Banc Ceannais na hÉireann
Central Bank of Ireland
Eurosystem

Implementation of Competent Authority Options and Discretions in the European Union (Capital Requirements) Regulations 2014 and Regulation (EU) No 575/2013

December 2021

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 2021 – Notice amended to correct error in Annex 2, page 57.

To note: The revisions introduced on 25 November 2021 pertain only to the Central Bank of Ireland's approach to the discretion set down in Article 124 and 164 CRR. (Please refer to section 4 for further information). Further revision will follow in due course to implement the necessary update to the Implementation Notice to incorporate the 2019 revisions to the CRR (Regulation

(EU) 2019/876) and the CRD (Directive 2019/878/EU). Related to this, the ECB is currently amending its framework for options and discretions (see here for more information), and the Central Bank of Ireland will review aspects of this Implementation Notice once the ECB revisions are finalised. Institutions under the scope of this Implementation Notice are encouraged to contact their supervisors in case of queries. In addition, it should be noted that aspects of this Notice have been superseded by the Implementation Notice related to the European Union (Investment Firms) Regulations 2021 and Regulation (EU) No 2019/2033 (see here for more information), with respect to those firms under the scope of that Notice." This CRR and CRD Implementation Notice will be updated to also take into account this development in due course.

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
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 May 2014 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.

[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.

[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.

[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.

[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).

[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').

1.9. Except for the types of O&Ds specified in paragraph 1.10, 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 firms which are in-scope of the CRD Regulations and/or CRR.

[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.

Applicability of this Implementation Notice to SIs

1.10. The macroprudential powers in the CRD Regulations and CRR are shared between the Central Bank, as the NDA,[12] and the ECB for both SIs and LSIs.[13] Therefore, the Central Bank's approaches to the macroprudential-related O&Ds specified in section 2 and the annexes of this Implementation Notice are relevant for both SIs and LSIs. Furthermore, the Central Bank's Corporate Governance Code for Credit Institutions[14] 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.

1.11. Aside from the O&Ds referred to in paragraph 1.10, 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[15] and Guide[16] governing O&Ds for SIs. If SIs have specific queries in this respect, they should contact their Joint Supervisory Teams.

Common Procedures

1.12. 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.

[12] Per Part 6, Chapter 4 of the CRD Regulations and the European Union (Capital Requirements) (No. 2) Regulations 2014 (S.I. 159 of 2014).
[13] See, e.g., Article 5 of the SSMR.
[14] Central Bank, *Corporate Governance Requirements for Credit Institutions* (2015).
[15] 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.
[16] ECB Guide on options and discretions available in Union law, consolidated version, November 2016.

Third Country Branches

1.13. 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.[17]

EU Legal and Regulatory Framework

1.14. 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,[17] most of which are based on technical standards (ITS/RTS)[18] developed by the European Supervisory Authorities (ESAs),[19] primarily the European Banking Authority (EBA). These measures are directly legally binding on all relevant entities.

1.15. 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 as applicable, unless the Central Bank formally advises otherwise.

The Central Bank's General Approach

1.16. While the Central Bank is competent to exercise O&Ds for LSIs and MiFID 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[20] 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

[17] 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). [17] Delegated or implementing regulations under 290/291 TFEU and the relevant provision of CRD IV or CRR (e.g. Article 456 CRR).

[18] 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.

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

[20] 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).

ECB Recommendation[21] 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.

1.17. 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 1.18, the Central Bank intends to exercise the O&Ds encompassed by the ECB LSI Recommendation consistently with the specifications/conditionality in that Recommendation.

1.18. 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 of this Implementation Notice on the basis that:

(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 (e.g. Article 400(2)(c) CRR);

(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 (e.g. Article 9 CRR);

(f) Some O&Ds are MiFID firm-specific.

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.

[21] 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).

Applications for Case-by-Case O&Ds

1.19. 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.[22] For further information on the Central Bank's perspectives in this area generally, please consult the Central Bank's Macroprudential Policy Framework.[23]

Capital Conservation and Countercyclical Capital Buffers

2.3. The standard transitional period for the introduction of the mandatory capital conservation buffer (CCB), as well as the countercyclical capital buffer (CCyB), which commenced on 1 January 2016, applies, in accordance with Regulation 119 of the CRD Regulations.

Other Systemically Important Institution Buffers

2.4. 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.[24]

MiFID Firm Capital Buffers

2.5. MiFID firm-specific aspects of the capital buffers provisions are addressed in Section 8.

Liquidity Requirements

2.6. Article 413(3) of CRR allows Member States to maintain or introduce national requirements in the area of stable funding ahead of their specification and introduction in accordance with Article 510 of CRR. The Central Bank does not intend to introduce an industry-wide net stable funding requirement in advance of the specification of such a

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

[23] https://www.centralbank.ie/financial-system/financial-stability/macro-prudential-policy [24] https://www.centralbank.ie/financial-system/financial-stability/macro-prudential-policy/other- systemically-important-institutions-buffer

requirement by the EU legislative bodies; however, it retains the power to impose stable funding requirements on individual relevant entities, where appropriate.

Large Exposures

2.7. 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 specified in Article 507 of CRR, exercise the competent authority discretions in Article 400(2)(a)-(b) and (d)-(k) of CRR; subject to fulfilment of the criteria stipulated in Article 400(3) of CRR, as further specified in the ECB LSI Guideline.[24]

2.8. 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 investment (MiFID) firms,[25] where appropriate. The Central Bank will also have regard to relevant ECB criteria in this area.[26]

2.9. Where LSIs and/or systemic 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 <u>at least</u> the following in determining whether the criteria in Article 400(3) of CRR are satisfactorily met:

- Relevant ECB criteria;[27]
- 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;

[24] 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).
[25] As defined in Article 4(1)(2) CRR.
[26] See ECB, 'Relocating to the Euro Area: How are Intra-Group Large Exposures Treated' (https://www.bankingsupervision.europa.eu/banking/relocating/html/index.en.html) and Article9, Annex 1 of 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.
[27] Ibid.

- 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.

2.10. For this purpose, and pending any EU legislation on foot of the November 2016 European Commission proposals to amend aspects of CRD IV and CRR,[28] the Central Bank will deem an investment (MiFID) firm to be systemic if it:

- Is, or will be, identified as a G-SII or an O-SII in accordance with Part 6, Chapter 4 of the CRD Regulations; and/or
- Forms part of a group which is a non-EU G-SII, meaning a global systemically important banking group (G-SIB) that is included in the list of G-SIBs published by the Financial Stability Board, as regularly updated; and/or
- Is, or will be, designated as Higher Impact under the Central Bank's Probability Risk and Impact System (PRISM); and/or
- Is, or will be, designated as 'significant' by the Central Bank in accordance with Regulation 64(5) of the CRD Regulations.

2.11. For LSIs 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 2.9. For any already-established investment (MiFID) firms which may be designated as systemic in future by the Central Bank in accordance with the criteria set out in paragraph 2.10: the Central Bank expects such firms to re-apply for pre-existing waivers they may have under Article 400(2)(c) CRR encompassing non-EEA counterparties within 2 months following their designation as systemic by the Central Bank.

[28] http://europa.eu/rapid/press-release_MEMO-16-3840_en.htm

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

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

3.4. The Central Bank requires all new capital instruments, including any associated arrangements, to have received its prior permission before they may be included in own funds. In cases other than the issuance of ordinary shares, including amendment of the effective terms and conditions of own funds instruments, the Central Bank will require 30 days notice, starting from the point at which all necessary information has been provided to the Central Bank.

3.5. 'Necessary information' shall comprise a full description of the proposed issuance. For proposed issuances of CET1, other than common shares, and AT1 instruments, the necessary information shall also be accompanied by a legal confirmation addressed to the Central Bank from an external advisor of sufficient standing and experience in the area of financial services law. That confirmation must unequivocally state that the institution is entitled to recognise the proposed issue within the relevant tier of capital because it and its associated arrangements meet the applicable eligibility criteria under CRR. The legal confirmation shall take relevant technical standards into account and, in particular, should treat pertinent EBA outputs (e.g. guidelines, recommendations and Q&As) as if they were binding.

3.6. In the cases of Tier 2 instruments, legal opinion from the issuing bank's internal legal advisors shall generally suffice. The issuing bank 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 bank in cases of other own funds issuances.

Initial Capital Requirements on Going Concern Basis

3.7 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.

4 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.[30]
- 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 will no longer exercise 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.

30. 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-[29] 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 and report to the Central Bank not less than annually, by 30 September each year,[32] 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.

Level 2B Assets

5.4. Credit institutions that in accordance with their statutes of incorporation are unable for reasons of religious observance to hold interest-bearing assets may include corporate debt securities as Level 2B liquid assets in accordance with all of the conditions specified in Article 12(1)(b), including points (ii) and (iii), of the LCR Regulation.

5.5. For credit institutions referred to above, upon application on a case-by-case basis, the Central Bank may allow an exemption from Article 12(1)(b)(ii) and (iii) of the LCR Regulation, where it deems that the conditions specified in Article 12(3) of the LCR Regulation are met.

[29]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;[30] as well as the interplay between these discretions and the Central Bank's Corporate Governance Code for Credit Institutions ('the 2015 Code').

Requirements on institutions deemed CRD IV 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 IV significant institutions'. These requirements[31] relating to the composition of the risk, nomination and remuneration committees of CRD IV 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 2015 Code.

6.3. The Central Bank's position is that the requirements of the 2015 Code in these cases (as they apply to CRD IV significant institutions) shall be substituted by the relevant provisions of the CRD Regulations as set out above. For clarity, the 2015 Code contains an appendix[32] which clearly identifies which requirements CRD IV 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 IV significant institutions. Institutions notified of their CRD IV significant status prior to the issuance of this Notice will continue to be deemed CRD IV significant unless advised otherwise by the Central Bank or the ECB, as applicable.

Discretions available to the Competent Authority

6.4. This paragraph 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.

[30] Investment (MiFID) firms are also advised to refer to section 8.

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

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

Combined Risk-Audit Committee for Institutions not considered CRD IV Significant

6.5. Regulation 64(6) of the CRD Regulations requires that CRD IV 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 IV 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 credit institutions. This approach is reflected in section 19.1[33] of the 2015 Code.

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 credit institutions. This approach is reflected in section 8.6[37] of the 2015 Code.

[33] 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.' [37] Section 8.6 states 'The roles of Chairman and Chief Executive Officer shall be separate'.

7. Pillar 3 - Requirements applicable to Subsidiaries

7.1. Pending any EU legislation on foot of the November 2016 European Commission proposals to amend aspects of CRD IV and CRR, the Central Bank considers that a subsidiary that represents 5 per cent or more of group assets and/or has market share in any sector or group of connected sectors which is greater than or equal to 20 per cent, constitutes a significant subsidiary for the purposes of Article 13 of CRR.

8. **MiFID Firms**

8.1. This section is relevant for firms authorised under the European Union (Markets in Financial Instruments) Regulations 2017[34] ('MiFID firms'). It is not relevant for credit institutions. The section provides information on the impact of certain provisions of the CRD Regulations and CRR on MiFID firms and in particular specifies the Central Bank's approaches towards a number of O&Ds that are relevant for MiFID firms.

8.2. Unless noted differently in this section, the preceding sections of this Implementation Notice are also relevant for those MiFID firms that are captured under the definition of 'investment firm' in point 2 of Article 4(1) CRR and the term 'investment firm' used hereafter in this section (and throughout the other sections of the Implementation Notice) will explicitly denote these firms.

Scope of the CRD Regulations and CRR for MiFID firms

8.3. Point 2 of Article 4(1) CRR refers to Directive 2004/39/EC (MiFID)[35] as a starting point for the definition of 'investment firm' for CRR and the CRD Regulations and then excludes credit institutions[36] and local firms[37] from the definition under points 2(a) and 2(b) respectively of Article 4(1). Point 2(c) of Article 4(1) then further excludes MiFID firms that:

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

from the definition of investment firm and therefore from the full scope of the CRD Regulations and CRR (hereafter these firms are referred to as the 'CRD exempt firms'). It should be noted that *all three criteria* under point 2(c) of Article 4(1) must be met for the exclusion to apply. The CRD exempt firms are still captured by a number of provisions of CRR and the CRD Regulations, as noted below, and there is also a competent authority

[34] S.I. No. 375 of 2017, as may be updated or amended from time-to-time.

[35] Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments amending Council Directives 85/611/EEC and 93/6/EEC and Directive 2000/12/EC of the European Parliament and of the Council and repealing Council Directive 93/22/EEC. This Directive is now repealed by Directive 2014/65/EU (MiFID II) and any references to Directive 2004/39/EC should be construed as references to MiFID II or to Regulation (EU) No 600/2014.

[36] As defined in point 1 of Article 4(1) of CRR.

[37] As defined in point 4 of Article 4(1) of CRR.

discretion in relation to the prudential treatment of a sub-set of these firms for which the Central Bank's treatment is set out below.

8.4. The CRD exempt firms are subject to Regulation 29 of the CRD Regulations which requires these firms to hold initial capital of €50,000 or to have a certain specified level of professional indemnity insurance or to hold a combination of both. The €50,000 initial capital must comprise one or more of the items referred to in points (a) to (e) of Article 26(1) CRR[38] - it must be made up of CET1 capital as defined under CRR.

8.5. There is a competent authority discretion set out in Article 95(2) of CRR in relation to a sub-set of the CRD exempt firms – those that are authorised to execute orders on behalf of clients and/or conduct portfolio management. Hereafter this sub-set of the CRD exempt firms will be referred to as the 'CRD exempt FOR firms'. The competent authority discretion in Article 95(2) of CRR allows competent authorities to set the own fund requirements for the CRD exempt FOR firms as those that would be binding on these firms according to the national transposition measures in force on 31 December 2013 for Directives 2006/48/EC and 2006/49/EC. The Central Bank intends to continue exercising this discretion, in effect meaning that the Pillar 1 binding capital requirements and Pillar 2 Internal Capital Adequacy Assessment Process (hereafter 'ICAAP') and the Supervisory Review and Evaluation Process (hereafter 'SREP') applicable as at 31 December 2013 continue to apply to the CRD exempt FOR firms on both an individual and consolidated basis as applicable.

8.6. The Central Bank may revisit the decision to exercise the discretion in Article 95(2) of CRR in the event of any future EU legislative amendments to the prudential regime for investment firms.

8.7. The CRD exempt FOR firms are also subject to the initial capital provision set out in Regulation 29 of the CRD Regulations and will have to ensure that their initial capital requirement of €50,000 is met with CET1 capital as defined in points (a) to (e) of Article 26(1) of CRR.

Liquidity Requirements

8.8. Article 6(4) of CRR requires investment firms that are authorised to provide the MiFID investment services and activities of 'dealing on own account' and/or 'underwriting of

[38] Article 4(51) of CRR and Regulation 26(1) of the CRD Regulations.

financial instruments and/or placing of financial instruments on a firm commitment basis' to comply with the obligations laid down in Part Six of CRR on an individual basis.

8.9. Article 11(3) of CRR requires EU parent institutions[39] and institutions controlled by an EU parent financial holding company[4041] or an EU parent mixed financial holding company45 to comply with the liquidity reporting and funding requirements laid down in Part Six on a consolidated basis if the group comprises one or more credit institutions or investment firms that are authorised to provide the MiFID investment services and activities of 'dealing on own account' and/or 'underwriting of financial instruments and/or placing of financial instruments on a firm commitment basis'.

8.10. Pending any future EU legislative amendments to the prudential regime for investment firms, Article 6(4) of CRR gives competent authorities the discretion to exempt investment firms from compliance with the liquidity reporting and funding requirements laid down in Part Six of CRR. Similarly, Article 11(3) of CRR affords competent authorities discretion to exempt investment firms from the obligation to comply with the requirements laid down in Part Six of CRR on a consolidated basis provided the relevant group comprises only investment firms.

8.11. The Central Bank intends to continue exercising these two discretions for investment firms not deemed 'systemic' by the Central Bank in accordance with the criteria set out in section 2 of this Implementation Notice. However it should be noted that if, at any stage, the Central Bank considers it necessary for a particular investment firm or category of investment firms to comply with the liquidity reporting and funding requirements in CRR due to the potential impact a firm failure could have on the Irish financial system, the Central Bank may withdraw the exemption from these requirements for that investment firm or category of investment firms.

8.12. Systemic investment firms wishing to avail of either or both of the waivers in Articles 6(4) and 11(3) of CRR must submit a prior application to the Central Bank. The Central Bank intends to exercise these waivers for such firms, where deemed appropriate, on a case-by-case basis only. For any already-established investment firms which may be designated as systemic in future by the Central Bank in accordance with the criteria set out in section 2 of this Implementation Notice: the Central Bank will expect such investment firms to re-

[39] Article 4(29) of CRR.
[40] Article 4(31) of CRR.
[41] Article 4(33) of CRR.

apply for any pre-existing waivers they may have under Article 6(4) and/or 11(3) of CRR within 2 months following their designation as systemic by the Central Bank.

8.13. Pending any future EU legislative amendments to the prudential regime for investment firms, the Central Bank will continue to monitor the liquidity position of Irish investment firms through the Monthly Metrics Report[42] and through the Pillar 2 SREP as well as through full risk assessments of firms.

Capital Buffers

8.14. The CRD Regulations introduce a number of capital buffers including the capital conservation buffer ('CCB') and the countercyclical buffer ('CCyB'). The requirements for institutions to hold these two buffers are set out in Regulations 117 and 118 of the CRD Regulations respectively. These requirements apply to investment firms that are authorised to provide the MiFID investment services and activities of 'dealing on own account' and/or 'underwriting of financial instruments and/or placing of financial instruments on a firm commitment basis'.[43]

8.15. Regulation 120 of the CRD Regulations provides that the Central Bank has discretion to exempt small and medium-sized investment firms, providing the above services, from the requirement to hold, respectively, a CCB and a CCyB provided such an exemption does not threaten the stability of the financial system of the State. The investment firms must be categorised as small or medium-sized in accordance with Commission Recommendation 2003/361/EC of 6 May 2003. Following consultation CP81/2014,[44] the Central Bank does not intend to exercise these discretions.

Leverage Ratio

8.16. Leverage requirements only apply to certain investment firms as follows. Article 6(5) of CRR applies these requirements to investment firms that do not use the fixed overhead requirement (hereafter 'FOR') as part of their Pillar 1 capital requirements calculation[45] on an individual basis. Article 11 of CRR applies the leverage ratio and reporting requirements on a consolidated basis to parent institutions in a Member State[46] and to institutions

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

[43] Regulation 116 of the CRD Regulations.

[44] Central Bank, *Consultation Paper 81/2014: Discretion for exemption from capital buffers for SME investment firms from CRD IV/CRR* (2014).

[45] The leverage requirements apply to investment firms **other than** investment firms that fall within one of the categories set out in Article 95(1) or 96(1) of CRR.

[46] Article 4(28) of CRR.

controlled by a parent financial holding company in a Member State[47] or a parent mixed financial holding company in a Member State.[48] Therefore any investment firms captured by these definitions are captured by the leverage requirements on a consolidated basis. However Article 16 of CRR provides a derogation to this rule and allows that where all entities in a group of investment firms are investment firms that are exempt from the application of the leverage requirements on an individual basis, the parent investment firm may choose not to apply the requirements on a consolidated basis.

Fixed Overhead Requirement

8.17. Investment firms that fall within one of the categories set out in Article 95(1) or 96(1) of CRR and therefore use the FOR as part of their Pillar 1 capital requirements calculation should note that Article 97 of CRR mandates the EBA, in consultation with ESMA, to develop RTS to specify the calculation of the FOR in greater detail. Investment firms are therefore required to use the calculation of the FOR set out in the European Commission delegated regulation giving effect to that EBA RTS.[49] The CRD exempt FOR firms should also use the calculation of the FOR as set out in that European Commission delegated regulation.

Initial Capital Requirements on Going Concern Basis

8.18. Regulations 26 to 31 of the CRD Regulations set out requirements for the initial capital of the relevant MiFID firms. Regulation 31 sets out certain grandfathering provisions in relation to initial capital levels. Paragraph 6 of Regulation 31 of the CRD Regulations allows the Central Bank to dis-apply these grandfathering provisions in order to ensure the solvency of the relevant firms. The Central Bank is exercising this discretion for all relevant MiFID firms.

Corporate Governance

8.19. Section 6 above refers to a number of corporate governance provisions and competent authority discretions. The Central Bank's approach to the application of two of these discretions is:

[47] Article 4(30) of CRR.
[48] Article 4(32) of CRR.
[49] Commission Delegated Regulation (EU) 2015/488 of 4 September 2014 amending Delegated Regulation (EU) No 241/2014 as regards own funds requirements for firms based on fixed overheads.
[54] Central Bank, *Consultation on Corporate Governance Requirements for Investment Firms* (May 2015).

i) Regulation 64(11) of the CRD Regulations provides that the Central Bank may allow an institution which is not considered as CRD IV significant to combine its risk committee with its audit committee. The Central Bank is not exercising this discretion for credit institutions in Ireland. Pending communication of the Central Bank's position following Consultation Paper 94/2015[54] in due course, the Central Bank intends to continue exercising this discretion on a case-by-case basis for investment firms.

ii) Regulation 76(2)(e) of the CRD Regulations prohibits the chairman of the management body from exercising simultaneously the role of chief executive officer within the same institution, unless justified by the institution and authorised by the Central Bank. The Central Bank affirms the importance it attaches to the separateness of the roles of chairman and chief executive officer and as a general rule the Central Bank is not minded to exercise this discretion for investment firms. The Central Bank reserves the right to exercise this discretion for low-impact investment firms that do not hold client funds. However, approval for such an exemption will be assessed on application and on a case-by-case basis only.

Reporting Requirements

8.20. Existing capital reporting requirements will continue to apply for the CRD exempt firms and CRD exempt FOR firms. In this regard, the CRD exempt FOR firms are required to submit capital returns on the COREP templates in place as at 31 December 2013[50] at the same level (individual/consolidated) and frequency as applied to these firms at 31 December 2013. However, the remittance dates for these COREP returns are aligned to the remittance dates required for investment firms' capital returns under CRR.[51]

8.21. Reporting requirements will apply to investment firms captured in scope of the CRD Regulations and CRR. The full suite of reporting requirements applicable to an investment firm will depend on whether it is captured in scope of certain requirements in the CRD Regulations and CRR. The EBA has developed technical standards to specify in detail the reporting requirements that apply to institutions and specifically to investment firms.

[50] For details of these COREP templates see the Central Bank's website at the following link: http://www.centralbank.ie/regulation/industry-sectors/investment-firms/mifid-firms/Pages/reporting.aspx

[51] The remittance dates required for investment firms' capital returns under CRR are specified in the relevant European Commission delegated regulation: http://www.eba.europa.eu/regulation-and-policy/supervisory-reporting

[57] http://www.eba.europa.eu/regulation-and-policy/supervisory-reporting

More information is available on these detailed reporting requirements on the EBA's website.[57]

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Annex 1 – Competent Authority O&Ds in the CRD Regulations

Directive/S.I. reference	Text of CRD IV 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 CRD IV 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.			
- Article 29(2) - Regulation 27(4) (Initial capital of particular types of investment firms)	2. The competent authorities may allow an investment firm which executes investors' orders for financial instruments to hold such instruments for its own account if the following conditions are met: (a) such positions arise only as a result of the firm's failure to match investors' orders precisely;	(4) The Bank may allow an investment firm which executes investors' orders for financial instruments to hold such instruments for its own account where the following conditions are met: (a) such positions arise only as a result of the firm's failure to	Investment Firms	Case-by-Case	Pending any future EU legislative amendments to the prudential regime for investment firms, the Central Bank intends to continue exercising this discretion on a case-by-case basis subject to prior written approval from the Central Bank.

Directive/S.I. reference	Text of CRD IV Article	Text of Transposing Provision	Area	Nature	Comment
	(b) the total market value of all such positions is subject to a ceiling of 15 % of the firm's initial capital; (c) the firm meets the requirements set out in Articles 92 to 95 and Part Four of Regulation (EU) No 575/2013; (d) such positions are incidental and provisional in nature and strictly limited to the time required to carry out the transaction in question.	match investors' orders precisely; (b) the total market value of all such positions is subject to a maximum holding of 15 per cent of the firm's initial capital; (c) the firm meets the requirements in Articles 92 to 95, and Part 4, of the Capital Requirements Regulation; (d) such positions are incidental and provisional in nature and strictly limited to the time required to carry out the relevant transaction.			
- Article 32(5) - Regulation 31(6) (Grandfathering provision)	Where competent authorities consider it necessary, in order to ensure the solvency of such investment firms and firms, that the requirements set out in paragraph 4 are met, paragraphs 1, 2 and 3 shall not apply.	Where the Bank considers it necessary to ensure the solvency of firms referred to in paragraph (1), that such firms should have own funds of not less than the initial capital levels specified for them in Regulations 26(2), 27(1) or (2), or 28, paragraphs (1) to (5) shall not apply.	Investment Firms	General or Case-by-Case	Pending any future EU legislative amendments to the prudential regime for investment firms, the Central Bank intends to continue exercising this discretion for all relevant investment firms and firms referred to in Regulation 28 of the CRD Regulations.
- 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	(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	Branches/ Home-Host	General	The Central Bank intends to exercise this discretion In accordance with this Regulation.

Directive/S.I. reference	Text of CRD IV Article	Text of Transposing Provision	Area	Nature	Comment
	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).	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.			
- Article 76(3) - Regulation 64(11) and (12) (Treatment of	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	(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	Corporate Governance	General or Case-by-Case	Pending communication of the Central Bank's position following Consultation Paper 94/2015 in due course, the Central Bank intends to continue exercising this discretion on a case-by-

Directive/S.I. reference	Text of CRD IV Article	Text of Transposing Provision	Area	Nature	Comment
risks)	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.	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.			case basis for investment firms only. In the case of credit institutions, the Central Bank does not intend to exercise this discretion. See section 6 of this Implementation Notice for further information.
- 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, with the exception of a low-impact investment firm which does not hold client funds and which makes

Directive/S.I. reference	Text of CRD IV Article	Text of Transposing Provision	Area	Nature	Comment
		Bank.			a case to the Central Bank. This will be assessed on application and on a case-by-case basis.
- 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 129(2)-(3) and Article 130(2)-(3) - Regulation 120 (Requirement to maintain a capital conservation and countercyclical capital buffer)	2. By way of derogation from paragraph 1, a Member State may exempt small and medium-sized investment firms from the requirements set out in that paragraph if such an exemption does not threaten the stability of the financial system of that Member State. The decision on the application of such an exemption shall be fully reasoned, shall include an explanation as to why the exemption does not threaten the stability of the financial system of the Member State and shall contain the exact definition of the small and medium-sized investment firms which are exempt.	(1) The Bank is designated as the authority in charge of the application of Regulations 117 and 118 and may exempt small and medium-sized investment firms from the requirements set out in those Regulations if such an exemption does not threaten the stability of the financial system of the State. (2) A decision on the application of an exemption referred to in paragraph (1) shall - (a) be reasoned, (b) include an explanation why the exemption does not threaten the stability of the financial system of the State, and (c) specify the small and medium-	Capital Buffers/ Investment Firms	General	Following public consultation (81/2014), the Central Bank does not intend to exercise these discretions.

Directive/S.I. reference	Text of CRD IV Article	Text of Transposing Provision	Area	Nature	Comment
	Member States which decide to apply such an exemption shall notify the Commission, the ESRB, EBA and the competent authorities of the Member States concerned accordingly. 3. For the purpose of paragraph 2, the Member State shall designate the authority in charge of the application of this Article. That authority shall be the competent authority or the designated authority.	sized investment firms which are exempt. (3) Where it applies an exemption under paragraph (1), the Bank shall notify the Commission, the ESRB, the EBA and the competent authorities of any other Member States concerned. (4) For the purposes of this Regulation, investment firms shall be categorised as small or medium-sized in accordance with Commission Recommendation 2003/361/EC of 6 May 2003.			
- 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 CRD IV 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 CRD IV 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 CRD IV 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 CRD IV 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 risk exposure amount calculated in	(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 CRD IV 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 CRD IV 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-specificcountercyclical 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 CRD IV 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-specific countercyclical capital buffer. That date shall be no later than 12 months from the date when the buffer rate is announced in accordance with paragraph 5. If that date is less than 12 months after the	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) 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 CRD IV 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 2 – 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 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
6(4)(General Principles)	Credit institutions and investment firms that are authorised to provide the investment services and activities listed in points (3) and (6) of Section A of Annex I to Directive 2004/39/EC shall comply with the obligations laid down in Part Six on an individual basis. Pending the report from the Commission in accordance with Article 508(3), competent authorities may exempt investment firms from compliance with the obligations laid down in Part Six taking into account the nature, scale and complexity of the investment firms' activities.	Investment Firms	General	Pending any future EU legislative amendments to the prudential regime for investment firms, the Central Bank intends to continue exercising this discretion for all investment firms in scope of the requirements that are not designated as 'systemic' by the Central Bank in accordance with the criteria specified in section 2 of this Implementation Notice. Systemic investment firms wishing to avail of this discretion must submit a prior application to the Central Bank, which will be assessed on a case-by-case basis. It should also be noted that if, at any stage, the Central Bank considers it necessary for a particular investment firm or category of investment firms to comply with the liquidity requirements the Central Bank may withdraw the general exemption from the CRR liquidity requirements for that investment firm or category of investment firms.
Article 7 (Derogation from the application of prudential requirements on an individual basis)	Competent authorities may waive the application of Article 6(1) to any subsidiary of an institution, where both the subsidiary and the institution are subject to authorisation and supervision by the Member State concerned, and the subsidiary is included in the supervision on a consolidated basis of the institution which is the parent undertaking, and all of the following conditions are satisfied, in order to ensure that own funds are distributed adequately between the parent undertaking and the subsidiary: (a) there is no current or foreseen material practical or legal impediment to the prompt transfer of own funds or repayment of liabilities by its parent undertaking; (b) either the parent undertaking satisfies the	Level of Application	Case-by-Case	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 3 of the ECB Guide for SIs, cross referred in the ECB LSI Recommendation.

Regulation Reference	Text of Article	Area	Nature	Comment
	competent authority regarding the prudent management of the subsidiary and has declared, with the permission of the competent authority, that it guarantees the commitments entered into by the subsidiary, or the risks in the subsidiary are of negligible interest; (c) the risk evaluation, measurement and control procedures of the parent undertaking cover the subsidiary; (d) the parent undertaking holds more than 50 % of the voting rights attached to shares in the capital of the subsidiary or has the right to appoint or remove a majority of the members of the management body of the subsidiary. 2. Competent authorities may exercise the option provided for in paragraph 1 where the parent undertaking is a financial holding company or a mixed financial holding company set up in the same Member State as the institution, provided that it is subject to the same supervision as that exercised over institutions, and in particular to the standards laid down in Article 11(1). 3. Competent authorities may waive the application of Article 6(1) to a parent institution in a Member State where that institution is subject to authorisation and supervision by the Member State concerned, and it is included in the supervision on a consolidated basis, and all the following conditions are satisfied, in order to ensure that own funds are distributed adequately among the parent undertaking and the subsidiaries:			

Regulation Reference	Text of Article	Area	Nature	Comment
	(a) there is no current or foreseen material practical or legal impediment to the prompt transfer of own funds or repayment of liabilities to the parent institution in a Member State; (b) the risk evaluation, measurement and control procedures relevant for consolidated supervision cover the parent institution in a Member State. The competent authority which makes use of this paragraph shall inform the competent authorities of all other Member States.			
Article 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 the institution must re-apply under Article 9 CRR.

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.			
11(3) (General Treatment)	EU parent institutions and institutions controlled by an EU parent financial holding company and institutions controlled by an EU parent mixed financial holding company shall comply with the obligations laid down in Part Six on the basis of the consolidated situation of that parent institution, financial holding company or mixed financial holding company, if the group comprises one or more institutions that are authorised to provide the investment services and activities listed in points (3) and (6) of Section A of Annex I to Directive 2004/39/EC. Pending the report from the Commission in accordance with Article 508(2), and if the group comprises only investment firms, competent authorities may exempt investment firms from compliance with the obligations laid down in Part Six on a consolidated basis, taking into account the nature, scale and complexity of the investment firm's activities.	Investment Firms	General	Pending any future EU legislative amendments to the prudential regime for investment firms, the Central Bank intends to continue exercising this discretion for all investment firms in scope of the requirements that are not designated as 'systemic' by the Central Bank in accordance with the criteria specified in section 2 of this Implementation Notice. Systemic investment firms wishing to avail of this discretion must submit a prior application to the Central Bank which will be assessed on a case-by-case basis. It should also be noted that if, at any stage, the Central Bank considers it necessary for a particular investment firm or category of investment firms to comply with the liquidity requirements the Central Bank may withdraw the general exemption from the CRR liquidity requirements for that investment firm or category of investment firms.

Regulation Reference	Text of Article	Area	Nature	Comment
Article 11(5) (General Treatment)	5. In addition to the requirements in paragraphs 1 to 4, and without prejudice to other provisions of this Regulation and Directive 2013/36/EU, when it is justified for supervisory purposes by the specificities of the risk or of the capital structure of an institution or where Member States adopt national laws requiring the structural separation of activities within a banking group, competent authorities may require the structurally separated institutions to comply with the obligations laid down in Parts Two to Four and Parts Six to Eight of this Regulation and in Title VII of Directive 2013/36/EU on a sub-consolidated basis.	Level of Application	Case-by-Case	The EBA has produced a Q&A which clarifies that "Institutions may be required to comply with the prudential requirements laid down in CRR on a sub-consolidated basis in the following cases: - where Member States adopt national laws requiring the structural separation of activities within a banking group; and - when it is justified for supervisory purposes by the specificities of the risk or of the capital structure of an institution cases for supervisory purposes are not limited to those specified in Article 22 or Article 11 (1) to (3) of Regulation (EU) No 575/2013. The Central Bank may wish to impose sub-consolidated supervision on institutions for reasons other than structural separation of activities and therefore intends to continue exercising this discretion, where appropriate, on a case-by-case basis.
Article 15 (Derogation from the application of own funds requirements on a consolidated basis for groups of investment firms)	Derogation to the application of own funds requirements on a consolidated basis for groups of investment firms 1. The consolidating supervisor may waive, on a case-by-case basis, the application of Part Three of this Regulation and Title VII, Chapter 4 of Directive 2013/36/EU on a consolidated basis provided that the following conditions exist: (a) each EU investment firm in the group uses the alternative calculation of total risk exposure amount referred to in Article 95(2) or 96(2); (b) all investment firms in the group fall within the categories in Articles 95(1) or 96(1); (c) each EU investment firm in the group meets the	Investment Firms	Case-by-Case	Pending any future EU legislative amendments to the prudential regime for investment firms, the Central Bank intends to continue exercising this discretion, where appropriate, on a case-by-case basis, subject to prior written approval from the Central Bank.

Regulation Reference	Text of Article	Area	Nature	Comment
	requirements imposed in Article 95or 96 on an individual basis and at the same time deducts from its Common Equity Tier 1 items any contingent liability in favour of investment firms, financial institutions, asset management companies and ancillary services undertakings, which would otherwise be consolidated; (d) any financial holding company which is the parent financial holding company in a Member State of any investment firm in the group holds at least enough capital, defined here as the sum of the items referred to in Articles 26(1), 51(1) and 62(1), to cover the sum of the following: (i) the sum of the full book value of any holdings, subordinated claims and instruments referred to in Article 36(1)(h) and (i), Article 56(1)(c) and (d), and Article 66(1)(c) and (d) in investment firms, financial institutions, asset management companies and ancillary services undertakings which would otherwise be consolidated; and (ii) the total amount of any contingent liability in favour of investment firms, financial institutions, asset management companies and ancillary services undertakings which would otherwise be consolidated; (e) the group does not include credit institutions. 2. The competent authorities may also apply the waiver if the financial holding companies holds a lower amount of own funds than the amount calculated under paragraph 1(d), but no lower than the sum of the own funds requirements imposed on an individual basis to investment firms, financial institutions, asset management companies and ancillary services			

Regulation Reference	Text of Article	Area	Nature	Comment
	undertakings which would otherwise be consolidated and the total amount of any contingent liability in favour of investment firms, financial institutions, asset management companies and ancillary services undertakings which would otherwise be consolidated. For the purposes of this paragraph, the own funds requirement for investment undertakings of third countries, financial institutions, asset management companies and ancillary services undertakings is a notional own funds requirement.			
Article 19(2) (Entities excluded from the scope of prudential consolidation)	2. The competent authorities responsible for exercising supervision on a consolidated basis pursuant to Article 111 of Directive 2013/36/EU may on a case-by-case basis decide in the following cases that an institution, financial institution or ancillary services undertaking which is a subsidiary or in which a participation is held need not be included in the consolidation: (a) where the undertaking concerned is situated in a third country where there are legal impediments to the transfer of the necessary information; (b) where the undertaking concerned is of negligible interest only with respect to the objectives of monitoring institutions;	Level of Application	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
	(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.			
Article 95(2) (Own funds requirements for investment firms with limited authorisation to provide investment services)	Competent authorities may set the own funds requirements for firms referred to in point (2)(c) of Article 4(1) that provide the investment services and activities listed in points (2) and (4) of Section A of Annex I to Directive 2004/39/EC as the own funds requirements that would be binding on those firms according to the national transposition measures in force on 31 December 2013 for Directives 2006/49/EC and 2006/48/EC.	Investment Firms	General	Pending any future EU legislative amendments to the prudential regime for investment firms, the Central Bank intends to continue exercising this discretion in order to maintain the Pillar 1 and Pillar 2 regime according to S.I. No. 660 of 2006 (as amended) and S.I. No. 661 of 2006 (as amended) as at 31 December 2013 for these firms. See section 8 for further details.
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 to 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 eligible capital. Where that client is an institution or where a group of connected clients includes one or more institutions, that value shall not exceed 25 % of the institution's eligible capital or EUR 150 million, whichever the higher, provided that the sum of exposure values, after taking into account the effect of the credit risk mitigation in accordance with Articles 399 to 403, to all connected clients that are not institutions does not exceed 25 % of the institution's eligible capital.	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
	Where the amount of EUR 150 million is higher than 25 % of the institution's eligible capital the value of the exposure, after taking into account the effect of credit risk mitigation in accordance with Articles 399 to 403 shall not exceed a reasonable limit in terms of the institution's eligible capital. That limit shall be determined by the institution in accordance with the policies and procedures referred to in Article 81 of Directive 2013/36/EU, to address and control concentration risk. This limit shall not exceed 100 % of the institution's eligible capital. Competent authorities may set a lower limit than EUR 150 million and shall inform EBA and the Commission thereof.			
Article 400(2)-(3)(Exemptions)	Competent authorities may fully or partially exempt the following exposures: (a) covered bonds falling within the terms of Article 129(1), (3) and (6); (b) asset items constituting claims on regional governments or local authorities of Member States where those claims would be assigned a 20 % risk weight under Part Three, Title II, Chapter 2 and other exposures to or guaranteed by those regional governments or local authorities, claims on which would be assigned a 20 % risk weight under Part Three, Title II, Chapter 2; (c) exposures, including participations or other kinds of holdings, incurred by an institution to its parent undertaking, to other subsidiaries of that parent undertaking or to its own subsidiaries, in so far as those undertakings are covered by the supervision on	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)-(k) CRR consistently with the ECB LSI Guideline. See section 2 of this Implementation Notice for further information on the Central Bank's intended 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; (g) asset items constituting claims on central banks in the form of required minimum reserves held at those			

Regulation Reference	Text of Article	Area	Nature	Comment
	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; (k) assets items constituting claims on and other exposures to recognised exchanges. 3. Competent authorities may only make use of the exemption provided for in paragraph 2 where the following conditions are met: (a) the specific nature of the exposure, the counterparty or the relationship between the			

Regulation Reference	Text of Article	Area	Nature	Comment
	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. Competent authorities shall inform EBA whether or not they intend to use any of the exemptions provided for in paragraph 2 in accordance with points (a) and (b) of this paragraph and shall consult EBA on this choice.			
Article 412(5) (Liquidity Coverage Requirement)	Member States may maintain or introduce national provisions in the area of liquidity requirements before binding minimum standards for liquidity coverage requirements are specified and fully introduced in the Union in accordance with Article 460.	Liquidity	General	The Central Bank's "Requirements for the Management of Liquidity Risk 2009" ('the National Requirements'), including the reporting requirements contained therein, will be discontinued on 1 January 2018 in accordance with Article 412(5) CRR. Although the National Requirements will be discontinued, the Central Bank nonetheless expects credit institutions to maintain an Asset and Liability Committee (ALCO) as part of their compliance with, *inter alia*, Regulation 64(4) of the CRD Regulations and paragraph 13.1(c) of the Central Bank's Corporate Governance Requirements for Credit Institutions. This will be reviewed in the course of regular supervision

Regulation Reference	Text of Article	Area	Nature	Comment
Article 412(5) (Liquidity Coverage Requirement)	Member States or competent authorities may require domestically authorised institutions, or a subset of those institutions, to maintain a higher liquidity coverage requirement up to 100 % until the binding minimum standard is fully introduced at a rate of 100 % in accordance with Article 460.	Liquidity	Case-by-Case	The Central Bank intends to continue exercising this discretion, where appropriate, on a case-by-case basis.
Article 413(3) (Stable Funding)	Member States may maintain or introduce national provisions in the area of stable funding requirements before binding minimum standards for net stable funding requirements are specified and introduced in the Union in accordance with Article 510.	Liquidity	General	The Central Bank does not intend to introduce an industry wide net stable funding requirement before a binding standard is specified by the EU legislative bodies.
Article 415(3) (Reporting obligation and reporting format)	Until the full introduction of binding liquidity requirements, competent authorities may continue to collect information through monitoring tools for the purpose of monitoring compliance with existing national liquidity standards. Power is conferred on the Commission to adopt the implementing technical standards referred to in the first subparagraph in accordance with Article 15 of Regulation (EU) No 1093/2010.	Liquidity	General	The Central Bank intends to continue exercising this discretion. Existing liquidity regulatory reporting will continue until 1 January 2018, or an earlier date, if deemed appropriate by the Central Bank.

Regulation Reference	Text of Article	Area	Nature	Comment
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 31 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, the liquidity outflows resulting from any of the contractual arrangements referred to in Article 429 and in Annex I of Regulation (EU) No 575/2013, such as: (a) other off-balance sheet and contingent funding obligations, including, but not limited to 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; (f) planned outflows related to renewal or extension of new retail or wholesale loans; (g) planned derivatives payables;	Liquidity	Case-by-Case	Relevant entities shall assess the liquidity outflows in accordance with Article 420(2) CRR/Article 23 of the LCR Regulation and report to the Central Bank not less than annually, by 30 September each year,[58] those products and services for which the likelihood and potential volume of the liquidity outflows referred to in Article 420(2) CRR/Article 23 of the LCR Regulation are material.

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

Regulation Reference	Text of Article	Area	Nature	Comment
	(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 determined in accordance with paragraph 1 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 would better be addressed by means of stricter national measures, it shall notify the European Parliament, the Council, the Commission, the ESRB and EBA of that fact and submit relevant quantitative or qualitative evidence of all of the following: (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; (c) a justification of why Articles 124 and 164 of this Regulation and Articles 101, 103, 104, 105, 133, and 136 of Directive 2013/36/EU cannot adequately address the macroprudential or systemic risk identified, taking into account the relative effectiveness of those measures; (d) 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 public disclosure requirements laid down in Articles 431 to 455; (iv) the level of the capital conservation buffer laid down in Article 129 of Directive 2013/36/EU;	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
	(v) liquidity requirements laid down in Part Six; (vi) risk weights for targeting asset bubbles in the residential and commercial property sector; or (vii) intra financial sector exposures; (e) an explanation as to why the draft measures are deemed by the authority determined 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 qualified majority, on a proposal from the Commission. Within one month of receiving the notification referred to in paragraph 2, the ESRB and EBA shall provide their opinions on the points mentioned in that paragraph to the Council, the Commission and the Member State concerned. Taking utmost account of the opinions referred to in the second subparagraph and if there is robust, strong and detailed evidence that the measure will have a negative impact on the internal market that outweighs the financial stability benefits resulting in a reduction 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.			

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

Regulation Reference	Text of Article	Area	Nature	Comment
	The assessment of the Council shall take into account the opinion of the ESRB and EBA and shall be based on the evidence presented in accordance with paragraph 2 by the authority determined in accordance with paragraph 1. In the absence of a Council implementing act to reject the draft national measures within one month after receipt of the proposal by the Commission, the Member State may adopt the measures and apply them for a period of up to two years or until the macroprudential or systemic risk ceases to exist if that occurs sooner. 5. Other Member States may recognise the measures set in accordance with this Article and apply them to domestically authorised branches located in the Member State authorised to apply the measures. 8. The Member State authorised to apply the measures may ask the ESRB to issue a recommendation as referred to in Article 16 of Regulation (EU) No 1092/2010 to one or more Member States which do not recognise the measures. 9. Before the expiry of the authorisation issued in accordance with paragraph 4, the Member State shall, in consultation with the ESRB and EBA, review the situation and may adopt, in accordance with the procedure referred to in paragraph 4, a new decision for the extension of the period of application of national measures for one additional year each time. After the first extension, the Commission shall in			

Regulation Reference	Text of Article	Area	Nature	Comment
	consultation with the ESRB and EBA review the situation at least annually. 10. Notwithstanding the procedure as set out in paragraphs 3 to 9, 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 (vi) and (vii) of paragraph 2(d) 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 in paragraph 2 of this Article are met.			
Article 467(2) &(3) (Unrealised losses measured at fair value)	2. The applicable percentage for the purposes of paragraph 1 shall fall within following ranges: (a) 20 % to 100 % during the period from 1 January 2014 to 31 December 2014; (b) 40 % to 100 % during the period from 1 January 2015 to 31 December 2015; (c) 60 % to 100 % during the period from 1 January 2016 to 31 December 2016; and (d) 80 % to 100 % for the period from 1 January 2017 to 31 December 2017. By way of derogation from paragraph 1, the competent authorities may, in cases where such treatment was applied before 1 January 2014, allow institutions not to include in any element of own funds unrealised gains or losses on exposures to central governments classified in the "Available for Sale" category of EU-endorsed IAS 39. The treatment set out in the second subparagraph	Transitional Own Funds	General	Applicable percentage of unrealised losses that must be included in calculation of CET 1 items is as follows: 2017; 80%.

Regulation Reference	Text of Article	Area	Nature	Comment
	shall be applied until the Commission has adopted a regulation on the basis of Regulation (EC) No 1606/2002 endorsing the International Financial Reporting Standard replacing IAS 39. 3. Competent authorities shall determine and publish the applicable percentage in the ranges specified in points (a) to (d) of paragraph 2.			
Article 468(2)-(3) (Unrealised Gains Measured at Fair Value)	2. For the purposes of paragraph 1, the applicable percentage shall be 100 % during the period from 1 January 2014 to 31 December 2014, and shall, after that date, fall within the following ranges: (a) 60 % to 100 % during the period from 1 January 2015 to 31 December 2015; (b) 40 % to 100 % during the period from 1 January 2016 to 31 December 2016; (c) 20 % to 100 % for the period from 1 January 2017 to 31 December 2017. From 1 January 2015, where under Article 467 a competent authority requires institutions to include in the calculation of Common Equity Tier 1 capital 100 % of their unrealised losses measured at fair value, that competent authority may also permit institutions to include in that calculation 100 % of their unrealised gains at fair value. From 1 January 2015, where under Article 467 a competent authority requires institutions to include a percentage of unrealised losses measured at fair value in the calculation of Common Equity Tier 1 capital, that competent authority shall not set an applicable percentage of unrealised gains under paragraph 2 of this Article which results in a percentage of unrealised	Transitional Own Funds	General	Applicable percentage of unrealised gains that must be excluded in calculation of CET 1 items is as follows: 2017; 20%. The Central Bank has not exercised the permission contained in Article 468(2), paragraph 2.

Regulation Reference	Text of Article	Area	Nature	Comment
	gains that is included in the calculation of Common Equity Tier 1 capital that exceeds the applicable percentage of unrealised losses set in accordance with Article 467. 3. Competent authorities shall determine and publish the applicable percentage of unrealised gains in the ranges specified in points (a) to (c) of paragraph 2 that is removed from Common Equity Tier 1 capital.			
Article 473(1) (Introduction of amendments to IAS 19)	1. By way of derogation from Article 481 during the period from 1 January 2014 until 31 December 2018, competent authorities may permit institutions that prepare their accounts in conformity with the international accounting standards adopted in accordance with the procedure laid down in Article 6(2) of Regulation (EC) No 1606/2002 to add to their Common Equity Tier 1 capital the applicable amount in accordance with paragraph 2 or 3 of this Article, as applicable, multiplied by the factor applied in accordance with paragraph 4.	Transitional Own Funds	General	The Central Bank does not intend to exercise this discretion.
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	Transitional Own Funds	General	Applicable percentages for deductions under paragraphs 1 and 2, as prescribed under paragraph 3(a), (b), (c) and (d) are as follows: 2017;80%, 2018;100%.[52]

[52] 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
	items referred in point (c) of Article 36(1) that existed prior to …, the applicable percentage for the purpose of point (c) of Article 469(1) shall fall within the following ranges: (a) 0 % to 100 % for the period from 1 January 2014 to 2 January 2015; (b) 10 % to 100 % for the period from 2 January 2015 to 2 January 2016; (c) 20 % to 100 % for the period from 2 January 2016 to 2 January 2017; (d) 30 % to 100 % for the period from 2 January 2017 to 2 January 2018; (e) 40 % to 100 % for the period from 2 January 2018 to 2 January 2019; (f) 50 % to 100 % for the period from 2 January 2019 to 2 January 2020; (g) 60 % to 100 % for the period from 2 January 2020 to 2 January 2021; (h) 70 % to 100 % for the period from 2 January 2021 to 2 January 2022; (i) 80 % to 100 % for the period from 2 January 2022 to 2 January 2023; (j) 90 % to 100 % for the period from 2 January 2023 to 2 January 2024. 3. Competent authorities shall determine and publish an applicable percentage in the ranges specified in paragraphs 1 and 2 for each of the following deductions: (a) the individual deductions required pursuant to points (a) to (h) of Article 36(1), excluding deferred tax assets that rely on future profitability and arise from temporary differences;			

Regulation Reference	Text of Article	Area	Nature	Comment
	(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.			
Article 479(4) (rate of minority interest de-recognition from CET1)	Competent authorities shall determine and publish the applicable percentage in the ranges specified in paragraph 3;	Transitional Own Funds	General	Applicable percentage for the recognition in consolidated CET 1 capital of instruments and items that do not qualify in minority interests as follows: 2017; 20%.
Article 480(3) (De-recognition in consolidated own funds of minority interests and qualifying Additional Tier 1 and Tier 2 capital)	3. Competent authorities shall determine and publish the value of the applicable factor in the ranges specified in paragraph 2.	Transitional Own Funds	General	Applicable factor for the recognition in consolidated own funds of minority interests and qualifying AT 1 and Tier 2 capital as follows: 2017; 0.8.

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

Regulation Reference	Text of Article	Area	Nature	Comment
	31 December 2014; (b) 0 % to 60 % for the period from 1 January 2015 to 31 December 2015; (c) 0 % to 40 % for the period from 1 January 2016 to 31 December 2016; (d) 0 % to 20 % for the period from 1 January 2017 to 31 December 2017. 4. For the purpose of paragraph 2, the applicable percentage shall fall between 0 % and 50 % for the period from 1 January 2014 to 31 December 2014. 5. For each filter or deduction referred to in paragraphs 1 and 2, competent authorities shall determine and publish the applicable percentages in the ranges specified in paragraphs 3 and 4.			

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

Regulation Reference	Text of Article	Area	Nature	Comment
Article 495(1) (Treatment of equity exposures under the IRB approach)	1. Until 31 December 2017, the competent authorities may, by way of derogation from Chapter 3 of Part Three, until 31 December 2017, exempt from the IRB treatment certain categories of equity exposures held by institutions and EU subsidiaries of institutions in that Member State as at 31 December 2007. The competent authority shall publish the categories of equity exposures which benefit from such treatment in accordance with Article 143 of Directive 2013/36/EU. The exempted position shall be measured as the number of shares as at 31 December 2007 and any additional share arising directly as a result of owning those holdings, provided that they do not increase the proportional share of ownership in a portfolio company. If an acquisition increases the proportional share of ownership in a specific holding the part of the holding which constitutes the excess shall not be subject to the exemption. Nor shall the exemption apply to holdings that were originally subject to the exemption, but have been sold and then bought back. Equity exposures subject to this provision shall be subject to the capital requirements calculated in accordance with the Standardised Approach under Part Three, Title II, Chapter 2 and the requirements set out in Title IV of Part Three, as applicable. Competent authorities shall notify the Commission and EBA of the implementation of this paragraph.	Transitional Credit Risk	General	The Central Bank does not consider that this exemption is justified on a general basis. If there are specific cases, these can be considered in terms of the roll-out rules for equity exposures.

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.
Article 500(5) (Transitional Provisions – Basel I Floor)	The competent authorities may, after consulting EBA, waive the application of point (b) of paragraph 1(b) to institutions provided that all the requirements for the IRB Approach set out in Part Three, Title II, Chapter 3, Section 6 or the qualifying criteria for the use of the Advanced Measurement Approach set out in Part Three, Title III, Chapter 4, as applicable, are met	Transitional/ Basel I Floor	Case-by-Case	The Central Bank intends to exercise this discretion, where appropriate, on a case-by-case basis.

Regulation Reference	Text of Article	Area	Nature	Comment
Article 12(3) LCR Regulation (Level 2B Assets)	For credit institutions which in accordance with their statutes of incorporation are unable for reasons of religious observance to hold interest bearing assets, the competent authority may allow to derogate from points (ii) and (iii) of paragraph 1(b) of this Article, provided there is evidence of insufficient availability of non-interest bearing assets meeting these requirements and the non-interest bearing assets in question are adequately liquid in private markets. In determining whether the non-interest bearing assets are adequately liquid for the purposes of the first subparagraph, the competent authority shall consider the following factors: (a) the available data in respect of their market liquidity, including trading volumes, observed bid-offer spreads, price volatility and price impact; and (b) other factors relevant to their liquidity, including the historical evidence of the breadth and depth of the market for those non-interest bearing assets, the number and diversity of market participants and the presence of a robust market infrastructure.	Liquidity	Case-by-Case	Credit institutions that in accordance with their statutes of incorporation are unable for reasons of religious observance to hold interest-bearing assets may include corporate debt securities as Level 2B liquid assets in accordance with all of the conditions specified in Article 12(1)(b), including points (ii) and (iii), of the LCR Regulation. For credit institutions referred to above, the Central Bank may, upon application on a case-by-case basis, allow an exemption from Article 12(1)(b)(ii) and (iii) of the LCR Regulation, where it deems that the conditions specified in Article 12(3) of the LCR Regulation are met.

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T +353 1 224 6000

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