SECOND SUPPLEMENT TO THE GIBRALTAR GAZETTE

No. 3844 of 12 April, 2011

LEGAL NOTICE NO. 48 OF 2011.

FINANCIAL SERVICES (BANKING) ACT

FINANCIAL SERVICES (CAPITAL ADEQUACY OF CREDIT INSTITUTIONS) (AMENDMENT) REGULATIONS 2011

In exercise of the powers conferred on him by section 79 of the Financial Services (Banking) Act 1992 and all other enabling powers, and in order to transpose into the law of Gibraltar Commission Directive 2009/83/EC of 27 July 2009, as regards technical provisions concerning risk management, Council Directive 2009/111/EC of 7 April 2009 which amends Directive 2006/48/EC as regards banks affiliated to central institutions, certain own funds items, large exposures, supervisory arrangements and crisis management and Article 3(1)(a) of Directive 2010/76/EU of 24 November 2010 amending Directives 2006/48/EC and 2006/49/EC as regards capital requirements for the trading book and for re-securitisations and the supervisory review of remuneration policies, the Minister has made the following Regulations–

Title and commencement.

1. These Regulations may be cited as the Financial Services (Capital Adequacy of Credit Institutions) (Amendment) Regulations 2011 and shall come into operation on the day of publication.

Amendments to the Financial Services (Capital Adequacy of Credit Institutions) Regulations 2007.

2. The Financial Services (Capital Adequacy of Credit Institutions) Regulations 2007 are amended in accordance with regulations 3 to 40.

Amendment to regulation 2.

3.(1) The following definitions are inserted in their appropriate alphabetical place–

""discretionary pension benefits" means enhanced pension benefits granted on a discretionary basis by a credit institution to an

employee as part of that employee's variable remuneration package, which do not include accrued benefits granted to an employee under the terms of the company pension scheme;" ;

"institution" means a credit institution or an investment firm;".

(2) The definition of "EU consolidated supervisor" is substituted by–

""European consolidating supervisor" means the competent authority in an EEA State responsible for the exercise of supervision on a consolidated basis of European parent credit institutions and credit institutions controlled by European parent financial holding companies;".

(3) In paragraph (b) of the definition of "group of connected clients", the words "in particular funding or repayment difficulties, the other or all of the others would be likely to encounter funding or repayment difficulties;" are substituted for all the words after the word "problems,".

(4) In the definition of "original own funds", "(ca)" is substituted for "(c)".

Amendment to regulation 7.

4.(1) In sub-regulation (1)(a), "the related share premium accounts, it fully absorbs losses in going concern situations, and in the event of bankruptcy or liquidation ranks after all other claims" is substituted for all the words after "plus".

(2) In sub-regulation (1), the following paragraph is inserted after paragraph (c)–

"(ca) instruments other than those specified in paragraph (a) which meet the requirements of regulation 12(2)(a), (c), (d) and (e) and which comply with the requirements of regulation 12A;".

(3) In sub-regulation (2), "or end of financial year" is inserted after "interim" and "shall" is substituted for "may".

Insertion of regulations 12A and 12B.

5. The following new regulations are inserted–

"**Inclusion of certain instruments as own funds.**

12A.(1) Where a credit institution includes the instruments which are specified in regulation 7(1)(ca) as own funds, those instruments shall comply with the following requirements–

(a) the instruments shall be undated or have an original maturity of at least 30 years;

(b) the instruments may include one or more call options at the sole discretion of the issuer, but they shall not be redeemed before five years after the date of issue;

(c) if undated instruments provide for a moderate incentive for the credit institution to redeem them in such manner as is determined by the Commissioner, such incentive shall not occur within 10 years of the date of issue;

(e) dated instruments shall not permit an incentive to redeem on a date other than the maturity date.

(2) Dated and undated instruments shall be called or redeemed by a credit institution only with the prior consent of the Commissioner, if neither the financial state nor the solvency of the credit institution will be unduly affected.

(3) The Commissioner may require a credit institution to replace any instrument it has included as own funds by other instruments specified in regulation 7(1)(a) or (ca) which are of the same or better quality.

(4) The Commissioner shall require a credit institution to suspend the redemption of dated instruments–

(a) if the credit institution does not comply with the capital requirements in regulation 23; or

(b) where the Commissioner considers that such redemption may unduly affect the financial state and solvency of the credit institution.

(5) The Commissioner may authorise an early redemption of dated or undated instruments where there is a change in the applicable tax treatment or regulatory classification of such instruments which was unforeseen at the date of issue.

Provisions governing instruments as own funds.

12B(1) The provisions governing the instrument specified in regulation 12A must–

(a) allow a credit institution to cancel the payment of interest or dividends for an unlimited period of time, on a non-cumulative basis, but the credit institution shall cancel such payments if it does not comply with the capital requirements in regulation 23;

(b) provide for principal, unpaid interest or dividend to absorb losses and must not hinder the re-capitalisation of the credit institution.

(2) The Commissioner may require a credit institution to cancel payment of interest or dividend if he considers that the financial state and solvency of the credit institution will be unduly affected by such payments.

(3) Any cancellation of the payment of interest or dividends under sub-regulation (2) shall not prejudice the right of the credit institution to substitute such payment by a payment in the form of an instrument specified in regulation 7(1)(a), provided the credit institution is allowed to preserve its financial resources and that the substitution is carried out in compliance with any conditions that the Commissioner may see fit to impose.

(4) In the event of the bankruptcy or liquidation of a credit institution, the instruments shall rank after the items specified in regulation 12(2).".

Amendment to regulation 14.

6. In sub-regulation (2), the following paragraph is inserted after paragraph (a)–

"(aa) any instrument specified in regulation 7(1)(ca) which gives rise to minority interests and which meets the requirements of regulations 12(2), 12A and 15;".

Amendment to regulation 15.

7.(1) In sub-regulation (1), "sub-regulation (1)(a) to (ca) of regulation 7" is substituted for "sub-regulation (1)(a) plus (b) and (c)" in the two places it appears.

(2) The following sub-regulation is inserted after sub-regulation (1)–

"(1A) Notwithstanding sub-regulation (1), the total of the items in regulation 7(1)(ca) shall be subject to the following limits–

(a) instruments which have to be converted into items specified in regulation 7(1)(a) within a pre-determined range–

(i) during emergency situations; and

(ii) which may be converted on the Commissioner's instructions based on the financial state and solvency of the issuer;

shall not exceed a maximum of 50% of the total of the items in regulation 7(1)(a) to (ca) less the total of the items in regulation 7(1)(h) to (j);

(b) within the limit in paragraph (a), all other instruments shall not exceed a maximum of 35% of the total of the items in regulation 7(1)(a) to (ca) less the total of the items in regulation 7(1)(h) to (j);

(c) within the limits in paragraphs (a) and (b), dated instruments and instruments which provide for an incentive for a credit institution to redeem shall not exceed a maximum of 15% of the total of the items in regulation 7(1)(a) to (ca) less the total of the items in regulation 7(1)(h) to (j);

(d) the total of the items exceeding the limits set out in paragraphs (a) to (c) shall be subject to the limit specified in sub-regulation (1).".

(3) In sub-regulation (2)(a), "(ca)" is substituted for "(c)".

(4) In sub-regulation (3), "(ca)" is substituted for "(c)".

(5) In sub-regulation (6), "and (1A)" is inserted after "(1)" and "in an emergency situation" is substituted for "as a result of exceptional circumstances".

Insertion of regulation 16A.

8. The following regulation is inserted after regulation 16–

"**Application to affiliated credit institution.**

16A.(1) Any credit institution to which section 35B(1) of the Act applies, may be exempted by the Commissioner from all or any of the requirements of Parts IV to IX if, and without prejudice to the application of those provisions to the central body, the central body and all its affiliated credit institutions, are subject to those provisions on a consolidated basis.

(2) Where any exemption is granted by the Commissioner under this section, Part IX shall apply to the whole as constituted by the central body and its affiliated credit institutions.".

Amendment to regulation 22.

9.(1) The heading to regulation 22 is substituted by–

"Calculation and reporting requirements.".

(2) The following sub-regulation is inserted after sub-regulation (2)–

"(3) The reports required to be submitted to the Commissioner under sub-regulation (2) shall, with effect from 31 December 2012, be in such form and shall be submitted with such frequency as the Commissioner shall determine.".

Amendment to regulation 31.

10. In sub-regulation (2), the words "including one which is registered as a credit rating agency under Regulation (EC) 1060/2009" are inserted after the word "institution".

Amendment to regulation 37.

11.(1) In sub-regulation (16), "or part" is inserted after "all".

(2) The following sub-regulation is inserted after sub-regulation (16)–

"(16A) Sub-regulations (18) to (20) shall apply–

(a) to the part of the underlying exposures of the collective investment undertaking that a credit institution is not aware of or could not reasonably be aware of; and

(b) where it would be unduly burdensome for the credit institution to look through the underlying exposures in order to calculate risk-weighted exposure amounts and expected loss amounts in accordance with the methods in this regulation and regulations 34 to 36, 38 and 39.".

(3) In sub-regulation (17), the words "for all or part of the underlying exposure of the collective investment undertaking" are inserted after "39".

(4) In sub-regulation (17)(a), all the words after "Schedule 7" are omitted.

(5) In sub-regulation (17)(b), sub-paragraphs (i) and (ii) are substituted by–

"(i) for exposures subject to a specific risk weight for unrated exposures or subject to the credit quality step yielding the highest risk weight for a given exposure class, the risk weight shall be multiplied by a factor of two but must not be higher than 1250 %;

(ii) for all other exposures, the risk weight shall be multiplied by a factor of 1.1 and shall be subject to a minimum of 5%.".

(6) The following sub-regulations are inserted after sub-regulation (17)–

"(17A) Where, for the purposes of sub-regulation (17)(a), a credit institution is unable to differentiate between private equity, exchange-traded and other equity exposures it shall treat the exposures concerned as other equity exposures.

(17B) Without prejudice to paragraph 4(9) of Schedule 1, where the exposures under sub-regulation (17A) taken together with the credit institution's direct exposures in that exposure class are not material within the meaning of regulation 39(3) and (4), the Commissioner may authorise the application of regulation 39(1).".

(7) Subregulation (21) is replaced by the following–

"A credit institution may, as an alternative to the methods in sub-regulations (18) to (20), itself calculate or may rely on a third party to calculate and report the average risk weighted exposure amounts based on the collective investment undertaking underlying exposures in accordance with the approaches specified in subregulations (17)(a) and (b)."

Amendment to regulation 56.

12. Sub-regulation (1) is substituted by the following–

"(1) For the purposes of this Part, "credit institution" shall include any private or public undertaking, including its branches, which meets the definition of "credit institution" and has been authorised in a non-EEA State.".

Amendment to regulation 57.

13.(1) In sub-regulation (4)(a)–

(a) the words "two working days" are substituted for the words "48 hours"; and

(b) the word "nor" is omitted.

(2) In sub-regulation (4)(b), a semi-colon is substituted for the full stop at the end thereof.

(3) The following paragraphs are inserted after sub-regulation (4)(b)–

"(c) in the case of money transmissions including the execution of payment services, clearing and settlement in any currency and correspondent banking or financial instruments clearing, settlement and custodial services, delayed receipts in funding and other exposures arising from client activity which do not last longer than the following business day;

(d) in the case of money transmissions including the execution of payment services, clearing and settlement in any currency and correspondent banking, intra-day exposures to institutions providing those services.".

(4) The following sub-regulations are inserted after sub-regulation (4)–

"(5) In order to determine the existence of a group of connected clients, in respect of the exposures in regulation 29(1)(m), (o) and (p), where there is an exposure to underlying assets, a credit institution shall assess the scheme or its underlying exposures, or both.

(6) For the purposes of sub-regulation (5), a credit institution shall evaluate the economic substance and the risks inherent in the structure of the transaction.".

Amendment to regulation 62.

14. In sub-regulation (6), "57(4)(c) and 64(1)" is substituted for "66(2)(i) and 68(3), (4) and (9)".

Amendment to regulation 63.

15.(1) Regulation 63 is substituted by the following regulation–

"63.(1) A credit institution shall report the following information to the Commissioner about every large exposure including large exposures exempted from the application of regulation 64(1) to (4)–

(a) the identity of the client or the group of connected clients to which the credit institution has a large exposure;

(b) when applicable, the exposure value before taking into account the effect of the credit risk mitigation;

(c) where used, the type of funded or unfunded credit protection; and

(d) the exposure value after taking into account the effect of the credit risk mitigation calculated for the purpose of regulation 64(1) to (4).

(2) A credit institution which is subject to regulations 34 to 39 shall report to the Commissioner its 20 largest exposures on a consolidated basis excluding those exposures exempted from the requirements of regulation 64(1) to (4).

(3) The reports required under sub-regulations (1) and (2) shall be submitted at least twice a year but with effect from 31 December 2012, the Commissioner shall determine the form and the frequency of submission of the report which shall be commensurate to the nature, scale and complexity of the activities of the credit institution.

(4) A credit institution shall, in accordance with regulation 57(5), analyse its exposures to collateral issuers, providers of unfunded credit protection and underlying assets for possible concentrations and take any necessary action and report any significant findings to the Commissioner.".

Amendment to regulation 64.

16.(1) In sub-regulation (1)–

(a) the words "Subject to regulation 66" are omitted ; and

(b) the words ", after taking into account the effect of the credit risk mitigation in accordance with regulations 65 to 70," are inserted after "exposure".

(2) Sub-regulations (2) to (4) are substituted by the following sub-regulations–

"(2) For the purposes of sub-regulation (1), where the client is an institution or where a group of connected clients includes one or more institutions, that value shall not exceed 25% of the credit institution's own funds or EUR 150 million, whichever is the higher, provided that the sum of exposure values, after taking into account the effect of the credit risk mitigation in accordance with regulations 65 to 70, to all connected clients which are not institutions, does not exceed 25% of the credit institution's own funds.

(3) Where under sub-regulation (2), the amount of EUR 150 million is higher than 25 % of the credit institution's own funds, the value of the exposure, after taking into account the effect of credit risk mitigation in accordance with regulations 65 to 70, shall not exceed a reasonable limit in terms of the credit institution's own funds.

(4) The limit under sub-regulation (3) shall be determined by the credit institution, consistently with the policies and procedures in paragraph 7 of Schedule 7, to address and control concentration risk and that limit shall not be higher than 100% of the credit institution's own funds.".

(2) The following sub-regulation is inserted after sub-regulation (7)–

"(8) Where the amount of EUR 150 million referred to in sub-regulation (2) is applicable, the Commissioner may, on application, allow on a case-by-case basis the 100% limit in terms of the credit institution's own funds to be exceeded.".

Amendment to regulation 65.

17.(1) In sub-regulation (2), the words "and 75" and all the words after "43" are omitted.

(2) The following sub-regulation is inserted after sub-regulation (3)–

"(4) A credit institution shall not take into account the collateral specified in paragraphs 20 to 22 of Part 1 of Schedule 8.".

Amendment to regulation 66.

18.(1) In sub-regulation (2)–

(a) in the heading, the words "64(1) to (4)" are substituted for "64" ;

(b) sub-regulations (2)(e) and (f) are substituted by–

"(e) asset items constituting claims on EEA States' regional governments or local authorities where those claims would be assigned a 0% risk weight under regulations 28 to 33 and other exposures to or guaranteed by those regional governments or local authorities and claims on which would be assigned a 0% risk weight under those regulations;

(f) exposures to the counterparties referred to in regulation 30(10) to (12) if they would be assigned a 0% risk weight under regulations 28 to 33; exposures that do not meet those criteria, whether or not exempted from regulation 64(1) to (3), shall be treated as exposures to a third party;";

(c) sub-regulation (2)(i) is substituted by–

"(i) exposures arising from undrawn credit facilities which are classified as low-risk off-balance sheet items in Schedule 2 provided that an agreement has been concluded with the client or group of connected clients under which the facility may be drawn only if it has been ascertained that it will not cause the limit under regulation 64(1) to (3) to be exceeded;" ;

(d) sub-regulations (2)(j) to (t) are omitted.

(2) Sub-regulations (3) to (9) are omitted.

(3) The following sub-regulation is inserted after sub-regulation (2)–

"(3) The following exposures shall be exempt from the application of regulation 64(1) to (3)–

(a) covered bonds falling within paragraphs 68 to 70 of Part 1 of Schedule 6;

(b) asset items constituting claims on EEA States' regional governments or local authorities where those claims would be assigned a 20% risk weight under regulations 28 to 33 and other exposures to or guaranteed by those regional governments or local authorities, claims on which would be assigned a 20% risk weight under those regulations;

(c) notwithstanding sub-regulation (2)(f), exposures (including participations or other kinds of holdings, incurred by a credit 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 consolidated supervision to which the credit institution itself is subject or with equivalent standards in force in non-EEA States) which do not meet these criteria, whether or not exempted from regulation 64(1) to (3),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 a credit institution is associated in a network 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 operating on a non-competitive basis, providing loans 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 which are passed on to the beneficiaries via other credit institutions;

(f) asset items constituting claims on and other exposures to institutions, which do not constitute such institutions' own funds, do not last longer than the following business day and are not denominated in a major trading currency;

(g) asset items constituting claims on central banks in the form of required minimum reserves held at those central banks which are denominated in their national currencies;

(h) asset items constituting claims on central governments in the form of statutory liquidity requirements held in government securities which are denominated and funded in their national currencies provided that, at the discretion of the Commissioner, the credit assessment of those central governments assigned by a nominated external credit assessment institution is investment grade;

(i) 50% of medium to low risk off-balance-sheet documentary credits and of medium to low risk off-balance sheet undrawn credit facilities referred to in Schedule 2 and, subject to the Commissioner's 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) statutorily required guarantees used when a mortgage loan financed by issuing mortgage bonds is paid to the mortgage borrower before the final registration of the mortgage in the land register, provided the guarantee is not used as reducing the risk in calculating the risk weighted assets.".

Amendment to regulation 67.

19.(1) Sub-regulation (2) is replaced by the following–

"Subject top subregulation (9), for the purposes of calculating the value of exposures for the purposes of regulation 64(1) to (3), a credit institution may use the fully adjusted exposure value as calculated under regulations 40 to 43, taking into account the credit risk mitigation, volatility adjustments and any maturing mismatch (E*)".

(2) In sub-regulation (4)–

(a) the reference to "subregulation (6)" is replaced by a reference to "subregulation (9)" ;

(b) the word "shall" is substituted for the word "may" ; and

(c) the words "64(1) to (3)" are substituted for the words "64(1) to (4)".

(3) In sub-regulation (7), the words "use the Financial Collateral Comprehensive Method or the approach in regulation 70(1)(b) for calculating the value of the exposures" are substituted for all the words after "may".

(4) In sub-regulation (12), "to be taken into account when making use of the Financial Collateral Comprehensive Method or the method in sub-regulations (4) to (7) as appropriate" is substituted for "under sub-regulation (1) to (8)" and "(3)" is substituted for "(4)".

(5) In sub-regulation (13)(b), "while making use of the Financial Collateral Comprehensive Method or the method described in sub-regulations (4) to (7)" is substituted for "under sub-regulations (1) to (8)".

(6) Sub-regulation (14) is omitted.

Amendment to regulation 68.

20. Regulation 68 is substituted by–

"68(1) In this regulation "residential property" means a residence to be occupied or let by the owner.

(2) For the purpose of this Part, a credit institution may reduce its exposure value by up to 50% of the value of a residential property, if either of the following conditions is met–

(a) the exposure is secured by mortgages on residential property or by shares in Finnish residential housing companies operating in accordance with the Finnish Housing Company Act of 1991 or subsequent equivalent legislation; or

(b) the exposure relates to a leasing transaction under which the lessor retains full ownership of the residential property leased for as long as the lessee has not exercised his option to purchase.

(3) The value of the residential property shall be calculated, to the satisfaction of the Commissioner, at least once every three years on the basis of prudent statutory or administrative valuation standards.

(4) The requirements in paragraph 8 of Part 2 and in paragraphs 62 to 65 of Part 3 of Schedule 8 shall apply for the purpose of sub-regulations (1) to (3).

(5) A credit institution may reduce its exposure value by up to 50% of the value of a commercial property only if the competent authorities concerned in the EEA State where the commercial property is situated allow the following exposures to receive a 50% risk weight in accordance with regulations 28 to 33–

(a) exposures secured by mortgages on offices or other commercial premises, or by shares in Finnish housing companies operating in accordance with the Finnish Housing Company Act of 1991 or subsequent equivalent legislation, in respect of offices or other commercial premises; or

(b) exposures related to property leasing transactions concerning offices or other commercial premises.

(6) The value of the property shall be calculated, to the satisfaction of the Commissioner, on the basis of statutory or administrative prudent valuation standards.

(7) Commercial property shall be fully constructed, leased and shall produce appropriate rental income.".

Omission of regulation 69.

21. Regulation 69 is omitted.

Amendment to regulation 70.

22.(1) Sub-regulation (1) is substituted by–

"(1) Where an exposure to a client is guaranteed by a third party, or secured by collateral issued by a third-party, a credit institution may–

(a) treat the portion of the exposure which is guaranteed as having been incurred to the guarantor rather than to the client if the unsecured exposure to the guarantor is assigned an equal or lower risk weight than a risk weight of the unsecured exposure to the client; or

(b) treat the portion of the exposure collateralised by the market value of a recognised collateral as having been incurred to the third party rather than to the client, if the exposure is secured by collateral if that collateralised portion of the exposure would be assigned an equal or lower risk weight than a risk weight of the unsecured exposure to the client.

(1A) The approach referred to in sub-regulation (1)(b) shall not be used by a credit institution where there is a mismatch between the maturity of the exposure and the maturity of the protection.

(1B) A credit institution may use both the Financial Collateral Comprehensive Method and the treatment provided for in sub-regulation (1)(b) only where it is permitted to use both the Financial Collateral Comprehensive Method and the Financial Collateral Simple Method.".

(2) In sub-regulation (2), "Where a credit institution applies sub-regulation 1(a) it shall do so" is substituted for "Sub-regulation (1)(a) shall apply".

Amendment of regulation 71.

23.(1) In paragraph (a) "the limit in regulation 64(1)" is substituted for "those limits".

(2) In each of paragraphs (b) and (e), "regulation 64(1)" is substituted for "regulations 64(1) and (2)".

Amendment of regulation 72.

24. In sub-regulation (1), "and (2)" is omitted.

Insertion of regulation 78A.

25. The following regulation is inserted after regulation 78–

"**Exposures to transferred credit risk.**

78A(1) In this regulation–

""retention of net economic interest" means–

(a) retention of no less than 5% of the nominal value of each of the tranches sold or transferred to investors;

(b) in the case of securitisations of revolving exposures, retention of the originator's interest of no less than 5% of the nominal value of the securitised exposures;

(c) retention of randomly selected exposures, equivalent to no less than 5% of the nominal amount of the securitised exposures, where such exposures would otherwise have been securitised, provided that the number of potentially securitised exposures is no less than 100 at the commencement; or

(d) retention of the first loss tranche and, if necessary, other tranches having the same or a more severe risk

profile than those transferred or sold to investors and not maturing any earlier than those transferred or sold to investors, so that the retention equals in total no less than 5% of the nominal value of the securitised exposures.

"ongoing basis" means that retained positions, interest or exposures are not hedged or sold.".

(2) A credit institution (when not acting as an originator, a sponsor or original lender) shall be exposed to the credit risk of a securitisation position in its trading or non-trading book only if the originator, sponsor or original lender has explicitly disclosed to the credit institution that it will retain, on an ongoing basis, a material net economic interest of no less than 5%.

(3) For the purposes of sub-regulation (1), net economic interest shall–

(a) be measured at the commencement and shall be maintained on an ongoing basis;

(b) not be subject to any credit risk mitigation or any short positions or any other hedge; and

(c) be determined by the notional value for off-balance sheet items.

(4) There shall be no multiple applications of the retention requirements for any given securitisation.

(5) Where–

(a) a European parent credit institution or a European financial holding company, or one of its subsidiaries, is an originator or a sponsor; and

(b) securitises exposures from several credit institutions, investment firms or other financial institutions which are included in a consolidated supervision,

it may satisfy the requirement referred to in sub-regulations (2) to (4) on the basis of the consolidated situation of the related European parent credit institution or European financial holding company.

(6) Sub-regulation (5) shall apply only where credit institutions, investment firms or financial institutions which created a securitised exposures have committed themselves to adhere to the requirements set out in sub-regulation (16) to (19) and deliver, in a timely manner, to the originator or sponsor and to a European parent credit institution or a European financial holding company the information needed to satisfy the requirements in sub-regulation (20) to (22).

(7) Sub-regulations (2) to (4) shall not apply–

(a) where the securitised exposures are claims or contingent claims on or fully unconditionally and irrevocably guaranteed by–

(i) central governments or central banks;

(ii) regional governments, local authorities and public sector entities of EEA States;

(iii) institutions to which a 50% risk weight or less is assigned under regulations 28 to 33; or

(iv) multilateral development banks;

(b) transactions based on a clear, transparent and accessible index, where the underlying reference entities are identical to those that make up an index of entities which is widely traded, or are other tradable securities other than securitisation positions;

(c) syndicated loans, purchased receivables or credit default swaps where these instruments are not used to package or hedge (or both) a securitisation that is covered by sub-regulations (2) to (4).

(8) A credit institution shall demonstrate, before investing, and as appropriate thereafter, to the Commissioner for each of its individual securitisation positions, that it has a comprehensive and thorough understanding of and have implemented formal policies and procedures appropriate to their trading and non-trading book and commensurate with the risk profile of its investments in securitised positions for analysing and recording–

(a) information disclosed under sub-regulations (2) to (4) by originators or sponsors to specify the net economic interest that they maintain, on an ongoing basis, in the securitisation;

(b) the risk characteristics of the individual securitisation position;

(c) the risk characteristics of the exposures underlying the securitisation position;

(d) the reputation and loss experience in earlier securitisations of the originators or sponsors in the relevant exposure classes underlying the securitisation position;

(e) the statements and disclosures made by the originators or sponsors, or their agents or advisors, about their due diligence on the securitised exposures and, where applicable, on the quality of the collateral supporting the securitised exposures;

(f) where applicable, the methodologies and concepts on which the valuation of collateral supporting the securitised exposures is based and the policies adopted by the originator or sponsor to ensure the independence of the valuer; and

(g) all the structural features of the securitisation that can materially impact on the performance of the credit institution's securitisation position.

(9) A credit institution shall regularly perform its own stress tests appropriate to its securitisation positions and accordingly may rely on financial models developed by an external credit assessment institution if that credit institution can demonstrate, when requested, that it took due care prior to investing to validate the relevant assumptions in and structuring of the models and to understand methodology, assumptions and results.

(10) A credit institution (when not acting as an originator, sponsor or original lender) shall establish formal procedures appropriate to its trading and non-trading book and commensurate with the risk profile of its investments in securitised positions, to monitor on an ongoing basis and in a timely manner, performance information on the exposures underlying its securitisation positions.

(11) Where relevant, procedures under sub-regulation (10) shall include the exposure type, the percentage of loans which are more than 30, 60 and 90 days past due, default rates, prepayment rates, loans in foreclosure, collateral type and occupancy, and frequency distribution of credit scores or other measures of credit worthiness across underlying exposures, industry and geographical diversification, frequency distribution of loan to value ratios with bandwidths which facilitate adequate sensitivity analysis.

(12) Where the underlying exposures are themselves securitisation positions, a credit institution shall have information not only on the underlying securitisation tranches, such as the issuer name and credit quality, but also on the characteristics and performance of the pools underlying those securitisation tranches.

(13) A credit institution shall have a thorough understanding of all structural features of a securitisation transaction which would materially impact the performance of its exposures to the transaction such as the contractual waterfall and waterfall related triggers, credit enhancements, liquidity enhancements, market value triggers, and deal-specific definition of default.

(14) Where the requirements in sub-regulations (8), (9), (15) and (20) to (22) are not met in any material respect by reason of the negligence or omission of a credit institution, the Commissioner shall impose a proportionate additional risk weight of no less than 250% of the risk weight (capped at 1250%) which would, but for this sub-regulation, apply to the relevant securitisation positions under Part 4 of Schedule 9 and shall progressively increase the risk weight with each subsequent infringement of the due diligence provisions.

(15) The Commissioner shall take into account the exemptions for certain securitisations provided in sub-regulation (7) by reducing the risk weight he would otherwise impose under this regulation in respect of a securitisation to which that sub-regulation applies.

(16) A sponsor and an originator credit institution shall apply the same sound and well-defined criteria for credit-granting in accordance with the requirements of paragraph 3 of Schedule 5 to exposures to be securitised as they apply to exposures to be held on their book.

(17) The same processes for approving and, where relevant, amending, renewing and re-financing credits shall be applied by the originator and the sponsor credit institution.

(18) A credit institution shall also apply the same standards of analysis to participations or underwritings in securitisation issues purchased from third parties whether such participations or underwritings are to be held on its trading or non-trading book.

(19) Where the requirements referred to in sub-regulations (16) to (18) are not met, regulation 45(1) shall not be applied by an originator credit institution which shall not exclude the securitised exposures from the calculation of its capital requirements.

(20) A sponsor and an originator credit institution shall disclose to investors the level of their commitment under sub-regulations (2) to (4) to maintain a net economic interest in the securitisation.

(21) A sponsor and an originator credit institution shall ensure that prospective investors have readily available access to all materially relevant data on the credit quality and performance of the individual underlying exposures, cash flows and collateral supporting a securitisation exposure and such information as is necessary to conduct comprehensive and well informed stress tests on the cash flows and collateral values supporting the underlying exposures.

(22) For the purposes of sub-regulations (20) and (21), materially relevant data shall be determined as at the date of the securitisation and where appropriate due to the nature of the securitisation thereafter.

(23) Sub-regulations (2) to (22) shall apply to new securitisations issued on or after the entry into operation of these Regulations and shall, after 31 December 2014, apply to existing securitisations where new underlying exposures are added or substituted after that date.

(24) The Commissioner may suspend temporarily the requirements in sub-regulations (2) to (6) during periods of general market liquidity stress.

(25) The Commissioner shall publish the following information–

(a) by no later than two weeks after the entry into operation of these Regulations, the general criteria and methodologies adopted to review the compliance with sub-regulations (2) to (22); and

(b) a summary of the outcome of the supervisory review and description of the measures imposed in cases of non-compliance with sub-regulations (2) to (22) identified on an annual basis from 31 December 2011.

(26) The requirement set out in sub-regulation (25) shall be subject to regulation 86.".

Amendment to Regulation 80.

26. The following sub-regulation is inserted after sub-regulation (2)–

"(2A) The Commissioner shall, in the exercise of his supervisory functions, consider the potential impact of his decisions on the stability of the financial system in any relevant EEA States, particularly in emergency situations, based on the information available at the time.".

Amendment to Regulation 81.

27.(1) Sub-regulation (2) (b) is substituted by the following two paragraphs–

"(b) to plan and co-ordinate, in co-operation with the relevant competent authorities, supervisory activities and the activities in regulations 79, 80, 83, 87 to 90 and in Schedule 5;

(c) to plan and co-ordinate, in co-operation with the relevant competent authorities and central banks, supervisory activities and plans to deal with adverse developments in credit institutions or in financial markets and facilitating crisis management co-operation.".

(2) The following sub-regulation is inserted after sub-regulation (2)–

"(2A) The planning and coordination referred to in sub-regulation (1)(c) shall include the imposition of measures (including the imposition of an additional capital charge under regulation 83 and the imposition of limitation on the use of the Advanced Measurement Approaches for the calculation of the own funds requirements under regulation 55), the preparation of joint assessments, the implementation of contingency plans and keeping the public informed.".

(3) The following sub-regulations are inserted after sub-regulation (9)–

"(9A) The Commissioner and the competent authorities supervising subsidiaries of a European parent credit institution or a European parent financial holding shall reach a joint decision

on the application of regulations 79 and 80 to determine the adequacy of the consolidated–

(a) level of own funds held by the group with respect to its financial situation and risk profile; and

(b) required level of own funds for the application of regulation 83(2) to each entity within the banking group.

(9B) The joint decision in sub-regulation (9A) shall be reached within four months after submission by the Commissioner of a report containing the risk assessment of the group in accordance with regulations 79 and 80 to the other competent authorities and shall duly consider the risk assessment of subsidiaries performed by those competent authorities.

(9C) The joint decision in sub-regulation (9A) shall be set out in a document with the reasoned decision which shall be provided to the parent credit institution by the Commissioner but in the event of any disagreement, the Commissioner shall of his own motion or at the request of any of the other competent authorities consult the Committee of European Banking Supervisors.

(9D) In the absence of a joint decision within four months, a decision on the application of regulations 79, 80 and 83(2) shall be taken on a consolidated basis by the Commissioner after duly considering the risk assessment of the subsidiaries performed by the relevant competent authorities.

(9E) The decision on the application of regulations 79, 80 and 83(2) shall be taken by the respective competent authorities responsible for the supervision of subsidiaries of those European parent credit institutions or European parent financial holding companies on an individual or sub-consolidated basis after consideration of the views and reservations of the Commissioner.

(9F) The decision under sub-regulation (9E) shall be set out in a document with the reasoned decisions and shall take into account the risk assessment, views and reservations of the

other competent authorities expressed during the four-month period and it shall be provided by the Commissioner to those competent authorities and to the parent credit institution.

(9G) Where the Committee of European Banking Supervisors has been consulted, the Commissioner shall consider such advice and explain to the Committee any significant deviation therefrom.

(9H) The joint decision and the decisions taken by the Commissioner in the absence of a joint decision shall be recognised as determinative and shall be applied by the Commissioner who shall forward copies of the decisions to the competent authorities concerned so that they too apply them.

(9I) The joint decision referred to in sub-regulation (9A) any decision taken in the absence of a joint decision and shall be updated on an annual basis or, in exceptional circumstances, where a competent authority responsible for the supervision of subsidiaries of such parent credit institution or parent financial holding company makes a written and fully reasoned request to the Commissioner to update the decision on the application of regulation 83(2).

(9J) Any update under sub-regulation (9I) may be addressed on a bilateral basis between the Commissioner and the competent authority making the request.".

Amendment to Regulation 82.

28. The following sub-regulation is substituted for sub-regulation (2)–

"(2) The Commissioner shall alert, on becoming aware–

(a) central banks of the European System;

(b) other bodies with similar functions as monetary authorities; and

(c) central government administrations responsible for legislation on the supervision of financial entities,

to an emergency situation which has arisen, including one with adverse developments in financial markets which potentially jeopardises market liquidity and the stability of the financial system in Gibraltar and any EEA State and shall notify all essential information to facilitate their respective functions.".

Insertion of regulations 82A and 82B.

29.(1) The following regulations are inserted after regulation 82–

"Close co-operation where a credit institution classified as significant.

82A.(1) The Commissioner may make a request to the European consolidating supervisor where regulation 81(2) and (2A) apply or to the competent authorities of the home EEA State, for a branch of a credit institution in Gibraltar to be considered as significant.

(2) A request under sub-regulation (1) shall provide reasons for considering the branch to be significant with regard to the following matters–

(a) whether the market share of that branch in terms of deposits exceeds 2% in Gibraltar;

(b) the likely impact of a suspension or closure of the credit institution's operations on market liquidity and the payment, clearing and settlement systems in Gibraltar; and

(c) the size and the importance of the branch in terms of number of clients within the context of the banking or financial system of Gibraltar.

(3) The Commissioner and the competent authority of the home EEA State, and the European consolidating supervisor where regulation 81(2) and (2A) apply, shall do everything within their power to reach a joint decision on the designation of a branch as being significant.

(4) If no joint decision is reached within two months of the Commissioner making a request under sub-regulation (1), the Commissioner may take a decision within a further period of two months on whether the branch is significant taking into account any views and reservations expressed by the supervisor or the competent authority of the home EEA State.

(5) A decision, under sub-regulations (3) or (4) shall be set out in a document containing the fully reasoned decision which shall be determinative and shall be applied by the Commissioner who shall forward copies of the document to the competent authorities concerned so that they too apply the decision.

(6) Where a Gibraltar credit institution has a significant branch in an EEA State, the Commissioner shall communicate to the competent authority of the host EEA State information on any adverse developments in the credit institution or in other entities within its group which could seriously affect the credit institution and carry out the tasks referred to in regulation 81(1)(c) in co-operation with that competent authority .

(7) Where the Commissioner becomes aware of an emergency situation affecting a credit institution as specified in regulation 82(2), he shall alert as soon as practicable the authorities referred to in the fourth paragraph of article 49 and article 50 of the recast Directive as copied in Schedule 3 of the Act.

(8) Where the Commissioner is supervising a credit institution with significant branches in EEA States he shall establish and chair a college of supervisors to facilitate the co-operation envisaged under this regulation and article 42 of the recast Directive as copied in Schedule 3 of the Act and regulation 14 of the Financial Services (Consolidated Supervision of Credit Institutions) Regulations.

(9) The decision of the Commissioner State shall take account of the relevance of the supervisory activity to be planned or coordinated for the other competent authorities, in particular the potential impact on the stability of the financial system in the Member States concerned referred to in regulation 80 and the obligations under in sub-regulations (6) and (7).

(10) The Commissioner shall–

(a) keep all members of the college fully informed, in advance, of the organisation of such meetings, the main issues to be discussed and the activities to be considered; and

(b) keep all the members of the college fully informed, in a timely manner, of the actions taken in those meetings or the measures carried out.

(11) The designation of a branch as being significant under this regulation shall not affect the rights and responsibilities of the Commissioner under the Act, these Regulations and any other subsidiary legislation made under the Act.

Supervisory tools and practices.

82B.(1) The Commissioner shall be required to–

(a) participate in the activities of the Committee of European Banking Supervisors; and

(b) follow the guidelines, recommendations, standards and other measures agreed by that Committee and shall give them his reasons for not doing so.

(2) Nothing in the Act, these Regulations or any other subsidiary legislation made under the Act shall inhibit the performance of the Commissioner of his duties as a member of the Committee of European Banking Supervisors or under the recast Directive.".

Amendment to regulation 87.

29A. The following sub-regulation is inserted after sub-regulation 2–

"(2A) The Commissioner shall use the information obtained from credit institutions under paragraph 15(f) of Part 2 of Schedule 12 to benchmark remuneration trends and practices and shall notify that information to the European Banking Supervisors."

Amendment of Schedule 1.

30.(1) In paragraph 1, "6" is substituted for "5".

(2) In paragraph 3(1), "2015" is substituted for "2012".

(3) In paragraph 4(8), "2012" is substituted for "2010".

(4) The following paragraphs are inserted after paragraph 5–

"6.(1) Credit institutions which do not comply with the limits set out in regulation 15(1)(a) shall introduce strategies and processes on the necessary measures to resolve the situation before the dates set out in sub-paragraph (2) below.

(2) Instruments that by 31 December 2010, were deemed equivalent to the items in regulation 7(1)(a), (b) and (c) but which do not fall within regulation 7(1)(a) or do not comply with the criteria set out in regulation 12A, shall be deemed to fall within regulation 7(1)(ca) until 31 December 2040, subject to the following limitations–

(a) up to 20% of the sum of regulation 7(1)(a) to (ca), less the sum of regulation 7(1) (h), (i) an d (j) of between 10 and 20 years after 31 December 2010;

(b) up to 10% of the sum of regulation 7(1)(a) to (ca), less the sum of regulation 7(1)(h) (i), and (j) between 20 and 30 years after 31 December 2010.

(3) For the purpose of Part VII, asset items constituting claims on and other exposures to institutions incurred prior to 31 December 2009 shall continue to be subject to the same treatment as applied in accordance with regulations 68(5) and 69 as they stood prior to 7 December 2009 but only until 31 December 2012.

(4) Until 31 December 2012, the time period referred to in regulations 9B, 9D and 9F shall be six months.

7.(1) A credit institution which calculates risk-weighted exposure amounts in accordance with regulations 34 to 39 shall until 31 December 2011 provide own funds which are at all times more than or equal to the amount indicated in sub-paragraph (3) or (4) if applicable.

(2) A credit institutions which uses the Advanced Measurement Approaches as specified in regulation 55 for the calculation of its capital requirements for operational risk shall until 31 December 2011 provide own funds which are at all times more than or equal to the amount indicated in sub-paragraph (3) or (4) if applicable.

(3) The amount referred to in sub-paragraphs (1) and (2) shall be 80% of the total minimum amount of own funds which the credit institutions would be required to hold under article 4 of Directive 93/6/EEC and Directive 2000/12/EC, as applicable prior to 1 January 2007.

(4) Subject to the Commissioner's approval, for a credit institution referred to in sub-paragraph (5), the amount referred to in sub-paragraphs (1) and (2) may amount to up to 80% of the total minimum amount of own funds that that credit institution would be required to hold under any of regulations 28 to 33, 53 or 54 and Directive 2006/49/EC, as applicable prior to 1 January 2011.

(5) A credit institution may apply sub-paragraph (4) only if it started to use the IRB Approach or the Advanced Measurement Approaches for the calculation of its capital requirements on or after 1 January 2010.".

Amendment of Schedule 3.

31.(1) The following paragraph is inserted after paragraph 5 of Part 1–

"5A. Under the method in Part 6 of this Schedule (IMM), all netting sets with a single counterparty may be treated as single netting set if negative simulated market values of the individual netting sets are set to 0 in the estimation of expected exposure (EE).".

(2) In paragraph 3 of Part 2 "paragraph 4 of Part 1 or paragraphs 96 to 104 of Part 4 of Schedule 7 " is substituted for "paragraph 4 or paragraphs 96 to 104 of Part 1 of Schedule 7".

(3) The following paragraph is inserted after paragraph 3 of Part 2–

"3A The exposure value for CCR for the credit derivatives under paragraph 3 is set to zero where the option in paragraph 11 of Schedule 2 of the FSCAIF Regulations is not applied but an institution may choose consistently to include for calculating capital requirements for counterparty credit risk all credit derivatives not included in the trading book and purchased as protection against a non-trading book exposure or against a CCR exposure where the credit protection is in keeping with these Regulations.".

(4) The following paragraph is inserted after paragraph 15 of Part 5–

"15A. "Nth to default" basket credit default swaps shall be treated as follows–

(a) the size of a risk position in a reference debt instrument in a basket underlying an "nth to default" credit default swap is the effective notional value of the reference debt instrument, multiplied by the modified duration of the "nth to default" derivative with respect to a change in the credit spread of the reference debt instrument;

(b) there is one hedging set for each reference debt instrument in a basket underlying a given "nth to default" credit default swap but risk positions from different "nth to default" credit defaults swaps shall not be included in the same hedging set;

(c) the CCR multiplier applicable to each hedging set created for one of the reference debt instruments of an "nth to default" derivative is

0.3% for reference debt instruments that have a credit assessment from a recognised external credit assessment institution equivalent to credit quality step 1 to 3 and 0.6% for other debt instruments.".

Amendment of Schedule 5.

32.(1) In paragraph 8 "are investor, originator or sponsor, including reputational risks such as arise in relation to complex structures or products" is substituted for "are originator or sponsor".

(2) The following paragraphs are substituted for paragraphs 14 and 15–

"14. Robust strategies, policies, processes and systems shall exist for the identification, measurement, management and monitoring of liquidity risk over an appropriate set of time horizons, including intra-day, so as to ensure that credit institutions maintain adequate levels of liquidity buffers and those strategies, policies, processes and systems shall be tailored to business lines, currencies and entities and shall include adequate allocation mechanisms of liquidity costs, benefits and risks.

14A. The strategies, policies, processes and systems referred to in paragraph 14 shall be proportionate to the complexity, risk profile, scope of operation of a credit institution and risk tolerance set by the management body and reflect the credit institution's importance in Gibraltar and in each EEA State in which it carries on business.

14B. A credit institution shall inform all relevant business lines about its risk tolerance

15. A credit institution shall develop methodologies for the identification, measurement, management and monitoring of funding positions which include the current and projected material cash-flows in and arising from assets, liabilities, off-balance-sheet items, including contingent liabilities and the possible impact of reputational risk.

16. A credit institution shall distinguish between pledged and unencumbered assets that are available at all times, in

particular during emergency situations and shall take into account the legal entity in which assets reside, the country where assets are legally recorded either in a register or in an account as well as their eligibility and shall monitor how assets can be mobilised in a timely manner.

17. A credit institution shall have regard to existing legal, regulatory and operational limitations to potential transfers of liquidity and unencumbered assets amongst entities, both within and outside Gibraltar and the EEA.

18. A credit institution shall consider and regularly review different liquidity risk mitigation tools, including a system of limits and liquidity buffers, in order to be able to withstand a range of different stress events and an adequately diversified funding structure and access to funding sources.

19. Alternative scenarios on liquidity positions and on risk mitigants shall be considered and the assumptions underlying decisions concerning the funding position shall be reviewed regularly and those scenarios shall address off-balance sheet items and other contingent liabilities, including those of SSPEs or other special purpose entities, in relation to which the credit institution acts as sponsor or provides material liquidity support.

20. A credit institution shall consider the potential impact of institution-specific, market-wide and combined alternative scenarios and the different time horizons and varying degrees of stressed conditions.

21. A credit institution shall adjust its strategies, internal policies and limits on liquidity risk and develop effective contingency plans, taking into account the outcome of the alternative scenarios referred to in paragraph 19.

22. In order to deal with liquidity crises, a credit institution shall have in place contingency plans, which shall be regularly tested, setting out adequate strategies and proper implementation measures in order to address possible liquidity shortfalls on the basis of the outcome of the alternative

scenarios set out in paragraph 19, so that internal policies and processes can be adjusted accordingly.".

(3) The following heading and paragraphs are inserted after paragraph 24–

"**11. Remuneration Policies.**

25. When establishing and applying the total remuneration policies, inclusive of salaries and discretionary pension benefits, for categories of staff including senior management, risk takers, staff engaged in control functions and any employee receiving total remuneration which takes them into the same remuneration bracket as senior management and risk takers, whose professional activities have a material impact on their risk profile, credit institutions shall comply with the following principles in a way and to the extent that is appropriate to their size, internal organisation and the nature, the scope and the complexity of their activities–

(a) the remuneration policy is consistent with and promotes sound and effective risk management and does not encourage risk-taking that exceeds the level of tolerated risk of the credit institution;

(b) the remuneration policy is in line with the business strategy, objectives, values and long-term interests of the credit institution, and incorporates measures to avoid conflicts of interest;

(c) the management body, in its supervisory function, of the credit institution adopts and periodically reviews the general principles of the remuneration policy and is responsible for its implementation;

(d) the implementation of the remuneration policy is, at least annually, subject to central and independent internal review for compliance with policies and procedures for remuneration adopted by the management body in its supervisory function;

(e) staff engaged in control functions are independent from the business units they oversee, have appropriate

authority, and are remunerated in accordance with the achievement of the objectives linked to their functions, independent of the performance of the business areas they control;

(f) the remuneration of the senior officers in the risk management and compliance functions is directly overseen by the remuneration committee referred to in paragraph 26 or, if such a committee has not been established, by the management body in its supervisory function;

(g) where remuneration is performance related, the total amount of remuneration is based on a combination of the assessment of the performance of the individual and of the business unit concerned and of the overall results of the credit institution and when assessing individual performance, financial and non-financial criteria are taken into account;

(h) the assessment of the performance is set in a multi-year framework in order to ensure that the assessment process is based on longer-term performance and that the actual payment of performance-based components of remuneration is spread over a period which takes account of the underlying business cycle of the credit institution and its business risks;

(i) the total variable remuneration does not limit the ability of the credit institution to strengthen its capital base;

(j) guaranteed variable remuneration is exceptional and occurs only when hiring new staff and is limited to the first year of employment;

(k) in the case of a credit institution which benefits from exceptional government intervention–

(i) variable remuneration is strictly limited as a percentage of net revenue where it is inconsistent with the maintenance of a sound

capital base and timely exit from government support;

(ii) the Commissioner requires credit institutions to restructure remuneration in a manner aligned with sound risk management and long-term growth, including, where appropriate, establishing limits to the remuneration of the persons who effectively direct the business of the credit institution; and

(iii) no variable remuneration is paid to the persons who effectively direct the business of the credit institution unless justified;

(l) fixed and variable components of total remuneration are appropriately balanced and the fixed component represents a sufficiently high proportion of the total remuneration to allow the operation of a fully flexible policy, on variable remuneration components, including the possibility to pay no variable remuneration component.

Credit institutions shall set the appropriate ratios between the fixed and the variable component of the total remuneration;

(m) payments related to the early termination of a contract reflect performance achieved over time and are designed in a way that does not reward failure;

(n) the measurement of performance used to calculate variable remuneration components or pools of variable remuneration components includes an adjustment for all types of current and future risks and takes into account the cost of the capital and the liquidity required.

The allocation of the variable remuneration components within the credit institution shall also take into account all types of current and future risks;

(o) a substantial portion, and in any event at least 50%, of any variable remuneration shall consist of an appropriate balance of–

(i) shares or equivalent ownership interests, subject to the legal structure of the credit institution concerned or share-linked instruments or equivalent non-cash instruments, in case of a non- listed credit institution, and

(ii) where appropriate, other instruments within the meaning of regulation 15(1A)(a), that adequately reflect the credit quality of the credit institution as a going concern.

The instruments referred to in this paragraph shall be subject to an appropriate retention policy designed to align incentives with the longer-term interests of the credit institution. The Commissioner may place restrictions on the types and designs of those instruments or prohibit certain instruments as appropriate. This paragraph shall be applied to both the portion of the variable remuneration component deferred in accordance with sub-paragraph (p) and the portion of the variable remuneration component not deferred;

(p) a substantial portion, and in any event at least 40%, of the variable remuneration component is deferred over a period which is not less than three to five years and is correctly aligned with the nature of the business, its risks and the activities of the member of staff in question.

Remuneration payable under deferral arrangements shall vest no faster than on a pro-rata basis. In the case of a variable remuneration component of a particularly high amount, at least 60% of the amount shall be deferred. The length of the deferral period shall be established in accordance with the business cycle, the nature of the business, its risks and the activities of the member of staff in question;

(q) the variable remuneration, including the deferred portion, is paid or vests only if it is sustainable according to the financial situation of the credit institution as a whole, and justified according to the performance of the credit institution, the business unit and the individual concerned.

Without prejudice to the general principle of contract and employment legislation, the total variable remuneration shall generally be considered contracted where subdued or negative financial performance of the credit institution occurs, taking into account both current remuneration and reductions in payouts of amounts previously earned, including through malus or clawback arrangements;

(r) the pension policy is in line with the business strategy, objectives, values and long-term interests of the credit institution.

If the employee leaves the credit institution before retirement, discretionary pension benefits shall be held by the credit institution for a period of five years in the form of instruments referred to in sub-paragraph (o). In case of an employee reaching retirement, discretionary pension benefits shall be paid to the employee in the form of instruments referred to in sub-paragraph (o) subject to a five-year retention period;

(s) staff members are required to undertake not to use personal hedging strategies or remuneration and liability-related insurance to undermine the risk alignment effects embedded in their remuneration arrangements; and

(t) variable remuneration is not paid through vehicles or methods that facilitate the avoidance of the requirements of these Regulations.

The principles set out in this paragraph shall be applied by a credit institution at group, parent company and subsidiary levels, including those established in offshore financial centres.

26. A credit institution which is significant in terms of its size, internal organisation and the nature, the scope and the complexity of its activities shall establish a remuneration committee. The remuneration committee shall be constituted in such a way as to enable it to exercise competent and independent judgment on remuneration policies and practices and the incentives created for managing risk, capital and liquidity.

The remuneration committee shall be responsible for the preparation of decisions regarding remuneration, including those which have implications for the risk and risk management of the credit institution concerned and which are to be taken by the management body in its supervisory function. The chairperson and the members of the remuneration committee shall be members of the management body who do not perform any executive functions in the credit institution concerned. When preparing such decisions, the remuneration committee shall take into account the long-term interests of shareholders, investors and other stakeholders in the credit institution.".

Amendment of Schedule 6.

33.(1) Paragraph 29 of Part 1 is substituted by the following paragraph–

"29. Exposures to institutions with a residual maturity of more than three months for which a credit assessment by a nominated external credit assessment institution is available shall be assigned a risk weight according to Table 4 in accordance with the assignment by the competent authorities of the credit assessments of eligible external credit assessment institutions to six steps in a credit quality assessment scale-".

(2) Paragraph 31 of Part 1 is substituted by the following paragraph–

"31. Exposures to an institution of up to three months residual maturity for which a credit assessment by a nominated external

credit assessment institution is available shall be assigned a risk-weight according to Table 5 in accordance with the assignment by the competent authorities of the credit assessments of eligible external credit assessment institutions six steps in a credit quality assessment scale-".

(3) In paragraph 68 of section 12 of Part 1, the following sub-paragraphs are substituted for sub-paragraphs (d) and (e)–

"(d) loans secured by residential real estate or shares in Finnish residential housing companies as referred to in paragraph 46 up to the lesser of the principal amount of the liens which are combined with any prior liens and 80% of the value of the pledged properties or by senior units issued by French Fonds Communs de Créances or by equivalent securitisation entities governed by the laws of a Member State securitising residential real estate exposures. In the event of such senior units being used as collateral, the special public supervision to protect bond holders as provided for in article 52(4) of Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) shall ensure that the assets underlying such units shall, at any time while they are included in the cover pool be at least 90% composed of residential mortgages that are combined with any prior liens up to the lesser of the principal amounts due under the units, the principal amounts of the liens, and 80% of the value of the pledged properties, that the units qualify for the credit quality step 1 as set out in this Schedule and which such units do not exceed 10% of the nominal amount of the outstanding issue.

Exposures caused by transmission and management of payments of the obligors of, or liquidation proceeds in respect of, loans secured by pledged properties of the senior units or debt securities shall not be comprised in calculating the 90% limit;

(e) loans secured by commercial real estate or shares in Finnish housing companies as referred to in paragraph 52 up to the lesser of the principal amount of the liens that are combined

with any prior liens and 60% of the value of the pledged properties or by senior units issued by French Fonds Communs de Créances or by equivalent securitisation entities governed by the laws of a Member State securitising commercial real estate exposures. In the event of such senior units being used as collateral, the special public supervision to protect bond holders as provided for in article 52(4) of Directive 2009/65/EC shall ensure that the assets underlying such units shall, at any time while they are included in the cover pool be at least 90% composed of commercial mortgages that are combined with any prior liens up to the lesser of the principal amounts due under the units, the principal amounts of the liens, and 60 % of the value of the pledged properties, that the units qualify for the credit quality step 1 as set out in this schedule and that such units do not exceed 10% of the nominal amount of the outstanding issue.

The Commissioner may recognise loans secured by commercial real estate as eligible where the Loan-to-value ratio of 60% is exceeded up to a maximum level of 70% if the value of the total assets pledged as collateral for the covered bonds exceed the nominal amount outstanding on the covered bond by at least 10%, and the bondholders' claim meets the legal certainty requirements set out in Schedule 8. The bondholders' claim shall take priority over all other claims on the collateral. Exposures caused by transmission and management of payments of the obligors of, or liquidation proceeds in respect of, loans secured by pledged properties of the senior units or debt securities shall not be comprised in calculating the 90% limit;".

(4) In paragraph 68 of Section 12 of Part 1 the following sub-paragraph is substituted for the third sub-paragraph–

"Until 31 December 2013, the 10% limit for senior units issued by French Fonds Communs de Créances or by equivalent securitisation entities as specified in sub-paragraphs (d) and (e) shall not apply, provided that–

(i) the securitised residential or commercial real estate exposures were originated by a member of the same consolidated group of which the issuer of the covered

bonds is also a member or by an entity affiliated to the same central body to which the issuer of the covered bonds is also affiliated (that common group membership or affiliation to be determined at the time the senior units are made collateral for covered bonds); and

(ii) a member of the same consolidated group of which the issuer of the covered bonds is also a member or an entity affiliated to the same central body to which the issuer of the covered bonds is also affiliated retains the whole first loss tranche supporting those senior units.".

(5) The title of section 14 in Part 1 is substituted by–

"14. EXPOSURES TO INSTITUTIONS AND CORPORATES WITH A SHORT-TERM CREDIT ASSESSMENT."

(6) Paragraph 73 of Part 1 is substituted by the following paragraph–

"73. Exposures to institutions where paragraphs 29 to 32 apply, and exposures to corporates for which a short-term credit assessment by a nominated external credit assessment institution is available shall be assigned a risk weight according to Table 7, in accordance with the mapping by the competent authorities of the credit assessments of eligible external credit assessment institutions to six steps in a credit quality assessment scale-".

(7) The following paragraph is inserted after paragraph 89–

"90. The exposure value for leases shall be the discounted minimum lease payments. Minimum lease payments are the payments over the lease term that the lessee is or can be required to make and any bargain option (i.e. option the exercise of which is reasonably certain). Any guaranteed residual value fulfilling the set of conditions in paragraphs 26 to 28 of Part 1 of Schedule 8 regarding the eligibility of protection providers as well as the minimum requirements for recognising other types of guarantees provided in paragraphs 14 to 19 of Part 2 of Schedule 8 shall also be included in the minimum lease

payments. These exposures shall be assigned to the relevant exposure class in accordance with regulation 29. When the exposure is a residual value of leased properties, the risk weighted exposure amounts shall be calculated as: 1/t * 100% * exposure value, where "t" is the greater of 1 and the nearest number of whole years of the lease remaining.".

Amendment of Schedule 7.

34.(1) In paragraph 25 of Part 1 "equity portfolio level shall not be less than the total of the sums" is substituted for "individual exposure level shall not be less than the sum" and "24" is substituted for "24(a)".

(2) In paragraph 27 of Part 1 "of leased properties in which case it shall be" is substituted for "in which case it shall be provisioned for each year and shall be" and "greater of 1 and the nearest number of whole years of the lease remaining" is substituted for "number of years of the lease contract term".

(3) In paragraph 8 of Section 1 of Part 2 the following sub-paragraph is substituted for sub-paragraph (d)–

"(d) Covered bonds as defined in paragraphs 68 to 70 of Part 1 may be assigned an LGD value of 11.25%:".

(4) In paragraph 13(c) of Part 2 the following sentence is inserted as the second sentence–

"For repurchase transactions or securities or commodities lending or borrowing transactions which are subject to a master netting agreement, M shall be the weighted average remaining maturity of the transactions where M shall be at least 5 days.".

(5) In paragraph 14 of Part 2 "(c)," is inserted after "(b),"

(6) In paragraph 96 of Part 4 "institutions, central governments, central banks and corporate entities which meet the requirements of paragraph 26(g) of Part 1 of Schedule 8" is substituted for "credit institutions, investment firms and central governments and central banks".

Amendment of Schedule 8.

35.(1) The following un-numbered paragraph is inserted at the end of paragraph 9 of Part 1–

> "If the collective investment undertaking is not limited to investing in instruments that are eligible for recognition under paragraphs 7 and 8, units may be recognised with the value of the eligible assets as collateral under the assumption that the CIU has invested to the maximum extent allowed under its mandate in non-eligible assets. In cases where non-eligible assets can have a negative value due to liabilities or contingent liabilities resulting from ownership, the credit institution shall calculate the total value of the non-eligible assets and shall reduce the value of the eligible assets by that of the non-eligible assets in case the latter is negative in total.".

(2) The following un-numbered paragraph is inserted at the end of paragraph 11 of Part 1–

> "If the collective investment undertaking is not limited to investing in instruments that are eligible for recognition under sub-paragraph (a) and paragraphs 7 and 8, units may be recognised with the value of the eligible assets as collateral under the assumption that the CIU has invested to the maximum extent allowed under its mandate in non-eligible assets. In cases where non-eligible assets can have a negative value due to liabilities or contingent liabilities resulting from ownership, the credit institution shall calculate the total value of the non-eligible assets and shall reduce the value of the eligible assets by that of the non-eligible assets in case the latter is negative in total.".

(3) In paragraph 13 of Part 2 "all" is inserted after "recognised".

(4) In the list of sub-paragraphs in paragraph 13 of Part 2–

(a) paragraphs (a) and (d) are omitted;

(b) in paragraph (e), "in a timely way" is omitted; and

(c) the following paragraphs are inserted after paragraph (h)–

"(i) the surrender value is declared by the company providing the life insurance and is non-reducible;

(j) the surrender value is to be paid in a timely manner upon request;

(k) the surrender value cannot be requested without the consent of the credit institution; and

(l) the company providing the life insurance is subject to Directive 2002/83/EC and Directive 2001/17/EC of the European Parliament and of the Council or is subject to supervision by a competent authority of a non-EEA State which applies supervisory and regulatory arrangements at least equivalent to those applied in the EEA.".

(5) In paragraph 16 of Part 2 the words "or an international organisation" are inserted after the words "a multilateral development bank".

(6) In paragraph 24 of Part 3 the following words are inserted after the last reference to "Method"–

", unless for the purposes of regulations 35 and 39. Credit institutions shall demonstrate to the Commissioner that this exceptional application of both methods is not used selectively with the purpose of achieving reduced minimum capital requirements and does not lead to regulatory arbitrage.".

(7) In paragraph 26 of Part 3–

(a) the words "portions of exposure values collateralised" are substituted for the words "portions of claims collateralised" ;

(b) the following sentence is inserted as the second sentence–

"For this purpose, the exposure value of an off-balance sheet item in Schedule 2 shall be 100% of its value rather than the exposure value indicated in regulation 28(1)." ;

(c) in the last sentence, the word "value" is inserted after the word "exposure".

(8) In paragraph 33 of Part 3 in the definition of "E" "the exposure value" is substituted for "the percentages".

(9) In paragraph 69 of Part 3 the following sentence is inserted at the end thereof–

"For this purpose, the exposure value of the items in paragraphs 9 to 11 of Part 3 of Schedule 7 shall be calculated using a conversion factor or percentage of 100 % rather than the conversion factors or percentages indicated in those paragraphs.".

(10) Paragraph 75 of Part 3 is substituted by the following paragraph–

"75. Where the discretion provided for in paragraph 73 is exercised by the Commissioner, the competent authorities of an EEA State may authorise their credit institutions to assign the risk weights permitted under the treatment of that paragraph in respect of exposures collateralised by residential real estate property or commercial real estate property located in Gibraltar subject to the same conditions as apply in Gibraltar.".

(11) Paragraph 80 of Part 3 is substituted by the following paragraph–

"80. Where the conditions set out in paragraph 13 of Part 2 are satisfied, the portion of the exposure collateralised by the current surrender value of credit protection falling within paragraph 24 of Part 1 shall be either of the following–

(a) subject to the risk weights specified in paragraph 80A where the exposure is subject to regulations 28 to 33;

(b) assigned an LGD of 40% where the exposure is subject to regulations 34 to 39 but not subject to the credit institution's own estimates of LGD.

In case of a currency mismatch, the current surrender value shall be reduced according to paragraph 84, the value of the

credit protection being the current surrender value of the life insurance policy.".

(12) The following paragraph is inserted after paragraph 80 of Part 3–

"80A.For purposes of paragraph 80(a), the following risk weights shall be assigned on the basis of the risk weight assigned to a senior unsecured exposure to the company providing the life insurance–

(a) a risk weight of 20%, where the senior unsecured exposure to the company providing the life insurance is assigned a risk weight of 20%;

(b) a risk weight of 35% , where the senior unsecured exposure to the company providing the life insurance is assigned a risk weight of 50%;

(c) a risk weight of 70%, where the senior unsecured exposure to the company providing the life insurance is assigned a risk weight of 100%;

(d) a risk weight of 150%, where the senior unsecured exposure to the company providing the life insurance is assigned a risk weight of 150%.".

(13) In paragraph 87 of Part 3–

(a) the words " , the exposure value (E) of" are inserted after the first reference to "exposure";

(b) the following definition is inserted before the definition of "g"–

"E is the exposure value according to regulation 28. For this purpose, the exposure value of an off-balance sheet item listed in Schedule 2 shall be 100% of its value rather than the exposure value indicated in regulation 28(1);".

(14) In paragraph 88 of Part 3 the definition of "E" is substituted by–

"E is the exposure value according to regulation 28. For this purpose, the exposure value of an off-balance sheet item listed in Schedule 2 shall be 100 % of its value rather than the exposure value indicated in regulation 28(1);".

(15) In paragraph 90 of Part 3 "value (E)" is inserted after "portion of the exposure" and "G_A" is substituted for "GA".

(16) In paragraph 91 of Part 3 "value (E)" is inserted after "portion of the exposure".

(17) In paragraph 92 of Part 3 the following sentence is inserted at the end thereof–

"E is the exposure value according to Part 3 of Schedule 7. For this purpose, the exposure value of the items listed in paragraphs 9 to 11 of Part 3 of Schedule 7 shall be calculated using a conversion factor or percentage of 100% rather than the conversion factors or percentages indicated in those paragraphs.".

Amendment of Schedule 9.

36.(1) Paragraph 1 of Part 2 is re-numbered as paragraph 1(1) and in the introductory sentence the words "either of the following conditions is met" is substituted for all the words between "significant" and "conditions".

(2) In paragraph 1(1) of Part 2 as re-numbered after the introductory sentence but before sub-paragraphs (a) to (g) the following two sub-paragraphs and paragraphs 1(2) to 1(5) are inserted–

"(a) significant credit risk associated with the securitised exposures is considered to have been transferred to third parties;

(b) the originator credit institution applies a 1250% risk weight to all securitisation positions it holds in this securitisation or deducts these securitisation positions from own funds according to regulation 7(1)(r).

1(2) Unless the Commissioner decides in a specific instance that the possible reduction in risk weighted exposure amounts which the originator credit institution would achieve by this securitisation is not justified by a commensurate transfer of

credit risk to third parties, significant credit risk shall be considered to have been transferred in the following cases–

(a) the risk-weighted exposure amounts of the mezzanine securitisation positions held by the originator credit institution in this securitisation do not exceed 50% of the risk weighted exposure amounts of all mezzanine securitisation positions existing in this securitisation;

(b) where there are no mezzanine securitisation positions in a given securitisation and the originator can demonstrate that the exposure value of the securitisation positions that would be subject to deduction from own funds or a 1250% risk weight exceeds a reasoned estimate of the expected loss on the securitised exposures by a substantial margin, the originator credit institution does not hold more than 20% of the exposure values of the securitisation positions that would be subject to deduction from own funds or a 1250% risk weight.

1(3) For the purposes of paragraph 1(2), mezzanine securitisation positions mean securitisation positions to which a risk weight lower than 1250% applies and that are more junior than the most senior position in this securitisation and more junior than any securitisation position in this securitisation to which–

(a) in the case of a securitisation position subject to paragraphs 6 to 36 of Part 4 a credit quality step 1; or

(b) in the case of a securitisation position subject to paragraph 76 of Part 4 a credit quality step 1 or 2 is assigned under Part 3.

1(4) As an alternative to paragraphs 1(2) and (3) significant credit risk may be considered to have been transferred if the Commissioner is satisfied that a credit institution has policies and methodologies in place, ensuring that the possible reduction of capital requirements which the originator achieves by the

securitisation is justified by a commensurate transfer of credit risk to third parties. The Commissioner shall only be satisfied if the originator credit institution can demonstrate that such transfer of credit risk to third parties is also recognised for purposes of the credit institution's internal risk management and its internal capital allocation.

1(5) In addition to paragraphs 1(1) to (4), all of the following conditions shall be met -".

(3) Paragraph 2 of Part 2 is re-numbered as paragraph 2(1) and in the introductory sentence the words "either of the following conditions is met" is substituted for all the words between "significant" and "conditions".

(4) In paragraph 2(1) as re-numbered after the introductory sentence but before sub-paragraphs (a) to (d) the following two sub-paragraphs and paragraphs 2(2) to 2(5) are inserted–

"(a) significant credit risk is considered to have been transferred to third parties either through funded or unfunded credit protection;

(b) the originator credit institution applies a 1250% risk weight to all securitisation positions he holds in this securitisation or deducts these securitisation positions from own funds according to regulation 7(1)(r).

2(2) Unless the Commissioner decides on a case- by-case basis that the possible reduction in risk weighted exposure amounts which the originator credit institution would achieve by this securitisation is not justified by a commensurate transfer of credit risk to third parties, significant credit risk shall be considered to have been transferred if either of the following conditions is met–

(a) the risk-weighted exposure amounts of the mezzanine securitisation positions which are held by the originator credit institution in this securitisation do not exceed 50% of the risk weighted exposure amounts of all mezzanine securitisation positions existing in this securitisation;

(b) where there are no mezzanine securitisation positions in a given securitisation and the originator can demonstrate that the exposure value of the securitisation positions that would be subject to deduction from own funds or a 1250% risk weight exceeds a reasoned estimate of the expected loss on the securitised exposures by a substantial margin, the originator credit institution does not hold more than 20% of the exposure values of the securitisation positions that would be subject to deduction from own funds or a 1250% risk weight.

2(3) For the purposes of paragraph 2(2), mezzanine securitisation positions means securitisation positions to which a risk weight lower than 1250% applies and which are more junior than the most senior position in this securitisation and more junior than any securitisation positions in this securitisation to which–

(a) in the case of a securitisation position subject to paragraphs 6 to 36 of Part 4 a credit quality step 1; or

(b) in the case of a securitisation position subject to paragraphs 37 to 76 of Part 4 a credit quality step 1 or 2 is assigned under Part 3.

2(4) As an alternative to paragraphs 2(2) and (3), significant credit risk may be considered to have been transferred if the Commissioner is satisfied that a credit institution has policies and methodologies in place to ensure that a possible reduction of capital requirements that the originator achieves by the securitisation is justified by a commensurate transfer of credit risk to third parties. The Commissioner shall only be satisfied if the originator credit institution can demonstrate that such transfer of credit risk to third parties is also recognised for purposes of the credit institutions internal risk management and its internal capital allocation.

2(5) In addition, the transfer shall comply with the following conditions-".

(5) The following paragraph is inserted after paragraph 9 of Part 3–

"10. The Commissioner shall take the necessary measures to ensure that, with regard to credit assessments relating to structured finance instruments, the external credit assessment institution is committed to make available publicly the explanation how the performance of pool assets affects its credit assessments.".

(6) In the introductory phrase in paragraph 13 of Part 4, "50%" is substituted for "20%" and all the words after "facility" are omitted.

(7) Section heading 2.4.2. and paragraph 14 of Part 4 are omitted.

(8) Paragraph 48 of Part 4 is omitted.

(9) Section heading 3.5.1. and paragraph 56 of Part 4 are omitted.

Amendment of Schedule 10.

37.(1) Paragraph 1 of Part 2 is substituted by the following paragraph–

"1. The capital requirement for operational risk shall be calculated as the three-year average of the yearly summations of the capital requirements across business lines referred to in Table 2. In any given year, negative capital requirements (resulting from negative gross income) in any business line may offset positive capital requirements in other business lines without limit. However, where the aggregate capital requirements across all business lines within a given year are negative, the input to the numerator for that year shall be zero.".

(2) In paragraph 14 of Part 3, "be able to" is inserted after "Credit institutions shall" and the following sentence is inserted as the second sentence–

"Loss events which affect the entire institution may be allocated to an additional business line "corporate items" due to exceptional circumstances.".

(3) In paragraph 29 of Part 3, ""alleviation from the recognition of insurance and other risk transfer mechanisms" is substituted for "alleviation arising from the recognition of insurance".

Amendment of Schedule 11.

38.(1) In paragraph 1(e), the following words are inserted after "institutions"–

", including the development of alternative scenario analyses, the management of risk mitigants (in particular the level, composition and quality of liquidity buffers) and effective contingency plans".

(2) The following paragraphs are inserted after paragraph 1–

"1A. For the purposes of paragraph 1(e), the Commissioner shall regularly carry out a comprehensive assessment of the overall liquidity risk management by credit institutions and promote the development of sound internal methodologies and shall have regard to the role played by credit institutions in the financial markets.

1B. The Commissioner shall duly consider the potential impact of his decisions on the stability of the financial system in Gibraltar and all EEA States concerned.".

Amendment of Schedule 12.

39.(1) In paragraph 3 of Part 2, the following sub-paragraphs are substituted for sub-paragraphs (a) and (b)–

"(a) summary information on the terms and conditions of the main features of all own-funds items and components thereof, including instruments referred to in regulation 7(1)(ca), instruments the provisions of which provide an incentive for the credit institution to redeem them, and instruments subject to paragraph 6(1) and (2) of Schedule 1;

(b) the amount of the original own funds, with separate disclosure of all positive items and deductions; the overall amount of instruments referred to in regulation 7(1)(ca) and instruments the provisions of which provide an incentive for the credit institution to redeem them, shall also be disclosed separately;

those disclosures shall each specify instruments subject to paragraph 6(1) and (2) of Schedule 1;".

(2) In paragraph 10 of Part 2, the following sub-paragraphs are inserted after sub-paragraph (c)–

"(d) the highest, the lowest and the mean of the daily value-at-risk measures over the reporting period and the value-at-risk measure as per the end of the period;

(e) a comparison of the daily end-of-day value-at-risk measures to the one-day changes of the portfolio's value by the end of the subsequent business day together with an analysis of any important overshootings during the reporting period.".

(3) In Part 2 the following paragraphs are inserted after paragraph 14–

"15. The following information, including regular, at least annual, updates, shall be disclosed to the public regarding the remuneration policy and practices of the credit institution for those categories of staff whose professional activities have a material impact on its risk profile–

(a) information concerning the decision-making process used for determining the remuneration policy, including if applicable, information about the composition and the mandate of a remuneration committee, the external consultant whose services have been used for the determination of the remuneration policy and the role of the relevant stakeholders;

(b) information on link between pay and performance;

(c) the most important design characteristics of the remuneration system, including information on the criteria used for performance measurement and risk adjustment, deferral policy and vesting criteria;

(d) information on the performance criteria on which the entitlement to shares, options or variable components of remuneration is based;

(e) the main parameters and rationale for any variable component scheme and any other non-cash benefits;

(f) aggregate quantitative information on remuneration, broken down by business area.

(g) aggregate quantitative information on remuneration, broken down by senior management and members of staff whose actions have a material impact on the risk profile of the credit institution, indicating the following–

(i) the amounts of remuneration for the financial year, split into fixed and variable remuneration, and the number of beneficiaries;

(ii) the amounts and forms of variable remuneration, split into cash, shares, share- linked instruments and other types;

(iii) the amounts of outstanding deferred remuneration, split into vested and unvested portions;

(iv) the amounts of deferred remuneration awarded during the financial year, paid out and reduced through performance adjustments;

(v) new sign-on and severance payments made during the financial year, and the number of beneficiaries of such payments; and

(vi) the amounts of severance payments awarded during the financial year, number of beneficiaries and highest such award to a single person.

For a credit institutions which is significant in terms of its size, internal organisation and the nature, scope and the complexity of its activities, the quantitative information referred to in this paragraph shall also be

made available to the public at the level of persons who effectively direct the business of the credit institution.

A credit institutions shall comply with the requirements set out in this point in a manner which is appropriate to its size, internal organisation and the nature, scope and complexity of its activities and without prejudice to Directive 95/46/EC.

16. A credit institution shall disclose to the Commissioner information on the number of its individuals in pay packets of at least EUR 1 million including the business area involved and the main elements of salary, bonus, long-term award and pension contribution and he shall send this information to the Committee of European Banking Supervisors.".

(4) In paragraph 3 of Part 3, "and other risk transfer mechanisms" is inserted after "use of insurance".

European consolidating supervisor.

40. In the Financial Services (Capital Adequacy of Credit Institutions) Regulations, "European consolidating supervisor" is substituted for both the "EU consolidated supervisor" and the "consolidated Supervisor" wherever they appear in the Regulations.

Dated 12th April, 2011.

P R CARUANA,
Minister with responsibility for financial services.