SECOND SUPPLEMENT TO THE GIBRALTAR GAZETTE
No. 3965 of 22 November, 2012

LEGAL NOTICE NO. 180 OF 2012.

FINANCIAL SERVICES (BANKING) ACT

FINANCIAL SERVICES (CAPITAL ADEQUACY OF CREDIT INSTITUTIONS) (AMENDMENT) (NO.2) REGULATIONS 2012

In exercise of the powers conferred on him by section 79 of the Financial Services (Banking) Act 1992 and all other enabling powers, the Minister with responsibility for financial services has made the following Regulations to transpose into the law of Gibraltar Article 1 and Annex I of Directive 2010/76/EU of the European Parliament and of the Council 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−

Title and commencement.

1. These Regulations may be cited as the Financial Services (Capital Adequacy of Credit Institutions) (Amendment) (No.2) Regulations 2012 and come into operation on the day of publication.

Amendments to regulation 2.

2. Regulation 2(1) of the Financial Services (Capital Adequacy of Credit Institutions) Regulations 2007 (the principal Regulations) is amended−

(a) by inserting the following definition after the definition of "Asset Management Company"−

""Capital Adequacy Directive" means the Council Directive 93/6/EEC on the capital adequacy of investment firms and credit institutions as amended from time to time;"; and

(b) by inserting the following definitions after the definition of "recast Directive"−

““re-securitisation” means a securitisation where the risk associated with an underlying pool of exposures is tranched and at least one of the underlying exposures is a securitisation position;

“re-securitisation position” means an exposure to a securitisation;”.

Amendments to regulation 7.

3. Regulation 7 of the principal Regulations is amended–

(a) by substituting the following paragraph for paragraph (r) in subregulation (1)–

“(r) the exposure amount of securitisation positions which receive a risk weight of 1250% under these Regulations and the exposure amount of securitisation positions in the trading book that would receive a 1250 % risk weight if they were in the same credit institutions non-trading book;”; and

(b) by inserting the following subregulation after subregulation (3)–

“(4) Every credit institution shall–

(a) apply the requirements of Part B of Schedule 7 to the Financial Services (Capital Adequacy of Investment Firms) Regulations 2007 to all their assets measured at fair value when calculating the amount of own funds; and

(b) deduct from the total of the items (a) to (ca) minus (i) to (k) in regulation 7(1) the amount of any additional value adjustments necessary.”.

Amendments to regulation 15.

4. Regulation 15 of the principal Regulations is amended by substituting the following subregulations for subregulations (2), (3) and (4)–

“(2) The total of the items in regulation 7(1)(h) to (r) shall be deducted–

(a) 50% from 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); and

(b) 50% from the total of the items in regulation 7(1)(d) to (g),

after application of the limits in sub-regulation (1).

(3) If 50% of the total of the items in regulation 7(1)(h) to (r) exceeds the total of the items in regulation 7(1)(d) to (g), the excess shall be deducted from the total of the items in regulation 7(1)(a) to (ca) less those in regulation 7(1)(h) to (j).

(4) The total of the items in regulation 7(1)(r) shall not be deducted if it has been included in the calculation of risk-weighted exposure amounts for the purposes of regulation 23 as specified in these Regulations or in Schedule 1 or 5 to the Financial Services (Capital Adequacy of Investment Firms) Regulations 2007 .".

Amendments to regulation 23.

5. Regulation 23 of the principal Regulations is amended by substituting the following paragraphs for paragraphs (b) and (c)–

"(b) in respect of its trading-book business, for position risk and counter-party risk and, in so far as it is authorised that the limits laid down in regulations 64 to 70 are exceeded, for large exposures exceeding such limits, the capital requirements determined in accordance with regulations 14, 24 to 28 of the Financial Services (Capital Adequacy of Investment Firms) Regulations 2007;

(c) in respect of all of its business activities, for foreign-exchange risk, settlement risk and commodities risk, the capital requirements determined according to regulation 14 of the Financial Services (Capital Adequacy of Investment Firms) Regulations 2007;".

Amendment to regulation 51.

6. Regulation 51 of the principal Regulations is amended by substituting the following subregulation for subregulation (1)–

"(1) A sponsor credit institution, or an originator credit institution which, in respect of a securitisation, has made use of regulation 45 in the calculation of risk-weighted exposure amounts, or has sold instruments from its trading book to a securitisation special purpose entity to the effect that it is no longer required to hold own funds for the risks of those instruments, shall not, with a view to reducing potential or actual losses to investors, provide support to the securitisation beyond its contractual obligations.".

Amendment to regulation 64.

7. Sub-regulation (7) of regulation 64 of the principal Regulations is omitted.

Amendment to regulation 66.

8. Regulation 66(3) of the principal Regulations is amended by substituting the following paragraph for paragraph (c)–

"(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; exposures that do not meet these criteria, whether or not exempted from regulation 64(1) to (3),shall be treated as exposures to a third party;"

Amendments to regulation 83.

9. Regulation 83 of the principal Regulations is amended–

(a) by substituting a semi-colon (;) for the full-stop (.) at the end of paragraphs (e) of subregulation (2);

(b) by inserting the following paragraphs after paragraph (e) of subregulation (2)–

"(f) requiring credit institutions to limit variable remuneration as a percentage of total net revenues when it is inconsistent with the maintenance of a sound capital base;

(g) requiring credit institutions to use net profits to strengthen the capital base.";

(c) by inserting the following subregulation after subregulation (3)–

"(3A) For the purposes of determining the appropriate level of own funds on the basis of the review and evaluation carried out in accordance with regulation 80, the competent authority shall assess whether any imposition of a specific own funds requirement in excess of the minimum level is required to capture risks to which a credit institution is or might be exposed, taking into account the following–

(a) the quantitative and qualitative aspects of the credit institutions' assessment process referred to in regulation 79;

(b) the credit institutions' arrangements, processes and mechanisms referred to in section 23(3)(cc)(iii) of the the Financial Services (Banking) Act;

(c) the outcome of the review and evaluation carried out in accordance with regulation 80.".

Amendment to regulation 87.

10. Regulation 87 of the principal Regulations is amended by substituting the following subregulations for subregulation (3)–

"(3) Every credit institution shall–

(a) adopt a formal policy to comply with the disclosure requirements laid down in subregulations (1) and (2); and

(b) have policies for assessing–

(i) the appropriateness of its disclosures, including verification and frequency, and

(ii) whether their disclosures convey their risk profile comprehensively to market participants.

(3A) Where the disclosures referred to in subregulation (3) do not convey the risk profile comprehensively to market participants, the credit institution shall publicly disclose the information necessary in addition to that required in accordance with subregulation (1).

(3B) The credit institution shall only be required to disclose information under subregulation (3A) which is material and not proprietary or confidential in accordance with the technical criteria set out in Part 1 of Schedule 12.".

Amendments to Schedule 1.

11. Schedule 1 of the principal Regulations is amended–

(a) by inserting the following subparagraphs after subparagraph (5) in paragraph 2–

"(5A) Every credit institution calculating 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 subparagraph (5C) or (5D) if applicable.

(5B) Every credit institution using 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 subparagraph (5C) or (5D) if applicable.

(5C) The amount referred to in subparagraphs (5A) and (5B) shall be 80 % of the total minimum amount of own funds that the credit institutions would be required to hold under Article 4 of the Capital Adequacy Directive and the Financial Services

(Consolidated Supervision of Credit Institutions) Regulations 2007, as applicable prior to 1 January 2007;

(5D) Subject to the approval of the competent authority, for credit institutions referred to in subparagraph (5E), the amount referred to in subparagraphs (5A) and (5B) may amount to up to 80 % of the total minimum amount of own funds that those credit institutions would be required to hold under any of regulations 28 to 33, 53 or 54 and the Financial Services (Capital Adequacy of Investment Firms) Regulations 2007, as applicable prior to 1 January 2011.

(5E) A credit institution may apply subparagraph (5D) 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."; and

(b) by substituting the following subparagraph for subparagraph (8) in paragraph 4–

"(8) Until 31 December 2012, the exposure weighted average LGD for all retail exposures secured by residential properties and not benefiting from guarantees from central governments shall not be lower than 10 %.".

Amendment to Schedule 5.

12. Schedule 5 of the principal Regulations is amended by substituting the following Item for Item "11. REMUNERATION POLICIES"−

"11. REMUNERATION POLICIES

23. 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 that 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 point (24) 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 credit institutions that benefit 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 relevant competent authority require 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 within the meaning of section 96(5) of the Financial Services (Banking) Act;

(iii) no variable remuneration is paid to the persons who effectively direct the business of the credit institution within the meaning of section 96(5) of the Financial Services (Banking) Act 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 (Ia)(a), that adequately reflect the credit quality of the credit institution as a going concern.

The instruments referred to in this point shall be subject to an appropriate retention policy designed to align incentives with the longer-term interests of the credit institution. The competent authority may place restrictions on the types and designs of those instruments or prohibit certain instruments as appropriate. This point shall be applied to both the portion of the variable remuneration component deferred in accordance with point (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 5 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 principles of contract and labour law, the total variable remuneration shall generally be considerably 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 5 years in the form of instruments referred to in point (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 point (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;

(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 point shall be applied by credit institutions at group, parent company and subsidiary levels, including those established in offshore financial centres.

24. Credit institutions that are significant in terms of their size, internal organisation and the nature, the scope and the complexity of their 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 Chair 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 to Schedule 6.

13. Schedule 6 of the principal Regulations is amended–

(a) by substituting the following point for point 8 under paragraph 2 of Part 1–

"8. Without prejudice to points 9 to 11, exposures to the government shall be risk weighted as exposures to institutions, subject to point 11a. Such treatment is independent of the exercise of discretion specified in regulation 30(5). The preferential treatment for short-term exposures specified in points 31, 32 and 37 shall not be applied.";

(b) by inserting the following point after point 11 under paragraph 2 of Part 1–

"11a. Without prejudice to points 9, 10 and 11, exposures to the Government denominated and funded in the currency of Gibraltar shall be assigned a risk weight of 20%.";

(c) by substituting the following clauses in the first sub-paragraph of point 68 under paragraph 12 of Part 1 for clauses (d) and (e)−

"(d) loans secured by residential real estate or shares in Finnish residential housing companies as referred to in point 46 up to the lesser of the principal amount of the liens that 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 regulation 49(4) of the Financial Services (Collective Investment Schemes) Regulations 2011 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 that 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 point 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 regulation 49(4)of the Financial Services (Collective Investment Schemes) Regulations 2011 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 competent authority 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;";

(d) by substituting the following sub-paragraphs in point 68 under paragraph 12 of Part 1for the third sub-paragraphs−

"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 points (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.";

Amendment to Schedule 7.

14. Schedule 7 of the principal Regulations is amended by substituting the following point for point 8(d) of section 1 of Part 2−

"(d) Covered bonds as defined in Schedule 6, Part 1, points 68 to 70 may be assigned an LGD value of 11.25 %;".

Amendments to Schedule 9.

15. Schedule 9 of the principal Regulations is amended–

(a) by inserting the following subparagraph after subparagraph (b) in point 1 of Part 3−

"(c) The credit assessment shall not be based or partly based on unfunded support provided by the credit institution itself. In such case, the credit institution shall consider the relevant position as if it were not rated and shall apply the relevant treatment of unrated positions as set out in Part 4.";

(b) by substituting the following point for point 5 of Part 4−

"5. Where a credit institution has two or more overlapping positions in a securitisation, it will be required to the extent

that they overlap to include in its calculation of risk-weighted exposure amounts only the position or portion of a position producing the higher risk-weighted exposure amounts. The credit institution may also recognise such overlap between specific risk capital charges for positions in the trading book and capital charges for positions in the banking book, provided that the credit institution is able to calculate and compare the capital charges for the relevant positions. For the purpose of this point "overlapping" occurs when the positions, wholly or partially, represent an exposure to the same risk such that the extent of the overlap there is a single exposure.

Where point 1(c) of Part 3 applies to positions in the ABCP, the credit institution may, subject to the approval of the competent authority, use the risk-weight assigned to a liquidity facility in order to calculate the risk-weighted exposure amount for the ABCP if the liquidity facility ranks pari passu with the ABCP so that they form overlapping positions and 100 % of the ABCP issued by the programme is covered by liquidity facilities.";

(c) by substituting the following point for point 6 of Part 4-

"6. Subject to point 8, the risk-weighted exposure amount of a rated securitisation or re-securitisation position shall be calculated by applying to the exposure value the risk weight associated with the credit quality step with which the credit assessment has been determined to be associated by the competent authority in accordance with regulation 48 as laid down in Table 1.";

(d) by substituting the following Table for Table 1 of Part 4–

"Table 1

Credit Quality Step	1	2	3	4(only for credit assessments other than short-term credit assessments)	all other credit quality steps

Securitisation positions	20 %	50 %	100 %	350 %	1250 %
Re-securitisation positions	40 %	100 %	225 %	650 %	1250 %

(e) by deleting Table 2 of Part 4;

(f) by substituting the following point for point 46 of Part 4–

“46. Under the Ratings Based Method, the risk-weighted exposure amount of a rated securitisation or re-securitisation position shall be calculated by applying to the exposure value the risk weight associated with the credit quality step with which the credit assessment has been determined to be associated by the competent authority in accordance with regulation 48, as set out in the Table 4, multiplied by 1,06.”;

(g) by substituting the following Table for Table 4 of Part 4–

“Table 4

<table>
<tr><th colspan="2">Credit Quality Step</th><th colspan="3">Securitisation Positions</th><th colspan="2">Re-securirisation Positions</th></tr>
<tr><td>Credit assessments other than short term</td><td>Short term credit assessments</td><td>A</td><td>B</td><td>C</td><td>D</td><td>E</td></tr>
<tr><td>1</td><td>1</td><td>7%</td><td>12%</td><td>20%</td><td>20%</td><td>30%</td></tr>
<tr><td>2</td><td></td><td>8%</td><td>12%</td><td>25%</td><td>25%</td><td>40%</td></tr>
<tr><td>3</td><td></td><td>10%</td><td>18%</td><td rowspan="3">35%</td><td>35%</td><td>50%</td></tr>
<tr><td>4</td><td>2</td><td>12%</td><td>20%</td><td>40%</td><td>65%</td></tr>
<tr><td>5</td><td></td><td>20%</td><td>35%</td><td>60%</td><td>100%</td></tr>
<tr><td>6</td><td></td><td>35%</td><td colspan="2">50%</td><td>100%</td><td>150%</td></tr>
<tr><td>7</td><td>3</td><td>60%</td><td colspan="2">75%</td><td>150%</td><td>2250 %</td></tr>
</table>

8		100%			200%	350%
9	2	250%			300%	500%
10		425%			500%	650%
11		650%			750%	850%
All other and unrated		1250%				

.";

(h) by deleting Table 5 of Part 4;

(i) by substituting the following point for point 47 of Part 4–

"47. The weightings in column C of table 4 shall be applied where the securitisation position is not a re-securitisation position and where the effective number of exposures securitised is less than six. For the remainder of the securitisation positions that are not re-securitisation positions, the weightings in column B shall be applied unless the position is in the most senior tranche of a securitisation, in which case the weightings in column A shall be applied. For re-securitisation positions the weightings in column E shall be applied unless the re-securitisation position is in the most senior tranche of the re-securitisation and none of the underlying exposures were themselves re-securitisation exposures, in which case column D shall be applied. When determining whether a tranche is the most senior, it is not required to take into consideration amounts due under interest rate or currency derivative contracts, fees due, or other similar payments.";

(j) by substituting the following point for point 49 of Part 4-

"49. In calculating the effective number of exposures securitised multiple exposures to one obligor shall be treated as one exposure. The effective number of exposures is calculated as:

$$N = \frac{\left(\sum_{i} EAD_i\right)^2}{\sum_{i} EAD_i^2}$$

where EAD represents the sum of the exposure values of all exposures to the ith obligor. If the portfolio share associated with the largest exposure, C1, is available, the credit institution may compute N as 1/C1.";

(k) by deleting point 50 of Part 4;

(l) by substituting the following point for point 52 of Part 4–

"52. Subject to points 58 and 59, under the Supervisory Formula Method, the risk weight for a securitisation position shall be the risk weight to be applied in accordance with point 53. However, the risk weight shall be no less than 20 % for re-securitisation positions and no less than 7 % for all other securitisation positions."; and

(m) by substituting the following subparagraph for the sixth subparagraph in point 53 of Part 4-

"N is the effective number of exposures calculated in accordance with point 49. In the case of re-securitisations, the credit institution shall look at the number of securitisation exposures in the pool and not the number of underlying exposures in the original pools from which the underlying securitisation exposures stem.".

Amendments to Schedule 12.

16. Schedule 12 of the principal Regulations is amended–

(a) by substituting the following title for the title of the Schedule-

"**TECHNICAL CRITERIA ON TRANSPARENCY AND DISCLOSURE**";

(b) by substituting the following points in Part 2 for points 9 and 10–

"9. The credit institutions calculating their capital requirements in accordance with regulation 23(b) and (c) of these Regulations shall disclose those requirements separately for each risk referred to in those provisions. In addition, the capital

requirement for specific interest rate risk of securitisation positions shall be disclosed separately.

10. The following information shall be disclosed by each credit institution which calculates its capital requirements in accordance with Schedule 5 of the Financial Services (Capital Adequacy of Investment Firms) Regulations 2007:

(a) for each sub-portfolio covered:

(i) the characteristics of the models used;

(ii) for the capital charges in accordance with points 5a and 5l of Schedule 5 of the Financial Services (Capital Adequacy of Investment Firms) Regulations 2007 separately, the methodologies used and the risks measured through the use of an internal model including a description of the approach used by the credit institution to determine liquidity horizons, the methodologies used to achieve a capital assessment that is consistent with the required soundness standard and the approaches used in the validation of the model;

(iii) a description of stress testing applied to the sub-portfolio;

(iv) a description of the approaches used for back-testing and validating the accuracy and consistency of the internal models and modelling processes;

(b) the scope of acceptance by the competent authority;

(c) a description of the extent and methodologies for compliance with the requirements set out in Part B of Schedule 7 of the Financial Services (Capital Adequacy of Investment Firms) Regulations 2007;

(d) the highest, the lowest and the mean of the following:

(i) the daily value-at-risk measures over the reporting period and as per the period end;

(ii) the stressed value-at-risk measures over the reporting period and as per the period end;

(iii) the capital charges in accordance with points 5a and 5l of Schedule 5 of the Financial Services (Capital Adequacy of Investment Firms) Regulations 2007 separately over the reporting period and as per the period-end;

(e) the amount of capital in accordance with points 5a and 5l of Schedule 5 of the Financial Services (Capital Adequacy of Investment Firms) Regulations 2007 separately, together with the weighted average liquidity horizon for each sub-portfolio covered;

(f) 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 overshooting during the reporting period.";

(b) by substituting the following point in Part 2 for point 14–

"14. Credit institutions calculating risk weighted exposure amounts in accordance with regulations 44 and 45 of these Regulations or capital requirements in accordance with point 16a of Schedule 1 of the Financial Services (Capital Adequacy of Investment Firms) Regulations 2007 shall disclose the following information, where relevant, separately for their trading and non-trading book:

(a) a description of the credit institution's objectives in relation to securitisation activity;

(b) the nature of other risks including liquidity risk inherent in securitised assets;

(c) the type of risks in terms of seniority of underlying securitisation positions and in terms of assets

underlying those latter securitisation positions assumed and retained with re-securitisation activity;

(d) the different roles played by the credit institution in the securitisation process;

(e) an indication of the extent of the credit institution's involvement in each of the roles referred to in point (d);

(f) a description of the processes in place to monitor changes in the credit and market risk of securitisation exposures including, how the behaviour of the underlying assets impacts securitisation exposures and a description of how those processes differ for re-securitisation exposures;

(g) a description of the credit institution's policy governing the use of hedging and unfunded protection to mitigate the risks of retained securitisation and re-securitisation exposures, including identification of material hedge counterparties by relevant type of risk exposure;

(h) the approaches to calculating risk weighted exposure amounts that the credit institution follows for its securitisation activities including the types of securitisation exposures to which each approach applies;

(i) the types of SSPE that the credit institution, as sponsor, uses to securitise third-party exposures including whether and in what form and to what extent the credit institution has exposures to those SSPEs, separately for on- and off-balance sheet exposures, as well as a list of the entities that the credit institution manages or advises and that invest in either the securitisation positions that the credit institution has securitised or in SSPEs that the credit institution sponsors;

(j) a summary of the credit institution's accounting policies for securitisation activities, including:

(i) whether the transactions are treated as sales or financings;

(ii) the recognition of gains on sales;

(iii) the methods, key assumptions, inputs and changes from the previous period for valuing securitisation positions;

(iv) the treatment of synthetic securitisations if not covered by other accounting policies;

(v) how assets awaiting securitisation are valued and whether they are recorded in the credit institution's non-trading book or the trading book;

(vi) policies for recognising liabilities on the balance sheet for arrangements that could require the credit institution to provide financial support for securitised assets;

(k) the names of the ECAIs used for securitisations and the types of exposure for which each agency is used;

(l) where applicable, a description of the Internal Assessment Approach as set out in Part 4 of Schedule 9 of these Regulations, including the structure of the internal assessment process and relation between internal assessment and external ratings, the use of internal assessment other than for IAA capital purposes, the control mechanisms for the internal assessment process including discussion of independence, accountability, and internal assessment process review, the exposure types to which the internal assessment process is applied and the stress factors used for determining credit enhancement levels, by exposure type;

(m) an explanation of significant changes to any of the quantitative disclosures in points (n) to (q) since the last reporting period;

(n) separately for the trading and the non-trading book, the following information broken down by exposure type:

(i) the total amount of outstanding exposures securitised by the credit institution, separately for traditional and synthetic securitisations and securitisations for which the credit institution acts only as sponsor;

(ii) the aggregate amount of on-balance sheet securitisation positions retained or purchased and off-balance sheet securitisation exposures;

(iii) the aggregate amount of assets awaiting securitisation;

(iv) for securitised facilities subject to the early amortisation treatment, the aggregate drawn exposures attributed to the originator's and investors' interests respectively, the aggregate capital requirements incurred by the credit institution against the originator's interest and the aggregate capital requirements incurred by the credit institution against the investor's shares of drawn balances and undrawn lines;

(v) the amount of securitisation positions that are deducted from own funds or risk-weighted at 1250 %;

(vi) a summary of the securitisation activity of the current period, including the amount of exposures securitised and recognised gain or loss on sale;

(o) separately for the trading and the non-trading book, the following information:

(i) the aggregate amount of securitisation positions retained or purchased and the associated capital requirements, broken down between

securitisation and re-securitisation exposures and further broken down into a meaningful number of risk-weight or capital requirement bands, for each capital requirements approach used;

(ii) the aggregate amount of re-securitisation exposures retained or purchased broken down according to the exposure before and after hedging/insurance and the exposure to financial guarantors, broken down according to guarantor credit worthiness categories or guarantor name;

(p) for the non-trading book and regarding exposures securitised by the credit institution, the amount of impaired/past due assets securitised and the losses recognised by the credit institution during the current period, both broken down by exposure type;

(q) for the trading book, the total outstanding exposures securitised by the credit institution and subject to a capital requirement for market risk, broken down into traditional/synthetic and by exposure type.".

(c) by inserting at the end of the 2nd paragraph in point 15 of Part 2 "within the meaning of section 23(1) of the Financial Services (Banking) Act" after the words "Credit institution"; and

(d) by substituting " the Data Protection Act 2004" for "Directive 95/46/EC" in the last paragraph of point 15 in Part 2.

Dated 22nd November, 2012.

G H LICUDI,
Minister for financial services.

EXPLANATORY MEMORANDUM

These Regulations transpose into the law of Gibraltar Article 1 and Annex I of Directive 2010/76/EU of the European Parliament and of the Council 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.