejudice to the European Central Bank's (ECB's) competences within the Single Supervisory Mechanism (SSM). The Implementation Notice is therefore applicable to firms within scope of the CRD Regulations and CRR, as described in the paragraphs below, as well as firms within sectors where their regulation cross-references particular provisions of the CRD Regulations or CRR, including the definition of capital, or aspects thereof, covered in Section 3 of the Implementation Notice.

[7] No. 26 of 2013.

1.8 In accordance with the SSM Regulation (SSMR)[8] and SSM Framework Regulation (SSMFR),[9] the ECB (in cooperation with the Central Bank) is responsible for directly prudentially supervising SSM 'significant credit institutions' (SIs), and the Central Bank (in cooperation with the ECB) is responsible for directly prudentially supervising SSM 'less significant credit institutions' (LSIs).[10] The Central Bank is responsible for supervising firms authorised under the Markets in Financial Instruments Directive II (MiFID II),[11] as transposed (hereinafter referred to as 'MiFID firms', see paragraph 1.10 for further details).

1.9. Except for the types of O&Ds specified in paragraph 1.11, this Implementation Notice is only relevant to the following (together referred to as 'relevant entities' for the purposes of this Implementation Notice):

- Domestically-authorised LSIs within the meaning of the SSMR, except in cases where the ECB assumes direct supervisory responsibilities under Article 6(5)(b) of SSMR;
- Where applicable, Irish branches of LSIs authorised in other SSM-participating Member States, except in cases where the ECB assumes direct supervisory responsibilities under Article 6(5)(b) of SSMR;
- Where applicable, Irish branches of credit institutions authorised in European Economic Area (EEA) Member States not participating in the SSM (and where such branches are not designated as SIs in their own right for SSM purposes under Article 6(4) of SSMR or Article 6(5)(b) SSMR); and
- MiFID investment firms which are in-scope of the CRD Regulations and CRR (see paragraph 1.10).

Applicability of this Implementation Notice to MiFID firms

1.10. The adoption of the Investment Firm Directive (IFD)[12] and the Investment Firm Regulation (IFR)[13] has altered the scope of the CRR[14] and CRD with respect to investment firms. As

[8] Council Regulation (EU) No 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions [2013] OJ L 287/63.

[9] Regulation (EU) No 468/2014 of the European Central Bank of 16 April 2014 establishing the framework for cooperation within the Single Supervisory Mechanism between the European Central Bank and national competent authorities and with national designated authorities [2014] OJ L 141/1.

[10] See, e.g., Article 6(6) and (7) of SSMR.

[11] Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU.

[12] Directive (2019/2034)

[13] Regulation (2019/2033)

[14] Article 2 (5) CRR states that competent authorities shall treat class 1 minus MIFID investment firms as if they were 'institutions' under CRR. Therefore, references to 'institution' within the description of CRR O&Ds in this Notice can be read as referring to "class 1" minus MIFID investment firms and credit institutions.

such, this Notice is primarily relevant for so-called "Class 1 minus" MiFID investment firms, in line with the following definitions in IFR:

- Those MiFID investment firms referred to in Article 1(2)(a) and (b) of the IFR that are subject to the prudential regime under the CRR;
- MiFID investment firms referred to under Article 1(2)(c) of the IFR following the exercise of the competent authority discretion in Regulation 4 of the IFD Regulations[15];
- MiFID investment firms referred to in Article 1(5) of the IFR.

In addition, this Notice also applies to MiFID investment firms in scope of Article 58 IFR which meet the threshold set out in Article 8a(1) of the CRD and have submitted, or are preparing to submit, an application for authorisation as a "Class 1" credit institution[16] in accordance with the reauthorisation process to be set out in relevant legislation by the Department of Finance.

For the avoidance of doubt, this Notice also applies to "Class 1" credit institutions as defined by Article 4(1)(b) CRR in the same way that it applies to credit institutions more generally.

Finally, certain discretions in CRR related to own funds continue to apply to smaller investment firms that are within the scope of the IFR/IFD prudential framework. The application of these discretions to those investment firms is set out in Appendix II of the Central Bank's IFR/IFD Implementation Notice[17].

Applicability of this Implementation Notice to SIs

1.11. The macroprudential powers in the CRD Regulations and CRR are shared between the Central Bank, as the NDA,[18] and the ECB for both SIs and LSIs.[19] Therefore, the Central Bank's approaches to the macroprudential-related O&Ds specified in section 2 and the annexes 2 & 3 of this Implementation Notice are relevant for both SIs and LSIs. Furthermore, the Central Bank's Corporate Governance Requirements for Credit Institutions[20] applies to both SIs and LSIs. In addition, the Central Bank's current approaches specified in section 4 of this Implementation Notice remain applicable to both SIs and LSIs.

[15] Regulation 4 of the European Union (Investment Firms) Regulation (S.I. No. 355 of 2021)
[16] As defined by Article 4(1)(b) CRR.
[17] https://www.centralbank.ie/docs/default-source/regulation/industry-market-sectors/investment-firms/mifid-firms/regulatory-requirements-and-guidance/implementation-of-competent-authority-discretions-in-the-ifd-regulations-and-the-ifr.pdf?sfvrsn=2
[18] Per Part 6, Chapter 4 of the CRD Regulations and the European Union (Capital Requirements) (No. 2) Regulations 2014 (S.I. 159 of 2014).
[19] See, e.g., Article 5 of the SSMR.
[20] Central Bank, *Corporate Governance Requirements for Credit Institutions* (2015).

1.12. Aside from the O&Ds referred to in paragraph 1.9, decision-making with respect to competent authority O&Ds for SIs under the CRD Regulations and CRR is solely a matter for the ECB, in accordance with the relevant ECB Regulation[21] and Guide[22] governing O&Ds for SIs. If SIs have specific queries in this respect, they should contact their Joint Supervisory Teams.

Common Procedures

1.13. There are also certain areas, particularly the granting/withdrawal of credit institution licences (authorisations) and approval of acquisitions/disposals of qualifying holdings, where the ECB has exclusive competence with respect to both SIs and LSIs, in accordance with the SSM Regulations. Nonetheless, the ECB's exclusive competences in such areas may be informed by proposals/input submitted by the NCAs in the context of such common procedures, for example in relation to appropriate initial capital levels.

Third Country Branches

1.14. The Central Bank may apply specific approaches in this Implementation Notice *mutatis mutandis* to Irish branches of non-EEA credit institutions ('third country branches') authorised pursuant to section 9A(2) of the Central Bank Act 1971.[23]

EU Legal and Regulatory Framework

1.15. Many of the O&Ds in the CRD Regulations and CRR are supplemented by additional provisions or standards. These include delegated regulations adopted by the European Commission,[24] most of which are based on technical standards (ITS/RTS)[25] developed by

[21] Regulation (EU) 2016/445 of the European Central Bank of 14 March 2016 on the exercise of options and discretions available in Union law (ECB/2016/4) OJ L 78, 24.3.2016, pp. 60–73, as amended by Regulation (EU) 2022/504.

[22] ECB Guide on options and discretions available in Union law, consolidated version, March 2022.

[23] For further information on the Central Bank's general approach with respect to oversight of third country branches of credit institutions see Central Bank, *Policy Statement on the Authorisation of Branches of Non-EEA Credit Institutions under Section 9A of the Central Bank Act 1971* (May 2016).

[24] Delegated or implementing regulations under 290/291 TFEU and the relevant provision of CRD IV or CRR (e.g. Article 456 CRR).

[25] Under Article 10/Article 15 of Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority) amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC [2010] OJ L 331.

the European Supervisory Authorities (ESAs),[26] primarily the European Banking Authority (EBA). These measures are directly legally binding on all relevant entities.

1.16. The EBA also issues guidelines and recommendations, some of which relate to O&Ds, and maintains a Single Rulebook Q&A tool to facilitate the consistent application of CRD IV and CRR across the EU. All relevant entities should comply with such guidelines, recommendations and Q&As or other as applicable, unless the Central Bank formally advises otherwise.

The Central Bank's General Approach

1.17. While the Central Bank is competent to exercise O&Ds for LSIs and MiFID investment firms, the Central Bank's approaches will nonetheless be influenced by ECB harmonisation measures applicable across the participating SSM Member States. In this regard, the ECB has issued a legally binding ECB Guideline[27] which outlines how the NCAs, including the Central Bank, must exercise certain O&Ds of 'general application' for LSIs. The ECB has also issued an ECB Recommendation[28] which provides guidance to the NCAs, including the Central Bank, in terms of how certain 'case-by-case' O&Ds should be exercised for LSIs.

1.18. The Central Bank will exercise the O&Ds encompassed by the ECB LSI Guideline consistently with that Guideline. Except for the O&Ds referred to in point (a) of paragraph 1.19, the Central Bank intends to exercise the O&Ds encompassed by the ECB LSI Recommendation consistently with the specifications/conditionality in that Recommendation.

1.19. Guided by its overarching statutory objectives of *Safeguarding Stability, Protecting Consumers*, the Central Bank is addressing certain O&Ds in the subsequent sections and annexes 2 & 3 of this Implementation Notice on the basis that:

[26] European Banking Authority (EBA), European Securities and Markets Authority (ESMA) and European Insurance and Occupational Pensions Authority (EIOPA).

[27] Guideline (EU) 2017/697 of the European Central Bank of 4 April 2017 on the exercise of options and discretions available in Union law by national competent authorities in relation to less significant institutions(ECB/2017/9), as amended by Guideline (EU) 2022/508.

[28] Recommendation of the European Central Bank of 4 April 2017 on common specifications for the exercise of some options and discretions available in Union law by national competent authorities in relation to less significant institutions (ECB/2017/10), as amended by Recommendation ECB/2022/13

(a) The Central Bank is maintaining a different policy approach than the ECB on the basis of applicable national requirements and/or national policy considerations (i.e. for Regulations 64(11) and 76(2)(e) of the CRD Regulations);

(b) The ECB has not addressed an O&D because the relevant power is shared between the ECB and the NDAs, e.g. macroprudential O&Ds;

(c) The ECB has not yet addressed an O&D for LSIs, but may do so in due course, and the Central Bank deems it warranted to address it in the interim;

(d) The ECB has not yet articulated its final policy position/approach on an O&D and the Central Bank deems it warranted to address it in the interim.

(e) While the Central Bank is exercising an O&D consistently with the ECB, the Central Bank deems it appropriate to specify a procedural matter;

In relation to any O&Ds or supervisory permissions not addressed in the ECB LSI Guideline, the ECB LSI Recommendation nor this Implementation Notice, the Central Bank intends to exercise these on a case-by-case basis, subject to any relevant conditionality associated with them in the relevant legislation or guidance.

Applications for Case-by-Case O&Ds

1.20. Where an option or discretion will be exercised on a case-by-case basis, the onus is on relevant entities to apply for it. Each relevant entity should also reapply for the continued application of options or discretions on a case-by-case basis where the associated conditions attached to the exercise of them have changed. Relevant entities must apply separately for each of these, which can be achieved by way of itemising each option or discretion sought on the same application to the Central Bank.

2 Transitional Arrangements

2.1. This section outlines the Central Bank's approaches towards certain O&Ds with transitional elements.

Capital Buffers

2.2. As stated above, O&Ds with respect to macroprudential measures under CRR and the capital buffer provisions in the CRD Regulations are shared competences with the ECB.[29] For further information on the Central Bank's perspectives in this area generally, please consult the Central Bank's Macroprudential Policy Framework.[30]

Other Systemically Important Institution Buffers

2.3. Regulation 123 of the CRD Regulations provides that a capital buffer requirement may be applied to identified 'other systemically important institutions' ('O-SIIs'), as defined in Regulations 121 and 122 of the CRD Regulations. The Central Bank has exercised the discretion in Regulation 123 and applied O-SII buffers to identified institutions.

Large Exposures

2.4. The Department of Finance has not exercised the transitional Member State discretion in Article 493(3) of CRR relating to certain large exposure exemptions. The Central Bank will, pending any European Commission action as specified in Article 507 of CRR, exercise the competent authority discretions in Article 400(2)(a)-(b) and (d)-(l) of CRR; subject to fulfilment of the criteria stipulated in Article 400(3) of CRR, as further specified in the ECB LSI Guideline.[31]

2.5. With respect to the intra-group large exposure waiver in Article 400(2)(c) of CRR specifically, the Central Bank intends to exercise that discretion on a prior approval case- by-case basis for both LSIs and "Class 1 minus" MiFID investment firms, where appropriate, in the case

[29] See, e.g. Recital 24, Recital 34 and Article 5 of SSMR.

[30] https://www.centralbank.ie/financial-system/financial-stability/macro-prudential-policy https://www.centralbank.ie/financial-system/financial-stability/macro-prudential-policy/other- systemically-important-institutions-buffer

[31] Guideline (EU) 2017/697 of the European Central Bank of 4 April 2017 on the exercise of options and discretions available in Union law by national competent authorities in relation to less significant institutions(ECB/2017/9), as amended by Guideline (EU) 2022/508.

of exemptions where the entity is located within the EU The Central Bank will also have regard to relevant ECB criteria in this area as specified in the ECB LSI Guideline.[32]

2.6. Where LSIs and/or "Class 1 minus" MiFID investment firms are seeking to encompass exposures to one or more non-EEA counterparties within an intra-group large exposure waiver, the Central Bank intends to have particular regard to at least the following in determining whether the criteria in Article 400(3) of CRR are satisfactorily met:

- Relevant ECB criteria;[33]
- Regulatory and supervisory equivalence of the jurisdictions where the relevant group counterparty/counterparties are established;
- The regulatory status of all of the group counterparties which the applicant is seeking to encompass within the waiver;
- The existence and legal enforceability of any intra-group guarantees in favour of the applicant with respect to the proposed waiver;
- Any material prudential and/or conduct related issues within the last 3 years which have affected the applicant and/or the specific group counterparties proposed to be encompassed by the waiver; and
- Demonstration of how the proposed waiver would be consistent with the resolvability of the applicant.

2.7. For LSIs and "Class 1 minus" MiFID investment firms already in receipt of a waiver under Article 400(2)(c) CRR encompassing non-EEA counterparties, the Central Bank will have regard to the factors in paragraph 2.6 when reviewing pre-existing waivers.

[32] Guideline (EU) 2017/697 of the European Central Bank of 4 April 2017 on the exercise of options and discretions available in Union law by national competent authorities in relation to less significant institutions, as amended by Guideline (EU) 2022/508. See Annex 2 for more information.

[33] In line with the requirements of Recommendation ECB/2017/10 (as amended by Recommendation ECB/2022/13) on common specifications for the exercise of some options and discretions available in Union Law by NCAs in relation to LSIs, Section II, Chapter 5, paragraph 4 of the ECB Guide shall apply. See also Annex 2, Regulation (EU) 2016/445 (ECB/2016/4). .

3 Own Funds

3.1. This section sets out the Central Bank's policy with respect to the exercise of certain competent authority discretions in the area of own funds.

Pre-approval of Capital Instruments

3.2. The Central Bank is required to evaluate whether issuances of CET1 instruments by LSIs and "Class 1 minus" MiFID investment firms meet the criteria set out in Article 28 of CRR. Under CRR Article 26(3), institutions shall classify capital instruments as CET1 instruments only after permission is granted by their relevant competent authority. CRR2 introduces a derogation from this first subparagraph of Article 26(3) of the CRR, allowing institutions to classify as CET1 instruments subsequent issuances of a form of CET1 instruments for which they have already received competent authorities' permission (under the CRR), provided that:

(a) the provisions governing those subsequent issuances are substantially the same as the provisions governing those issuances for which the institutions have already received permission; and

(b) institutions have notified those subsequent issuances to the competent authorities sufficiently in advance of their classification as CET1 instruments.

LSIs and "Class 1 minus" MiFID investment firms that would like to make use of this notification procedure should submit to the Central Bank the necessary documentation laid down in Section II, Chapter 2 paragraph 3 of the ECB Guide within the specified timeframe.[34] Following notification, the Central Bank may require the standard permission process to apply where compliance with CRR Article 26(3) and/or CRR Article 28 is uncertain. The standard permission process should be expected to be lengthy, particularly where EBA consultation is required.[35]

3.3. The Central Bank expects that any changes made to an LSI and class 1 minus MiFID investment firm's constitution (or associated arrangements) that could affect the eligibility of own funds instruments should be notified to the Central Bank 30 calendar days in advance of its proposed submission to shareholders (or its proposed taking of effect).

[34] To note, where changes in substance relate to updates of a Constitution/other to incorporate EBA best practice (eg, as recommended in the *EBA report on the Monitoring of CET1 Instruments issued by EU Institutions – Update*), this will not disqualify institutions from using the notification procedure.

[35] EBA consultation is required on all new forms of CET1 instruments not yet on the CET1 List in respect of a particular jurisdiction and on unusual features proposed for issuances under existing forms.

3.4. Recital 75 of CRR clarifies that competent authorities may also maintain pre-approval processes regarding contracts governing Additional Tier 1 (AT1) 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.

3.5. The Central Bank requires all new AT1 and Tier 2 instruments, including any associated arrangements, to have received its prior permission before they may be included in own funds. In such cases or where the effective terms and conditions of existing AT1 and Tier 2 instruments are being amended, the Central Bank will require 30 calendar days' notice, starting from the point at which all necessary information has been provided to the Central Bank. Where consultation with the EBA is required, for example due to the introduction of an unusual contractual feature, the timeframe for response by the Central Bank may be considerably longer than 30 days.

3.6. All submissions to the Central Bank for permissions to recognise new forms of CET1 instruments or new AT1 or Tier 2 issuances, should be supported by necessary information. 'Necessary information' shall comprise a full description of the proposed issuance. For new forms of CET1 instruments and new AT1 instruments, the necessary information shall also be accompanied by a legal opinion addressed to the Central Bank from an external advisor of sufficient standing and experience in the area of financial services law. In the cases of new Tier 2 instruments, legal opinion from the issuing LSI or "Class 1 minus" investment firm's internal legal advisors shall generally suffice. Those legal opinions 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 eligibility criteria under CRR. The legal opinion shall take relevant technical standards into account and, in particular, should treat pertinent EBA outputs (e.g. Monitoring Reports, opinions and Q&As) as if they were binding.

3.7. The issuing LSI or "Class 1 minus" MiFID investment firm shall generally be required by the Central Bank to supply an external accounting opinion and Office of the Revenue Commissioners' confirmation of the applicable tax treatment of the instrument in the case of AT1 submissions. Such opinion and confirmation may also be sought from the issuing LSI or "Class 1 minus" MiFID investment firm in cases of other own funds instrument issuances.

Capital Contributions

3.8 In line with EBA Q&A 2024_7256[36], the use of direct contributions to reserves should be approached prudently as it is not meant to be the primary method to raise capital. Capital contributions without the taking of shares require the Central Bank's permission before they may be recognised as CET1. *In specie* capital contributions may be permitted provided they are fully paid-up within the meaning of EBA Q&A 2017 3636.[37]

Where a firm has multiple shareholders, it is generally expected that where a capital contribution is being made that they all make contributions in proportion to their share in the capital of the institution. Proposed exceptions should be duly justified and will be closely scrutinised by the Central Bank. There should not be any agreements according to which a disproportionate contribution leads to a preferential treatment in case the reserve is dissolved.

Submissions by LSIs or "Class 1 minus" MiFID investment firms, or other firms relying on the CRR definition of capital, or aspects thereof, should demonstrate that the contribution is available to the firm for unrestricted and immediate use to cover risks or losses as soon as these occur. A template agreement for this submission may be found below as Annex 1. The Central Bank may request a legal opinion on the enforceability of the agreement.

Initial Capital Requirements on Going Concern Basis

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

[36] https://www.eba.europa.eu/single-rule-book-qa/qna/view/publicId/2024_7256
[37] https://www.eba.europa.eu/single-rule-book-qa/qna/view/publicId/2017_3636

4 Credit Risk - Exposures to immovable property

4.1. Article 124(2) CRR permits CAs/DAs to set higher risk weights for mortgages secured by immovable property on the basis of financial stability considerations. From 2006-2021, the Central Bank exercised this discretion as follows:

- A 35 per cent risk weight for exposures fully and completely secured by mortgages on residential property but only where the loan-to-value (LTV) at market value did not exceed 75 per cent, in contrast to the CRR baseline LTV of 80 per cent. In all other cases, a 100 per cent risk weight applied unless the exposure met certain conditions for application of a 75% risk weight.[38]
- A 75 per cent risk weight could be assigned to exposures to mortgages secured by residential investment properties, if the exposure met the definition of 'retail exposure' under Article 123 CRR. Otherwise, a 100 per cent risk weight applied. This was in contrast to the CRR baseline risk weight for exposures to mortgages secured by residential investment properties of 35 per cent up to an LTV of 80%.
- For commercial property, in line with the discretion under Article 126(2), the Central Bank required that a 100 per cent risk weight was applied to exposures fully and completely secured by mortgages, in contrast to the CRR baseline risk weight of 50 per cent.

4.2. As of 25 November 2021, the Central Bank no longer exercised this discretion. Firms should refer to Articles 124-126 CRR for the applicable risk weights for residential and commercial real estate exposures.

4.3. Article 164(5) permits CAs/DAs to set higher loss given default values for mortgages secured on immovable property on the basis of financial stability considerations. From 2006-2021, the Central Bank did not exercise the discretion afforded to it under this provision. As at 25 November 2021, this decision remains unchanged.

4.4. Arising from the designation of the Central Bank as the authority responsible for the application of Article 124(2) and 164(6), the Central Bank now considers the use of these powers in its role as MacroPrudential authority.

[38] Specifically, where an exposure meets the conditions prescribed in article 123 CRR, an exposure may have been risk weighted as a retail exposure at 75%.

5 Liquidity

5.1. This section specifies the Central Bank's approaches in relation to certain liquidity discretions.

Outflow Rate Assessments

5.2. Article 23 of the LCR Regulation contains a competent authority discretion to set the outflow rate on liquidity outflows not captured in Articles 422, 423 and 424 of CRR/Articles 27 to 31a of the LCR Regulation.

5.3. The Central Bank intends to set these rates on a case-by-case basis. Relevant entities shall assess the liquidity outflows in accordance with Article 23 of the LCR Regulation as well as any applicable guidance[39] and report to the Central Bank not less than annually, by 30 September each year[40], those products and services for which the likelihood and potential volume of the liquidity outflows referred to in Article 23 of the LCR Regulation are material.

[39] https://www.eba.europa.eu/regulation-and-policy/liquidity-risk

[40] Or an earlier date as may be advised by the Central Bank from time-to-time.

6 Corporate Governance

6.1. This section specifies the Central Bank's exercise of discretions arising within the sphere of corporate governance in the CRD Regulations; as well as the interplay between these discretions and the Central Bank's Corporate Governance Requirements for Credit Institutions 2015 (the 'Requirements for Credit Institutions') and the Corporate Governance Requirements for Investment Firms and Market Operators 2018 (the 'Requirements for Investment Firms').

Requirements for institutions deemed CRD Significant

6.2. The CRD Regulations introduce a number of corporate governance requirements for institutions which are significant in terms of their size, internal organisation and the nature, scope and complexity of their activities, hereafter referred to as 'CRD significant institutions'. These requirements[41] relating to the composition of the risk, nomination and remuneration committees of CRD significant institutions and to the number of directorships permitted to be held by directors of such institutions are similar, though not identical, to those outlined in the Requirements for Credit Institutions.

6.3. The Central Bank's position is that the Requirements for Credit Institutions in these cases (as they apply to CRD significant institutions) shall be substituted by the relevant provisions of the CRD Regulations as set out above. For clarity, the Requirements for Credit Institutions contains an appendix[42] which clearly identifies which requirements CRD significant institutions shall comply with in these instances. The Central Bank or the ECB, as applicable, will notify institutions from time-to-time of their status as CRD significant institutions. Institutions notified of their CRD significant status prior to the issuance of this Notice will continue to be deemed CRD significant unless advised otherwise by the Central Bank or the ECB, as applicable.

Discretions available to the Competent Authority

6.4. This Section outlines the discretions available to the competent authority in relation to the corporate governance requirements in the CRD Regulations and how the Central Bank intends to exercise these discretions.

[41] Set out in Regulations 64(6), 76(3), 79(7) and 83(1) of the CRD Regulations.

[42] Appendix 2: Additional obligations on credit institutions which are deemed significant for the purposes of CRD .

Combined Risk-Audit Committee for Institutions not considered CRD Significant

6.5. Regulation 64(6) of the CRD Regulations requires that CRD significant institutions establish a risk committee. Regulation 64(11) of the CRD Regulations contains a discretion to the effect that the Central Bank may require an institution which is not considered CRD significant to establish a risk committee but may also permit such an institution to combine that risk committee with the audit committee. The Central Bank affirms the importance it attaches to the establishment of separate audit and risk committees and therefore does not intend to exercise the discretion to permit combined risk-audit committees for both credit institutions and "Class 1 minus" MiFID investment firms. This approach is reflected in section 19.1[43] of the Requirements for Credit Institutions and in section 6.1[44] of the Requirements for Investment Firms.

The Chairman and Chief Executive Officer Roles

6.6. Regulation 76(2)(e) of the CRD Regulations prohibits the chairman of a management body from holding the position of the chief executive officer simultaneously within the same institution, unless such an arrangement can be justified by the institution and authorised by the competent authority. The Central Bank affirms the importance it attaches to the segregation of these two roles within an institution in the prevention of potential conflicts of interest and therefore does not intend to exercise this discretion for both credit institutions and "Class 1 minus" MiFID investment firms. This approach is reflected in section 8.6[45] of the Requirements for Credit Institutions and section 5.3 of the Requirements for Investment Firms[46].

[43] Section 19.1 states '<…> Subject to paragraph 19.2 below, the board shall establish, at a minimum, both an audit committee and a risk committee. Where the board comprises only 5 members, the full board, including the Chairman and the CEO, may act as the audit committee and/or the risk committee.<…>'

[44] Section 6.1 states 'Firms shall ensure, subject to Section 6.4 below that the board establishes, at a minimum, both an audit and a risk committee'.

[45] Section 8.6 states 'The roles of Chairman and Chief Executive Officer shall be separate'

[46] Section 5.3 states 'A Firm shall ensure that the Chairperson shall be an independent non-executive director.'

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Annex 1 – Template Capital Contribution Agreement for Recognition under CRR Article 26(1)

DATED DD/MM/20XX

[INSERT PARTIES NAME HERE (FIRM)]

AND

[INSERT PARTIES NAME HERE (CONTRIBUTOR)]

Capital Contribution Agreement for Recognition under CRR Article 26(1)

THIS AGREEMENT is dated [ ] and made between:

(1) [INSERT PARTIES NAME AND REGISTERED ADDRESS HERE] (the **Firm**); and
(2) [INSERT PARTIES NAME AND REGISTERED ADDRESS HERE (the **Contributor)**

RECITALS:

(A) The Firm is a [Bank/MiFID Investment firm/Payment Institution/E-Money Institution/as appropriate] authorised by the Central Bank of Ireland (the **Central Bank**) under [INSERT RELEVANT LEGISLATION HERE].
(B) The Contributor is [INSERT RELATIONSHIP TO THE FIRM HERE].
(C) The Firm and the Contributor have agreed to enter into this capital contribution agreement (the **AGREEMENT**) subject to the terms and conditions set out herein.

NOW IT IS AGREED AS FOLLOWS

1. CAPITAL CONTRIBUTION

1.1 The Contributor hereby irrevocably confirms the payment on [DATE] of € [INSERT AMOUNT HERE] by way of an unconditional capital contribution (the **Contribution)** to be credited to the Firm.

1.2 The Firm and Contributor acknowledge that the Contribution is being made to enable the Firm to comply with its own funds obligations under [INSERT RELEVANT LEGISLATION HERE] and that the Contribution is available to the Firm for unrestricted and immediate use to cover risks or losses as soon as these occur, in accordance with the last sentence of CRR Article 26(1).

1.3 The Contribution is classified as equity for the purposes of determining balance sheet insolvency under national insolvency law.

1.4 The Contribution is not being made in consideration of the grant of any rights or entitlements whatsoever, including any voting rights, profit participation rights or rights to participate in the distribution of the surplus assets of the Undertaking on a winding up.

1.5 The Firm has not directly or indirectly funded the capital contribution by the Contributor.

1.6 The Contribution does not constitute a loan from the Contributor to the Firm; the Firm shall have no obligation to repay the Contribution, including on a winding up of the Firm, nor shall the Contributor offer any incentive for repayment.

1.7 The Contribution is free from any claims or charges and is not connected with any other transaction. The Firm has no obligation to bear any servicing cost or transfer any economic benefit of any kind to the Contributor or any other person in relation to or in return for the Contribution.

1.8 The current financial position of the Contributor is not such as would or might cause the Contributor to seek a distribution by the Firm under 1.10.

1.9 If the Contributor has borrowed to provide the Contribution, the terms under which such loan was granted are not such as would or might cause the Contributor to seek a distribution by the Firm under 1.10 in order to meet its loan obligations.

1.10 The Firm shall not reclassify or distribute the Contribution by way of dividend, on a winding up or in any other way or cause the amount of the Contribution to be reduced without the prior written approval of the Central Bank.

1.11 The Firm and the Contributor have put the terms of this Agreement before their respective boards of directors, which have approved its terms, and such approval has been duly recorded in the official board minutes.

1.12 The Firm shall record and disclose the capital contribution in accordance with the applicable accounting framework for as long as it is intended to receive regulatory recognition.

2. If any of the provisions of this Agreement is or becomes invalid, illegal or unenforceable under any law, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired.

3. This Agreement constitutes the entire agreement as to the making of the capital contribution and replaces and suspends all other agreements or proposals (if any) in relation to it. Any other terms existing at the date hereof and not comprised in this Agreement shall be of no further force and effect.

4. Any amendments to this Agreement made or purported to be made without the consent of the Central Bank shall be void.

5. The making, and the receipt, of the Contribution are within the respective (corporate) powers and objects of the Contributor and the Firm.

6. This Agreement shall be governed by, and construed in accordance with, the law of Ireland.

7. COMPLETION

7.1 On execution of this Agreement the Firm shall:

(a) provide the Contributor with an original of the Agreement duly executed by both Parties;

(b) provide the Central Bank with a copy of the original of the Agreement duly executed;

(c) provide the Central Bank with appropriate documentary evidence showing that the Contribution amount under Condition 1.1 has been received by the Firm and that Conditions 1.11 and 5 have been met.

This Agreement has been entered into and delivered as a deed on the date stated at the beginning of this Agreement.

PRESENT when the common seal of[47]

[FIRM]

was affixed to this deed and this deed was delivered

_____(Director)_____(Director/Secretary)

PRESENT when the common seal of

[THE CONTRIBUTOR}

Was affixed to this deed and this deed was delivered

_____(Director)_____(Director/Secretary)

The Central Bank may process personal data provided by you in order to fulfil its statutory functions or to facilitate its business operations. Any personal data will be processed in accordance with the requirements of data protection legislation. Any queries concerning the processing of personal data by the Central Bank may be directed to dataprotection@centralbank.ie. A copy of the Central Bank's Data Protection Notice is available at www.centralbank.ie/fns/privacy-statement.

[47] To be amended to reflect correct execution clauses of entities executing the Agreement.

Annex 2 – Competent Authority O&Ds in the CRD Regulations

Directive/S.I. reference	Text of Article	Text of Transposing Provision	Area	Nature	Comment
- Article 12(4) - Regulation 154 (inserting Section 9E to the Central Bank Act 1971) - Regulation 156 (inserting Section 17B to the Building Societies Act 1989) (Initial Capital)	Member States may grant authorisation to particular categories of credit institutions the initial capital of which is less than that specified in paragraph 1, subject to the following conditions: (a) the initial capital is no less than EUR 1 million; (b) the Member States concerned notify the Commission and EBA of their reasons for exercising that option.	9E. (1) Subject to subsection (3), the Bank shall not grant a licence unless the applicant holds separate own funds, or has an initial capital, of at least €5,000,000. (2) Initial capital shall comprise only one or more of the items referred to in Article 26(1)(a) to (e) of the Capital Requirements Regulation. (3) The Bank may grant a licence to particular categories of credit institutions the initial capital of which is less than €5,000,000, subject to the following conditions: (a) the applicant has an initial capital of at least €1,000,000; (b) the Bank notifies the European Commission and the European Banking Authority of its reasons for exercising that option. 17B.(1) Subject to subsection (3), the Central Bank shall not grant an authorisation unless the society holds separate own funds	Requirements for Access to the Activity of Credit Institutions	Case-by-Case	Without prejudice to ECB competences in this area, in draft authorisation decisions the Central Bank may recommend to the ECB, where appropriate on a case-by-case basis, that the ECB exercise this discretion on proportionality grounds for building societies which would be LSIs if authorised.

Directive/S.I. reference	Text of Article	Text of Transposing Provision	Area	Nature	Comment
		or has an initial capital of at least €5,000,000. (2) Initial capital shall comprise only one or more of the items referred to in Article 26(1)(a) to (e) of Regulation (EU) No. 575/2013 of the European Parliament and of the Council of 26 June 2013. (3) The Central Bank may grant an authorisation to particular categories of building society the initial capital of which is less than €5,000,000, subject to the followingconditions: (a) the applicant has an initial capital of at least €1,000,000; (b) the Central Bank notifies the Commission and European Banking Authority of its reasons for exercising that option.			

Directive/S.I. reference	Text of Article	Text of Transposing Provision	Area	Nature	Comment
- Article 40 - Regulation 39 (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).	(1) The Bank may require that credit institutions established in another Member State, having branches within the State, report to them periodically on their activities in the State including, in particular, requiring such information to allow the Bank to assess whether a branch is significant within the meaning of Regulation 47(1). (2) Where information is required of a credit institution under paragraph (1), the institution shall comply with such requirement— (a) annually, or (b) within such period as may be specified by the Bank in its request. (3) Information, referred to in paragraph (1), required of a credit institution shall only be required for— (a) information or statistical purposes, (b) the application of Regulation 47(1), or (c) supervisory purposes in accordance with this Chapter.	Branches/ Home-Host	General	The Central Bank intends to exercise this discretion In accordance with this Regulation.

Directive/S.I. reference	Text of Article	Text of Transposing Provision	Area	Nature	Comment
- Article 76(3) - Regulation 64(11) and (12) (Treatment of risks)	Competent authorities may allow an institution which is not considered significant as referred to in the first subparagraph to combine the risk committee with the audit committee as referred to in Article 41 of Directive 2006/43/EC. Members of the combined committee shall have the knowledge, skills and expertise required for the risk committee and for the audit committee.	(11) Where an institution is not designated as significant under Regulation 64(5), the Bank may, taking into account the nature, scale and complexity of the risks inherent in the business model, require an institution to establish a risk committee and may allow this committee to be combined with the audit committee ("combined committee"), as referred to in Article 41 of Directive 2006/43/EC. (12) Institutions shall ensure that the members of— (a) a risk committee established and maintained pursuant to, or (b) a combined committee, referred to in, paragraph (11), shall have the knowledge, skills and expertise required for the risk committee or, in the case of a combined committee, for the risk committee and the audit committee.	Corporate Governance	General or Case-by-Case	The Central Bank does not intend to exercise this discretion for both credit institutions and "Class 1 minus" investment firms. See section 6 of this Implementation Notice for further information.

Directive/S.I. reference	Text of Article	Text of Transposing Provision	Area	Nature	Comment
- Article 88(1)(e) - Regulation 76(2)(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.	the chairman of the management body, in its supervisory function of an institution, shall not exercise simultaneously the functions of a chief executive officer within the same institution, unless justified by the institution and authorised by the	Corporate Governance	Case-by-Case	The Central 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 for both credit institutions and "Class 1 minus" MiFID investment firms.
- Article 109(1) - Regulation 97(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.	Institutions shall meet the obligations set out in Regulations 61 to 84 on an individual basis, other than where the Bank avails of the derogation provided for in Article 7 of the Capital Requirements Regulation.	Level of Application	Case-by-Case	See comment on Article 7 CRR.
- Article 131(5) - Regulation 123(2) (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.	The Bank 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 per cent of the total risk exposure amount calculated in accordance with Article 92(3) of the Capital Requirements Regulation, 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/Macro -prudential	General or Case-by-Case	The Central Bank intends to continue exercising this discretion, where appropriate, on the basis of its annual O-SII identification and buffer rate-setting process. See the Central Bank's Macro-Prudential Policy Framework for further details.

Directive/S.I. reference	Text of Article	Text of Transposing Provision	Area	Nature	Comment
- Article 131(10) - Regulation 123(7) (Global 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.	Without prejudice to Regulation 121(2)(a) to (c) and paragraph (6), the Bank may, in the exercise of sound supervisory judgment - (a) re-allocate a G-SII from a lower sub-category to a higher sub-category, or (b) allocate an entity referred to in Regulation 121(2) 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/Macro -prudential	Case-by-Case	No Irish-headquartered group is currently identified as a G-SII. In the event that this may occur in future, the Central Bank intends to exercise this discretion where/when appropriate. See the Central Bank's Macro-Prudential Policy Framework for further details.
- Article 134 - Regulation 124 (Recognition of a systemic risk buffer rate)	(1) Other Member States may recognise the systemic risk buffer rate set in accordance with Article 133 and may apply that buffer rate to domestically authorised institutions for the exposures located in the Member State that sets that buffer rate. (2) If Member States recognise the systemic risk buffer rate for domestically authorised institutions they shall notify the Commission, the ESRB, EBA and the Member State that sets that systemic risk buffer rate.	(1) The Bank may recognise a systemic risk buffer rate set by another Member State in accordance with Article 133 of the Capital Requirements Directive and may apply that buffer rate to domestically-authorised institutions for the exposures located in the Member State that sets that buffer rate. (2) Where the Bank recognises a systemic risk buffer rate referred to in paragraph (1) for domestically-authorised institutions they shall notify the	Capital Buffers/Macro -prudential	General or Case-by-Case	The Central Bank intends to exercise this discretion where/when appropriate. See the Central Bank's Macro-Prudential Policy Framework for further details.

Directive/S.I. reference	Text of Article	Text of Transposing Provision	Area	Nature	Comment
	(3) When deciding whether to recognise a systemic risk buffer rate, the Member State shall take into consideration the information presented by the Member State that sets that buffer rate in accordance with Article 133(11), (12) or (13). (4) A Member State that sets a systemic risk buffer rate in accordance with Article 133 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 may recognise the systemic risk buffer rate.	Commission, the ESRB, the EBA and the Member State that sets that systemic risk buffer rate. (3) When deciding whether to recognise a systemic risk buffer rate, the Bank shall take into consideration the information presented by the Member State that sets that buffer rate in accordance with Article 133(11), (12) or (13) of the Capital Requirements Directive.			
- Article 136(4)-(6) - Regulation 125(4)-(6) (Setting countercyclical buffer rates)	4. The countercyclical buffer rate, 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 Member State, shall be between 0 % and 2,5 %, calibrated in steps of 0,25 percentage points or multiples of 0,25 percentage points. Where justified on the basis of the considerations set out in paragraph 3, a designated authority may set a countercyclical buffer rate in excess	(4) (a) The countercyclical buffer rate, expressed as a percentage of the total risk exposure amount calculated in accordance with Article 92(3) of the Capital Requirements Regulation of institutions that have credit exposures in the State, shall be between 0 and 2.5 per cent, calibrated in steps of 0.25 percentage points or multiples of 0.25 percentage points. (b) Where justified on the basis of the considerations set out in paragraph (3), the Bank may set a	Capital Buffers/Macro -prudential	General	The Central Bank intends to exercise this discretion on the basis of its quarterly CCyB rate review. See the Central Bank's Macro-Prudential Policy Framework for further details.

Directive/S.I. reference	Text of Article	Text of Transposing Provision	Area	Nature	Comment
	of 2,5 % of the total risk exposure amount calculated in accordance with Article 92(3) of Regulation (EU) No 575/2013 for the purpose set out in Article 140(2) of this Directive. 5. Where a designated authority sets the countercyclical buffer rate above zero for the first time, or where, thereafter, a designated authority increases the prevailing countercyclical buffer rate setting, it shall also decide the date from which the institutions must apply that increased buffer for the purposes of calculating their institution-specific countercyclical capital buffer. That date shall be no later than 12 months after the date when the increased buffer setting is announced in accordance with paragraph 7. If the date is less than 12 months after the increased buffer setting is announced, that shorter deadline for application shall be justified on the basis of exceptional circumstances. 6. If a designated authority reduces the existing countercyclical buffer rate, whether or not it is reduced to zero, it shall also decide an indicative period during which no increase in	countercyclical buffer rate in excess of 2.5 per cent of the total risk exposure amount calculated in accordance with Article 92(3) of the Capital Requirements Regulation. (5)(a) Where the Bank sets the countercyclical buffer rate above zero for the first time, or where, thereafter, the Bank increases the prevailing countercyclical buffer rate setting, it shall also decide the date from which the institutions shall apply that increased buffer for the purposes of calculating their institution-specific countercyclical capital buffer. (b) The date, referred to in subparagraph (a), shall be no later than 12 months after the date when the increased buffer setting is announced in accordance with paragraph (7). (c) Where the date, referred to in subparagraph (a), is less than 12 months after the increased buffer setting is announced in accordance with paragraph (7), that shorter deadline for application shall be justified on			

Directive/S.I. reference	Text of Article	Text of Transposing Provision	Area	Nature	Comment
	the buffer is expected. However, that indicative period shall not bind the designated authority.	the basis of exceptional circumstances. (6)(a) Subject to subparagraph (b), where the Bank reduces the existing countercyclical buffer rate, whether or not it is reduced to zero, it shall also decide an indicative period during which no increase in the buffer is expected. (b) The indicative period, referred to in subparagraph (a), shall not bind the Bank.			
- Article 137(1)-(2) -Regulation 126(1)-(2) (Recognition of countercyclical buffer rates in excess of 2,5 %)	1. Where a designated authority, in accordance with Article 136(4), or a relevant third-country authority has set a countercyclical buffer rate in excess of 2,5 % of the total risk exposure amount calculated in accordance with Article 92(3) of Regulation (EU) No 575/2013, the other designated authorities may recognise that buffer rate for the purposes of the calculation by domestically authorised institutions of their institution-specific countercyclical capital buffers. 2. Where a designated authority in accordance with paragraph 1 of this Article recognises a buffer rate in excess of 2,5 % of the total	(1) Where a designated authority in another Member State in accordance with Article 136(4) of the Capital Requirements Directive, or a relevant third-country authority, has set a countercyclical buffer rate in excess of 2.5 per cent of the total risk exposure amount calculated in accordance with Article 92(3) of the Capital Requirements Regulation, the Bank may recognise that buffer rate for the purposes of the calculation by domestically-authorised institutions of their institution-specific countercyclical capital buffers.	Capital Buffers/Macro -prudential	General	The Central Bank intends to recognise CCyB rates in excess of 2.5 per cent set in another Member State. See the Central Bank's Macro-Prudential Policy Framework for further details.

Directive/S.I. reference	Text of Article	Text of Transposing Provision	Area	Nature	Comment
	accordance with Article 92(3) of Regulation (EU) No 575/2013, it shall announce that recognition by publication on its website. The announcement shall include at least the following information: (a) the applicable countercyclical buffer rate; (b) the Member State or third countries to which it applies; (c) where the buffer rate is increased, the date from which the institutions authorised in the Member State of the designated authority must apply that increased buffer rate for the purposes of calculating their institution-specific countercyclical capital buffer; (d) where the date referred to in point (c) is less than 12 months after the date of the announcement under this paragraph, a reference to the exceptional circumstances that justify that shorter deadline for application.	(2) Where the Bank, in accordance with paragraph (1), recognises a buffer rate in excess of 2.5 per cent of the total risk exposure amount calculated in accordance with Article 92(3) of the Capital Requirements Regulation, it shall announce that recognition by publication on its website, including at least the following information: (a) the applicable countercyclical buffer rate; (b) the Member State or third countries to which it applies; (c) where the buffer rate is increased, the date from which the institutions authorised in the State shall apply that increased buffer rate for the purposes of calculating their institution-specific countercyclical capital buffer; (d) where the date, referred to in subparagraph (c), is less than 12 months after the date of the announcement under this paragraph, a reference to the exceptional circumstances that justify that shorter deadline for			

Directive/S.I. reference	Text of Article	Text of Transposing Provision	Area	Nature	Comment
		application.			
- Article 139(2)-(4) - Regulation 127(1)-(5) (Decision by designated authorities on third country countercyclical buffer rates)	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 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	(1) Where a countercyclical buffer rate has not been set and published by the relevant third-country authority for a third country (in this Chapter referred to as a "relevant third-country authority") to which one or more Union institutions have credit exposures the Bank may set the countercyclical buffer rate that domestically-authorised institutions shall apply for the purposes of the calculation of their institution-specific countercyclical capital buffer. (2) Where a countercyclical buffer rate has been set and published by the relevant third-country authority for a third country, the Bank 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	Capital Buffers/Macro -prudential	Case-by-Case	The Central Bank intends to publish CCyB rates reciprocated or set in relation to non-EEA (third country) jurisdictions where the Central Bank has taken a decision under the discretionary reciprocity arrangements for the CCyB. See the Central Bank's Macro-Prudential Policy Framework for further details.

Directive/S.I. reference	Text of Article	Text of Transposing Provision	Area	Nature	Comment
	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-specificcountercyclical 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	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. (3) When exercising the power under paragraph (2), the Bank shall not set a countercyclical buffer rate below the level set by the relevant third-country authority unless that buffer rate exceeds 2.5 per cent, expressed as a percentage of the total risk exposure amount, calculated in accordance with Article 92(3) of the Capital Requirements Regulation, of institutions that have credit exposures in that third country. (4) (a) Where the Bank sets a countercyclical buffer rate for a third country, pursuant to paragraph (1) or (2), which increases the existing applicable countercyclical buffer rate, the Bank shall specify the date from which domestically-authorised institutions shall apply that buffer rate for the purposes of calculating their institution-			

Directive/S.I. reference	Text of Article	Text of Transposing Provision	Area	Nature	Comment
	setting is announced, that shorter deadline for application shall be justified on the basis of exceptional circumstances.	specific countercyclical capital buffer. (b) The date, referred to in subparagraph (a), shall be no later than 12 months from the date on which the buffer rate is announced in accordance with paragraph (5). (c) Where the date, referred to in subparagraph (a), is less than 12 months after the setting is announced, that shorter deadline for application shall be justified on the basis of exceptional circumstances.			

Annex 3 – Competent Authority O&Ds in CRR

Regulation Reference	Text of Article	Area	Nature	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	General	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 prudence and consistency of approach, all capital instruments issued by LSIs and "class 1" minus MiFID investment firms must receive the Central 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	Case-by-Case	The Central Bank does not intend to exercise this discretion.

Regulation Reference	Text of Article	Area	Nature	Comment
Article 9 (Individual consolidation method)	1. Subject to paragraphs 2 and 3 of this Article and to Article 144(3) of Directive 2013/36/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 current or foreseen material practical or legal impediment 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	Level of Application	Case-by-Case	For institutions in receipt of previous waivers under Article 70 of Directive 2006/48/EC, 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 or where the institution wants to include additional subsidiaries within the scope of the waiver, the institution must re-apply under Article 9 CRR. The Central Bank intends to exercise this discretion on a case-by-case basis, where appropriate, for partial/full waivers subject to strict conditionality, informed by the ECB approach set out in Section II, Chapter 1, Paragraph 5 of the ECB Guide for SIs, cross referred in the ECB LSI Recommendation.

Regulation Reference	Text of Article	Area	Nature	Comment
	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.			
Article 11(6) (General Treatment)	6. In addition to the requirements laid down in paragraphs 1 to 5 of this Article, 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 an institution to comply with the obligations laid down in Parts Two to Eight of this Regulation and in Title VII of Directive 2013/36/EU on a sub-consolidated basis.	Level of Application	Case-by-Case	The Central Bank will exercise this discretion, where appropriate, on a case-by-case basis.

Regulation Reference	Text of Article	Area	Nature	Comment
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 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	Case-by-Case	The Central Bank intends to continue exercising this discretion, where appropriate, on a case-by-case basis.
Article 93(6) (Initial capital requirement on going concern)	6. 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, 4 and 5 shall not apply.	Own Funds	Case-by-Case	The Central Bank intends to continue exercising this discretion, where appropriate, on a case-by-case basis.

Regulation Reference	Text of Article	Area	Nature	Comment
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	Case-by-Case	See Regulation (EU) 2015/534 of the ECB of 17 March 2015 on reporting of supervisory financial information (ECB/2015/13).
Article 99(6) (Reporting on own funds requirements and financial information)	6. Where a competent authority considers that the financial information required by paragraph 2 is necessary to obtain a comprehensive view of the risk profile of the activities of, and a view of the systemic risks to the financial sector or the real economy posed by, institutions other than those referred to in paragraphs2 and 3 that are subject to an accounting framework based on Directive 86/635/EEC, the competent authority shall consult EBA on the extension of the reporting requirements of financial information on a consolidated basis to those institutions, provided that they are not already reporting on such a basis.	Reporting	Case-by-Case	See Regulation (EU) 2015/534 of the ECB of 17 March 2015 on reporting of supervisory financial information (ECB/2015/13).
Article 115(2) (Exposures to regional governments or local authorities)	Exposures to regional governments or local authorities shall be treated as exposures to the central government in whose jurisdiction they are established where there is no difference in risk between such exposures because of the specific revenue-raising powers of the former, and the existence of specific institutional arrangements the effect of which is to reduce their risk of default.	Credit Risk	General or Case-by-Case	a) No Irish local authorities currently meet the criteria in this provision and should not be treated as such by institutions; and b) For exposures other than a) above, institutions should continually monitor the relevant EBA database and if they intend to apply the preferential treatment to any EEA regional government or local authority not presently listed in that database, a prior detailed application to this effect

Regulation Reference	Text of Article	Area	Nature	Comment
	EBA shall maintain a publicly available database of all regional governments and local authorities within the Union which relevant competent authorities treat as exposures to their central governments.			must be submitted to the Central Bank.
Article 116(4) (Exposures to public sector entities)	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 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.	Credit Risk	Case-by-Case	Relevant entities should continually monitor the relevant EBA list of eligible PSEs in Ireland and the broader EEA. In accordance with the Central Bank's pre-existing approach under Directive 2006/48/EU, relevant entities seeking to avail of this provision to treat exposures to EEA PSEs as exposures to the central government, where there is no difference in risk between such exposures, require prior written approval from the Central Bank before doing so if such PSEs are not already included in the EBA list. The Central Bank will also have regard to any list of eligible PSEs which may be issued by the ECB in due course.
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	General	Please see Section 4 of this Implementation Notice for further information in relation to Article 124(2) CRR specifically.
Article 164(5) (Loss Given Default LGD))	Based on the data collected under Article 101 and taking into account forward-looking immovable 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	Credit Risk	General	Please see Section 4 of this Implementation Notice for further information in relation to Article 164(5) CRR specifically.

Regulation Reference	Text of Article	Area	Nature	Comment
	appropriate for exposures secured by residential property 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 immovable property in their territory.			
Article 178(2)(d) (Default of an Obligor)	(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	General	Credit institutions shall assess the absolute and relative components of the materiality threshold as follows: • An absolute component – For retail exposures the materiality threshold shall be set at 100 EUR. For all other exposures the threshold shall be set at 500 EUR; • A relative component – set at a ratio of 1% of the amount of the credit obligation past due in relation to the total amount of all on-balance sheet exposures to that obligor of the institution, the parent undertaking of that institution or any of its subsidiaries, excluding equity exposures; Both the absolute and relative threshold will apply from 31 December 2020.

Article 395 (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 Tier 1 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 Tier 1 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 Tier 1 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 of this Regulation shall not exceed a reasonable limit in terms of the institution's Tier 1 capital. That limit shall be determined by the institution in accordance with the policies and procedures referred to in Article 81 of Directive 2013/36/EU, in order to address and control concentration risk. This limit shall not exceed 100 % of the institution's Tier 1 capital. Competent authorities may set a lower limit than EUR 150 million, in which case they shall inform EBA and the Commission thereof. By way of derogation from the first subparagraph of this paragraph, a G-SII shall not incur an exposure to another G-SII or a non-EU G-SII, the value of which, after taking into account the effect of the credit risk	Large Exposures	Case-by-Case	The Central Bank intends to exercise this discretion on a case-by-case basis.

Regulation Reference	Text of Article	Area	Nature	Comment
	mitigation in accordance with Articles 399 to 403, exceeds 15 % of its Tier 1 capital. A G-SII shall comply with such limit no later than 12 months from the date on which it came to be identified as a G-SII. Where the G-SII has an exposure to another institution or group which comes to be identified as a G-SII or as a non-EU G-SII, it shall comply with such limit no later than 12 months from the date on which that other institution or group came to be identified as a G-SII or as a non-EU G-SII.			
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 and qualifying holdings, in so far as those undertakings are covered by the supervision on	Large Exposures	Case-by-Case	The Department of Finance has confirmed that it will not be exercising the Member State discretion in Article 493(3) CRR. The Central Bank intends to exercise the discretions in Article 400(2)(a)-(b) and (d)-(l) CRR consistently with the ECB LSI Guideline. See section 2 of this Implementation Notice for further information on the Central Bank's approach towards Article 400(2)(c) CRR specifically.

Regulation Reference	Text of Article	Area	Nature	Comment
	a 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;			

Regulation Reference	Text of Article	Area	Nature	Comment
	(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 that the guarantee is not used as reducing the risk in calculating the risk weighted exposure amounts;			

Regulation Reference	Text of Article	Area	Nature	Comment
	(h) exposures in the form of a collateral or guarantee for residential loans, provided by an eligible protection provider referred to in Article 201 qualifying for the credit rating which is at least the lower of the following: (i) credit quality step 2; (ii) the credit quality step corresponding to the central government foreign currency rating of the Member State where the protection provider's headquarters are located; (l) exposures in the form of a guarantee for officially supported export credits, provided by an export credit agency qualifying for the credit rating which is at least the lower of the following: (i) credit quality step 2; (ii) the credit quality step corresponding to the central government foreign currency rating of the Member State where the export credit agency's headquarters are located. 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 2013/36/EU. one exemption set out in paragraphs 1 and 2 to the same exposure shall not be permitted.			

Regulation Reference	Text of Article	Area	Nature	Comment
	Competent authorities shall inform EBA of whether they intend to use any of the exemptions provided for in paragraph 2 in accordance with points (a) and of this paragraph and provide EBA with the reasons substantiating the use of those exemptions. (4)The simultaneous application of more than one exemption set out in paragraphs 1 and 2 to the same exposure shall not be permitted.			
Article 420(2) CRR/Article 23 LCR Regulation (Liquidity Outflows)	1. Credit institutions shall regularly assess the likelihood and potential volume of liquidity outflows during 30 calendar days for products or services which are not referred to in Articles 27 to 31a and which they offer or sponsor or which potential purchasers would consider associated with them. Those products or services shall include, but not be limited to: (a) other off-balance sheet and contingent funding obligations, including uncommitted funding facilities, (b) undrawn loans and advances to wholesale counterparties; (c) mortgage loans that have been agreed but not yet drawn down; (d) credit cards; (e) overdrafts;	Liquidity	Case-by-Case	Relevant entities shall assess the liquidity outflows in accordance with Article 420(2) CRR/Article 23 of the LCR Regulation, as well as any applicable guidance[48], and report to the Central Bank not less than annually, by 30 September each year[49], those products and services for which the likelihood and potential volume of the liquidity outflows referred to Article 23 of the LCR Regulation are material.

[48] https://www.eba.europa.eu/regulation-and-policy/liquidity-risk

[49] Or an earlier date as may be advised by the Central Bank from time-to-time.

	(f) planned outflows related to the renewal of existing retail or wholesale loans or the extension of new retail or wholesale loans; (g) derivative payables, other than the contracts listed in Annex II to Regulation (EU) No 575/2013 and credit derivatives; (h) trade finance off-balance sheet related products. 2. The outflows referred to in paragraph 1 shall be assessed under the assumption of a combined idiosyncratic and market-wide stress as referred to in Article 5. For that assessment, credit institutions shall particularly take into account material reputational damage that could result from not providing liquidity support to such products or services. Credit institutions shall report at least once a year to the competent authorities those products and services for which the likelihood and potential volume of the liquidity outflows referred to in paragraph 1 are material and the competent authorities shall determine the outflows to be assigned. The competent authorities may apply an outflow rate of up to 5 % for trade finance off-balance sheet related products as referred to in Article 429 and Annex I of Regulation (EU) No 575/2013. 3. The competent authorities shall at least once a year report to the EBA the types of products or services for which they have determined outflows on the basis of the reports from credit institutions, and shall include in that report an explanation of the methodology applied to determine the outflows.			

Regulation Reference	Text of Article	Area	Nature	Comment
Article 458(2), (4)-(5), (8)-(10) (Macroprudential or systemic risk identified at the level of a Member State)	(2) Where the authority designated in accordance with paragraph 1 of this Article identifies changes in the intensity of macroprudential or systemic risk 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 and which that authority considers cannot be addressed by means of other macroprudential tools set out in this Regulation and in Directive 2013/36/EU as effectively as by implementing stricter national measures, it shall notify the the Commission and the ESRB accordingly. The ESRB shall forward the notification to the European Parliament, to the Council and to EBA without delay. The notification shall be accompanied by the following documents and include, relevant quantitative or qualitative evidence on: (a) the changes in the intensity of macroprudential or systemic risk; (b) the reasons why such changes could pose a threat to financial stability at national level or to the real economy; (c) an explanation as to of why the authority considers that the macroprudential tools set out in Articles 124 and 164 of this Regulation and Articles 133 and 136 of Directive 2013/36/EU would be less suitable and effective to deal with those risks than the draft national measures referred to in point (d) of this paragraph;	Macro-prudential Measures	General or Case-by-Case	S.I. 159/2014 assigns the Central Bank as the national designated authority for the purposes of Article 458 of CRR. Subject to relevant ECB competences in this area, the Central Bank intends to exercise these discretions as and when deemed appropriate. See the Central Bank's Macro-Prudential Policy Framework for further details.

Regulation Reference	Text of Article	Area	Nature	Comment
	(d) the draft national measures for domestically authorised institutions, or a subset of those institutions, intended to mitigate the changes in the intensity of risk and concerning: (i) the level of own funds laid down in Article 92; (ii) the requirements for large exposures laid down in Article 392 and Article 395 to 403; (iii) the liquidity requirements laid down in Part Six; (iv) risk weights for targeting asset bubbles in the residential property and commercial immovable property sector; (iv) the public disclosure requirements laid down in Part Eight ; (v) the level of the capital conservation buffer laid down in Article 129 of Directive 2013/36/EU; or ; (vi) intra-financial sector exposures (e) an explanation as to why the draft measures are considered by the authority designated in accordance with paragraph 1 to be suitable, effective and proportionate to address the situation; and (f) an assessment of the likely positive or negative impact of the draft measures on the internal market based on information which is available to the Member State concerned. 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			

Regulation Reference	Text of Article	Area	Nature	Comment
	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 matters referred to in points (a) to (f) of that paragraph to the Council, to the Commission and to the Member State concerned. Taking utmost account of the opinions referred to in the second sub-paragraph 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 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.			

Regulation Reference	Text of Article	Area	Nature	Comment
	The Council shall only reject the draft national measures if it considers that one or more of the following conditions are not met: (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) the macroprudential tools set out in this Regulation and in Directive 2013/36/EU are less suitable or effective than the draft national measures to deal with the macroprudential or systemic risk identified; (c) the draft national measures 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; and (d) the issue concerns only one Member State. 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.			

Regulation Reference	Text of Article	Area	Nature	Comment
	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 adopted in accordance with this Article and apply them to domestically authorised institutions, which have branches or have exposures located in the Member State authorised to apply the measure. 6. Where Member States recognise the measures set in accordance with this Article, they shall notify the Council, the Commission, EBA, the ESRB and the Member State authorised to apply the measures. 7. When deciding whether to recognise the measures set in accordance with this Article, the Member State shall take into consideration the criteria set in paragraph 4. 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 up to two additional years each time. After the first extension, the Commission shall in consultation with the ESRB and EBA review the situation at least every two years thereafter. 10. Notwithstanding the procedure as set out in paragraphs 3 to 9 of this Article, Member States shall be allowed to increase the risk weights beyond those provided in this Regulation by up to 25 %, for those exposures identified in points d (vi) and d (vii) of paragraph 2 of this Article and tighten the large exposure limit provided in Article 395 by up to 15 % for a period of up to two years or until the macroprudential or systemic risk ceases to exist if that occurs sooner, provided that the conditions and notification requirements laid down in paragraph 2 of this Article are met.			

Regulation Reference	Text of Article	Area	Nature	Comment
Article 468(3) Temporary treatment of unrealised gains and losses measured at fair value through other comprehensive income in view of the COVID-19 pandemic	3. Where an institution decides to apply the temporary treatment set out in paragraph 1, it shall inform the competent authority of its decision at least 45 days before the remittance date for the reporting of the information based on that treatment. Subject to the prior permission of the competent authority, the institution may reverse its initial decision once during the period of temporary treatment. Institutions shall publicly disclose if they apply that treatment.	Transitional Own Funds	General	The Central Bank shall exercise this discretion, as appropriate, on a case-by-case basis.
Article 473a(9) Introduction of IFRS9 and Recital 14	9. An institution shall decide whether to apply the arrangements set out in this Article during the transitional period and shall inform the competent authority of its decision by 1 February 2018. Where an institution has received the prior permission of the competent authority, it may reverse its decision during the transitional period. Institutions shall publicly disclose any decision taken in accordance with this subparagraph. An institution that has decided to apply the transitional arrangements set out in this Article may decide not to apply paragraph 4 in which case it shall inform the competent authority of its decision by 1 February 2018. In such a case, the institution shall set $A_{4,SA}$, $A_{4,IRB}$, , , t_2 and t_3 referred to in paragraph 1 as equal to zero. Where an institution has received the prior permission of the competent authority, it may reverse its decision during the transitional period.	IFRS9	Case-by-Case	The Central Bank shall grant permission where reversals are not motivated by considerations of regulatory arbitrage.

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 1 January 2014, 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 31 December 2014; (b) 10 % to 100 % for the period from 1 January 2015 to 31 December 2015; (c) 20 % to 100 % for the period from 1 January 2016 to 31 December 2016; (d) 30 % to 100 % for the period from 1 January 2017 to 31 December 2017; (e) 40 % to 100 % for the period from 1 January 2018 to 31 December 2018; (f) 50 % to 100 % for the period from 1 January 2019 to 31 December 2019; (g) 60 % to 100 % for the period from 1 January 2020 to 31 December 2020; (h) 70 % to 100 % for the period from 1 January 2021 to 31 December 2021; (i) 80 % to 100 % for the period from 1 January 2022 to 31 December 2022; (j) 90 % to 100 % for the period from 1 January 2023 to 31 December 2023.	Transitional Own Funds	General	The 2014 Implementation Notice exercise of CRR Article 478(2) applies for banks subject to Commission-approved restructuring plans per Regulation (EU) 2016/445 and Guideline (EU) 2017/697.

Regulation Reference	Text of Article	Area	Nature	Comment
	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.			

Regulation Reference	Text of Article	Area	Nature	Comment
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 (f) of Article 129(1), provided that both of the following conditions are fulfilled: (a) the securitised residential property 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	General	The Central Bank does not intend to exercise this discretion.

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