SECOND SUPPLEMENT TO THE GIBRALTAR GAZETTE

No. 4927 GIBRALTAR Thursday 23rd December 2021

LEGAL NOTICE NO. 492 OF 2021

FINANCIAL SERVICES ACT 2019

EUROPEAN UNION (WITHDRAWAL) ACT 2019

EUROPEAN UNION LAWS (VOLUNTARY IMPLEMENTATION) ACT 2019

FINANCIAL SERVICES (CAPITAL REQUIREMENTS) (AMENDMENT) REGULATIONS 2021

In exercise of the powers conferred on the Minister by sections 602, 621, 626 and 627 of the Financial Services Act 2019, section 11 of the European Union (Withdrawal) Act 2019 and section 4 of the European Union Laws (Voluntary Implementation) Act 2019, the Minister has made these Regulations-

Title.

1. These Regulations may be cited as the Financial Services (Capital Requirements) (Amendment) Regulations 2021.

Commencement.

2.(1) Subject to sub-regulation (2), these Regulations come into operation on 1st January 2022.

(2) Regulation 7(13), (16) and (72) come into operation on 1st January 2024.

PART 1
AMENDMENT OF THE CRR.

Amendment of the Capital Requirements Regulation.

3.(1) The Capital Requirements Regulation is amended in accordance with this Part.

(2) In this Part, the “Capital Requirements Regulation” means Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012, as that Regulation had effect immediately before IP completion day.

Amendment of Title.

4. In the title to the Regulation, omit “and investment firms”.

Amendment of Part 1.

5.(1) In Article 1–

(a) in the first paragraph, for "financial holding companies and mixed financial holding companies supervised under Directive 2013/36/EU" substitute "financial holding companies set up in Gibraltar, and mixed financial holding companies set up in Gibraltar";

(b) in the second paragraph, for "non-EU" substitute "third-country"; and

(c) omit the third paragraph.

(2) In Article 2–

(a) in paragraph 1–

(i) for "competent authorities" substitute "the GFSC";

(ii) for "Directive 2013/36/EU" substitute "the Act and the CICR Regulations";

(b) in paragraph 2–

(i) for "resolution authorities" substitute "the Gibraltar Resolution Authority"; and

(ii) for "Directive 2014/59/EU of the European Parliament and of the Council and in this Regulation" substitute "this Regulation, the Act and the Recovery and Resolution Regulations";

(c) for paragraph 3, substitute–

"3. The GFSC and the Gibraltar Resolution Authority shall cooperate for the purpose of ensuring compliance with the requirements concerning own funds and eligible liabilities."; and

(d) for paragraph 4, substitute–

"4. The GFSC must treat investment firms to which regulation 4(3) and (4) or 4(7) of the IFPR Regulations apply as if they were institutions under this Regulation.".

(3) In Article 4.1–

(a) for point (1) substitute–

“(1) “credit institution” means an undertaking the business of which consists of any of the following:

(a) to take deposits or other repayable funds from the public and to grant credits for its own account;

(b) to carry out any of the activities in paragraphs 50 and 53 of Schedule 2 to the Act, where one of the following applies, but the undertaking is not a commodity and emission allowance dealer, a collective investment undertaking or an insurance undertaking:

(i) the total value of the consolidated assets of the undertaking is €30 billion or more;

(ii) the total value of the assets of the undertaking is less than €30 billion, and the undertaking is part of a group in which the total value of the consolidated assets of all undertakings in that group that individually have total assets of less than €30 billion and that carry out any of the activities in paragraphs 50 and 53 of Schedule 2 to the Act is €30 billion or more; or

(iii) the total value of the assets of the undertaking is less than €30 billion, and the undertaking is part of a group in which the total value of the consolidated assets of all undertakings in the group that carry out any of the activities in paragraphs 50 and 53 of Schedule 2 to the Act is €30 billion or more, where the GFSC so decides in order to address potential risks of circumvention and potential risks for the financial stability of Gibraltar.

For the purposes of points (b)(ii) and (b)(iii), where the undertaking is part of a third-country group, the total assets of each branch of the third-country group authorised Gibraltar must be included in the combined total value of the assets of all undertakings in the group;”;

(b) for point (2), substitute–

“(2) “investment firm” means an investment firm within the meaning of the Act, but does not include a credit institution;”;

(c) for point (3), substitute–

"(3) "institution" means a credit institution with Part 7 permission given in accordance with regulation 8 of the CICR Regulations or an undertaking to which regulation 16C(4) of the CICR Regulations applies, and includes an investment firm to which Article 2.4 applies;";

(d) omit point (4);

(e) for point (5), substitute–

"(5) 'insurance undertaking' has the meaning given in regulation 3(1) of the Financial Services (Insurance Companies) Regulations 2020;";

(f) for point (6), substitute–

"(6) 'reinsurance undertaking' has the meaning given in regulation 3(1) of the Financial Services (Insurance Companies) Regulations 2020;";

(g) for point (7), substitute–

"(7) 'collective investment undertaking' or 'CIU' means a UCITS within the meaning of Part 18 of the Act or an alternative investment fund (AIF) within the meaning of the Act;";

(h) for point (9), substitute–

"(9) 'management body' means an institution's body, which is appointed in accordance with national law, which is empowered to set the institution's strategy, objectives and overall direction, and which oversees and monitors management decision-making, and includes the persons who effectively direct the business of the institution;

(9A) 'management body in its supervisory function' means the management body acting in its role of overseeing and monitoring management decision-making;";

(i) for point (10), substitute–

"(10) 'senior management' means those individuals who exercise executive functions within an institution and who are responsible, and accountable to the management body, for the day-to-day management of the institution;";

(j) for point (11), substitute–

"(11) 'systemic risk' means a risk of disruption in the financial system of Gibraltar with the potential to have serious negative consequences for the financial system and the real economy of Gibraltar;";

(k) for point (12), substitute–

"(12) 'model risk' means the potential loss an institution may incur as a consequence of decisions that could be principally based on the output of internal models due to errors in the development, implementation or use of such models;";

(l) for points (13) to (14a), substitute–

"(13) 'originator' has the meaning given in Article 2(3) of the Securitisation Regulation;

(14) 'sponsor' has the meaning given in Article 2(5) of the Securitisation Regulation;

(14a) 'original lender' has the meaning given in Article 2(20) of the Securitisation Regulation;";

(m) for point (15), substitute–

"(15) 'parent undertaking' means–

(a) a parent undertaking within the meaning of section 276 of the Companies Act 2014; or

(b) for the purposes of Part 5 of this Regulation–

(i) a parent undertaking within the meaning of section 276 of the Companies Act 2014, apart from the meaning given in subsection (4); or

(ii) an undertaking which effectively exercises a dominant influence over another undertaking,

where section 276(5) of the Companies Act 2014 applies to parent undertakings falling within point (b)(ii) as it applies to parent undertakings falling within section 276;";

(n) for point (16), substitute–

"(16) 'subsidiary' means–

(a) a subsidiary undertaking within the meaning of section 276 of the Companies Act 2014; or

(b) for the purposes of Part 5 of this Regulation–

(i) a subsidiary undertaking within the meaning of section 276 of the Companies Act 2014, apart from the meaning given in subsection (4); or

(ii) an undertaking over which another undertaking effectively exercises a dominant influence,

where section 276(5) of the Companies Act 2014 applies to subsidiaries falling within point (b)(ii) as it applies to subsidiaries falling within section 276;";

(o) for point (19), substitute–

"(19) 'asset management company' means a person who has Part 7 permission to carry on the regulated activity of–

(a) managing a UCITS (as specified in paragraph 93 of Schedule 2 to the Act), or would require that permission if its registered office were located in Gibraltar;

(b) managing an AIF (as specified in paragraph 95 of Schedule 2 to the Act), or would require that permission if its registered office were located in Gibraltar; or

(c) managing a small AIF (as specified in paragraph 97 of Schedule 2 to the Act), or would require that permission if its registered office were located in Gibraltar; including, unless otherwise provided, a third-country entity that carries out similar activities and is subject to the laws of a third country which applies supervisory and regulatory requirements at least equivalent to those applied in Gibraltar;";

(p) for point (21), substitute–

"'mixed financial holding company' means a parent undertaking which–

(a) is not a regulated entity;

(b) has at least one subsidiary which is a regulated entity and has its head office in Gibraltar; and

(c) together with its subsidiaries and other entities, constitutes a financial conglomerate;";

(q) for point (23), substitute–

"(23) 'third-country insurance undertaking' has the meaning given in regulation 3(1) of the Financial Services (Insurance Companies) Regulations 2020;";

(r) for point (24), substitute–

"(24) 'third-country reinsurance undertaking' has the meaning given in regulation 3(1) of the Financial Services (Insurance Companies) Regulations 2020;";

(s) for point (25), substitute–

"(25) 'third-country investment firm' means a firm which:

(a) would be an investment firm if it were established in Gibraltar;

(b) is authorised in a third country; and

(c) is subject to and complies with prudential rules which the GFSC considers to be at least as stringent as those under this Regulation or the CICR Regulations;";

(t) for point (26), substitute–

"(26) "financial institution" means an undertaking other than an institution or a pure industrial holding company, the principal activity of which is to acquire holdings or to pursue one or more of the activities listed in points 2 to 12 and 15 of the Schedule to the CICR Regulations, including an investment firm, a financial holding company, a mixed financial holding company, an investment holding company, a payment institution (within the meaning of regulation 2 of the Financial Services (Payment Services) Regulations 2020) or an asset management company, but excluding insurance holding companies and mixed-activity insurance holding companies within the meaning of regulation 191 of the Financial Services (Insurance Companies) Regulations 2020;";

(u) in point (27)–

(a) in point (h), for "as defined in point (f) of Article 212(1) of Directive 2009/138/EC" substitute "within the meaning of regulation 191 of the Financial Services (Insurance Companies) Regulations 2020"; and

(b) in point (k), for "Directive 2009/138/EC in accordance with Article 4 of that Directive" substitute "the Financial Services (Insurance Companies) Regulations 2020 in accordance with regulation 5 of those Regulations;".

(v) for point (28), substitute–

"(28) 'Gibraltar parent institution' means an institution in Gibraltar:

(a) which:

(i) has an institution, a financial institution or an ancillary services undertaking as a subsidiary; or

(ii) holds a participation in an institution, financial institution or ancillary services undertaking; and

(b) which is not a subsidiary of:

(i) another institution authorised in Gibraltar; or

(ii) a financial holding company or mixed financial holding company set up in Gibraltar;";

(w) omit point (29);

(x) for point (29a), substitute–

"(29a) "Gibraltar parent investment firm" means a Gibraltar parent undertaking that is an investment firm;";

(y) omit point (29b);

(z) for point (29c), substitute–

"'Gibraltar parent credit institution' means a Gibraltar parent institution that is a credit institution;";

(z1) omit point (29d);

(z2) for point (30), substitute–

"(30) 'Gibraltar parent financial holding company' means a financial holding company which is not a subsidiary of an institution authorised in Gibraltar or of a financial holding company or mixed financial holding company set up in Gibraltar;";

(z3) omit point (31);

(z4) for point (32), substitute–

"(32) 'Gibraltar parent mixed financial holding company' means a mixed financial holding company which is not a subsidiary of an institution authorised in Gibraltar, or of a financial holding company or mixed financial holding company set up in Gibraltar;

(z5) omit point (33);

(z6) in point (34), for "point (1) of Article 2 of Regulation (EU) No 648/2012" substitute "Article 2(1) of EMIR";

(z7) for point (35), substitute–

"(35) 'participation' means rights in the capital of other undertakings, whether or not represented by certificates, which, by creating a durable link with those undertakings, are intended to contribute to the activities of the undertaking which holds those rights, or the ownership, direct or indirect, of 20% or more of the voting rights or capital of an undertaking;";

(z8) in point (37), for "Article 1 of Directive 83/349/EEC, or the accounting standards to which an institution is subject under Regulation (EC) No 1606/2002" substitute "section 276 of the Companies Act 2014";

(z9) after point (38), insert–

"(38A) 'common management relationship' means a relationship between an undertaking ("U1") and one or more other undertakings ("U2") which satisfies the following conditions–

(a) U1 and U2 are not connected in the manner described in section 276 of the Companies Act 2014; and

(b) either–

(i) U1 and U2 are managed on a unified basis pursuant to a contract with U1, or provisions in U2's memorandum or articles of association; or

(ii) the administrative, management or supervisory bodies of U2 consist, for the major part, of the same persons in office as U1, during the financial year of U1 for which it is being decided whether such a relationship exists;".

(z10) for point (40), substitute–

"(40) 'competent authority' means–

(a) in Gibraltar, the GFSC; or

(b) in a third country, the body which is recognised and empowered by law to supervise institutions as part of the supervisory system in operation in that country;";

(z11) for point (41), substitute–

"(41) 'consolidating supervisor' means the GFSC when exercising supervision on a consolidated basis, in accordance with the CICR Regulations, of–

(a) a Gibraltar parent institution; or

(b) an institution controlled by a Gibraltar parent financial holding company or Gibraltar parent mixed financial holding company;";

(z12) omit points (43), (44) and (45);

(z13) for point (46), substitute–

"(46) 'central banks' means the Ministry of Finance, the European Central Bank and the central banks of third countries;";

(z14) in point (50)(b), for "Section C of Annex I to Directive 2004/39/EC" substitute "paragraph 46 of Schedule 2 to the Act";

(z15) for point (51), substitute–

"(51) "initial capital" means the amounts and types of own funds specified in regulation 11(1) of the CICR Regulations;";

(z16) for point (60), substitute–

"(60) "cash assimilated instrument" means a certificate of deposit, bond (including a covered bond) or any other non-subordinated instrument, which has been issued by an institution or an investment firm, for which the institution or investment firm has already received full payment and which is to be unconditionally reimbursed by the institution or investment firm at its nominal value;";

(z17) in point (61), for "point (1) of Article 2 of Regulation (EU) 2017/2402" substitute Article 2(1) of the Securitisation Regulation";

(z18) in point (62), for "point (19) of Article 2 of Regulation (EU) 2017/2402" substitute Article 2(19) of the Securitisation Regulation";

(z19) in point (63), for "point (4) of Article 2 of Regulation (EU) 2017/2402" substitute Article 2(4) of the Securitisation Regulation";

(z20) in point (66), for "point (2) of Article 2 of Regulation (EU) 2017/2402" substitute Article 2(2) of the Securitisation Regulation";

(z21) in point (67), for "point (6) of Article 2 of Regulation (EU) 2017/2402" substitute Article 2(6) of the Securitisation Regulation";

(z22) in point (72), in paragraph (a), for "the procedure set out in point (a) of Article 25(4) of Directive 2014/65/EU of the European Parliament and of the Council" substitute "regulation 40 of the Financial Services (Investment Services) Regulations 2020";

(z23) in point (75), omit “, including the right to inhabit an apartment in housing cooperatives located in Sweden”;

(z24) in point (77), for “Regulation (EC) No 1606/2002 or Directive 86/635/EEC” substitute “the IAS Regulation or the Financial Services (Credit Institutions) (Accounts) Regulations 2021”;

(z25) for point (87), substitute–

“(87) ‘multilateral trading facility’ has the meaning given in Article 2.1(14) of MiFIR;”;

(z26) in point (88), for “Regulation (EU) No 648/2012” substitute “EMIR”;

(z27) in point (89), for “Regulation (EU) No 648/2012” substitute “EMIR”;

(z28) for point (92), substitute–

“(92) ‘regulated market’ has the meaning given in Article 2.1(13A) of MiFIR;”;

(z29) for point (98), substitute–

“(98) ‘external credit assessment institution’ or ‘ECAI’ means a credit rating agency that is registered or certified in accordance with the CRA Regulation or a central bank issuing credit ratings which are exempt from the application of that Regulation;”;

(z30) in point (100), for “Regulation (EC) No 1606/2002” substitute “the IAS Regulation”;

(z31) for points (101) to (105), substitute–

“(101) ‘basic own funds’ means basic own funds within the meaning of regulation 82 of the Financial Services (Insurance Companies) Regulations 2020;

(102) ‘Tier 1 own-fund insurance items’ means basic own-fund items of insurance and reinsurance undertakings where those items are classified in Tier 1 in accordance with regulation 86(1) of the Financial Services (Insurance Companies) Regulations 2020;

(103) ‘additional Tier 1 own-fund insurance items’ means basic own-fund items of insurance and reinsurance undertakings where those items are classified in Tier 1 in accordance with regulation 86(1) of the Financial Services (Insurance Companies) Regulations 2020 and the inclusion of those items is limited by Article 82.3 of the Solvency 2 Regulation;

(104) ‘Tier 2 own-fund insurance items’ means basic own-fund items of insurance and reinsurance undertakings where those items are classified in Tier 2 in accordance

with regulation 86(2) of the Financial Services (Insurance Companies) Regulations 2020;

(105) ‘Tier 3 own-fund insurance items’ means basic own-fund insurance items of insurance and reinsurance undertakings where those items are classified in Tier 3 in accordance with regulation 86(3) of the Financial Services (Insurance Companies) Regulations 2020;”;

(z32) omit point (111);

(z33) for point (112), substitute–

“(112) ‘funds for general banking risk’ means those amounts which a credit institution decides to put aside to cover the particular risks associated with banking where this is permitted under the applicable accounting framework;”;

(z34) omit point (127);

(z35) in point (128)–

(i) for “pursuant to Union or national law” substitute “under the law of Gibraltar or a third country”; and

(ii) for “Union or national law, institutions' by-laws, or statutes” substitute “the law of Gibraltar or a third country or the institution’s' by-laws or statutes”;

(z36) after point (128), insert–

“(128A) ‘CRR covered bonds’ means bonds issued by a credit institution which–

(a) has its registered office in Gibraltar; and

(b) is subject by law to special public supervision designed to protect bondholders and, in particular, protection under which–

(i) sums deriving from the issue of the bond must be invested in conformity with the law in assets;

(ii) during the whole period of validity of the bond, those sums are capable of covering claims attaching to the bond; and

(iii) in the event of failure of the issuer, those sums would be used on a priority basis for the reimbursement of the principal and payment of the accrued interest;”;

(z37) for point (129), substitute–

"(129) 'servicer' means an entity that manages a pool of purchased receivables or the underlying credit exposures on a day-to-day basis;";

(z38) for point (130), substitute–

"(130) 'resolution authority' means the Gibraltar Resolution Authority (or, where the context requires, the resolution authority of a third country ;";

(z39) in point (131), for "point (83a) of Article 2(1) of Directive 2014/59/EU" substitute "regulation 3 of the Recovery and Resolution Regulations";

(z40) in point (132), for "point (83b) of Article 2(1) of Directive 2014/59/EU" substitute "regulation 3 of the Recovery and Resolution Regulations";

(z41) in point (133), for "Article 131(1) and (2) of Directive 2013/36/EU" substitute "regulation 85(1) to (7) of the CICR Regulations";

(z42) in point (134), in both places it occurs, for "non-EU" substitute "third-country";

(z43) in point (135), omit the closing words;

(z44) in point (136), for "non-EU" substitute "third-country";

(z45) for point (137), substitute–

"(137) 'bail-in tool' means the mechanism for effecting the exercise by the resolution authority of the write-down and conversion powers in relation to liabilities of an institution under resolution, in accordance with regulation 43 of the Recovery and Resolution Regulations;";

(z46) in point (138), for "as set out in Article 22 of Directive 2013/34/EU of the European Parliament and of the Council" substitute "by a common management relationship";

(z47) in point (145)–

(i) for paragraph (b), substitute–

"(b) the total value of its assets on an individual basis or, where applicable, on a consolidated basis in accordance with this Regulation and the CICR Regulations is on average equal to or less than the threshold of €5 billion over the four-year period immediately preceding the current annual reporting period;";

(ii) in paragraph (c), for "Article 4 of Directive 2014/59/EU" substitute "regulation 4 of the Recovery and Resolution Regulations"; and

(iii) in paragraph (f), for "European Economic Area" substitute "Gibraltar";

(iv) in paragraph (h), for "competent authority" substitute "GFSC"; and

(v) in paragraph (i), for "competent authority" substitute "GFSC";

(z48) in point (146), for paragraphs (b) to (d), substitute–

"(b) it has been identified as another systemically important institution (O-SII) in accordance with regulation 85 of the CICR Regulations;

(c) the total value of its assets on an individual basis or, where applicable, on the basis of its consolidated situation in accordance with this Regulation and the CICR Regulations is equal to or greater than €30 billion;";

(z49) in point (148), omit "of any Member State, within the meaning of point (21) of Article 4(1) of Directive 2014/65/EU"; and

(z50) in point (149), for "Articles 4 and 5 of Directive 2004/109/EC of the European Parliament and of the Council" substitute "sections 359 and 360 of the Act".

(z51) after point (149), insert–

"(150) "commodity and emission allowance dealer" means an undertaking the main business of which consists exclusively of the provision of investment services or activities in relation to–

(a) commodity derivatives or commodity derivative contracts in paragraph 46(5), (6), (7), (9) and (10) of Schedule 2 to the Act;

(b) derivatives of emission allowances in paragraph 46(4) of that Schedule; or

(c) emission allowances in paragraph 46(11) of that Schedule.".

(4) After Article 4.1, insert–

"1A. In this Regulation–

"the Act" means the Financial Services Act 2019;

"CICR Regulations" means the Financial Services (Credit Institutions and Capital Requirements) Regulations 2020;

"CRA Regulation" means Regulation (EC) No 1060/2009 of the European Parliament and of the Council of 16 September 2009 on credit rating agencies;

"EMIR" means Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories;

"GFSC" means the Gibraltar Financial Services Commission within the meaning of section 21(1) of the Act;

"Gibraltar Resolution Authority" means the Gibraltar Resolution Authority within the meaning of section 284 of the Act;

"IAS Regulation" means Regulation (EC) No 1606/2002 of the European Parliament and of the Council of 19 July 2002 on the application of international accounting standards;

"IFPR Regulations" means the Financial Services (Investment Firms (Prudential Requirements) Regulations 2021;

"Liquidity CDR" means Commission Delegated Regulation (EU) 2015/61, which supplements this Regulation with regard to liquidity coverage requirements;

"MiFIR" means Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No 648/2012;

"the Minister" means the Minister with responsibility for financial services;

"Part 7 permission" means permission under Part 7 of the Act;

"Recovery and Resolution Regulations" means the Financial Services (Recovery and Resolution) Regulations 2020;

"Securitisation Regulation" has the meaning given in the CICR Regulations;

"technical standards" means technical standards set out in regulations made by the Minister under section 626A of the Act; and

"third country" means a country or territory outside Gibraltar.

1B. In these Regulations a reference to an EU Regulation is to that Regulation as it forms part of the law of Gibraltar.".

(5) Omit Article 4.2.

(6) For Article 4.4, substitute–

"4. The Minister may make technical standards specifying circumstances in which the conditions set out in Article 4.1(39) are met.".

(7) In Article 6–

(a) for paragraph 1, substitute–

"1. Institutions must comply with the obligations in Parts Two, Three, Four, Seven, Seven A and Eight and in Chapter 2 of the Securitisation Regulation on an individual basis, with the exception of Article 430.1(d).";

(b) in paragraph 1a–

(i) in the second sub-paragraph, for "non-EU" substitute "third-country"; and

(ii) in paragraph (c), for "an EU parent institution" substitute "a Gibraltar parent institution";

(c) in paragraph 2, for "in the Member State where it is authorised and supervised" substitute " authorised and supervised in Gibraltar"; and

(d) for paragraphs 3 to 5, substitute–

"3. No institution which is either a parent undertaking or a subsidiary, and no institution included in the consolidation pursuant to Article 18, is required to comply with the obligations laid down in Part Eight on an individual basis.

Despite the first subparagraph of this paragraph, the institutions referred to in paragraph 1a must comply with Articles 437a and 447(h) on an individual basis.

4. Institutions must comply with the obligations in Part Six and Article 430.1(d) on an individual basis.

The following institutions are not required to comply with Article 413.1 and the associated liquidity reporting requirements in Part Seven A:

(a) institutions which are also authorised in accordance with Article 14 of EMIR;

(b) institutions which are also authorised in accordance with Articles 16 and 54.2(a) of the CSD Regulation and which do not perform any significant maturity transformations; and

(c) institutions which are designated in accordance with Article 54.2(b) of the CSD Regulation:

(i) the activities of which are limited to offering banking-type services of the kind in Section C of the Annex to that Regulation to central securities depositories authorised in accordance with Article 16 of that Regulation; and

(ii) which do not perform any significant maturity transformations.

5. Institutions for which the GFSC has exercised the derogation in Article 7.1 or 7.3, and institutions which are also authorised in accordance with Article 14 of EMIR, are not required to comply with the obligations in Part Seven and the associated leverage ratio reporting requirements in Part Seven A on an individual basis.".

(8) In Article 7–

(a) in paragraph 1–

(i) for "Competent authorities" substitute "The GFSC";

(ii) for "by the Member State concerned" substitute "in Gibraltar"; and

(iii) in sub-paragraph (b), in both places it occurs, for "competent authority" substitute "GFSC";

(b) in paragraph 2–

(i) for "Competent authorities" substitute "The GFSC"; and

(ii) for "is a financial holding company or a mixed financial holding company set up in the same Member State as the institution", substitute "of the subsidiary is a Gibraltar financial holding company or a Gibraltar mixed financial holding company"; and

(c) in paragraph 3–

(i) for "Competent authorities may waive the application of Article 6(1) to a parent institution in a Member State where that institution is subject to authorisation and supervision by the Member State concerned, and" substitute "The GFSC may waive the application of Article 6(1) to a Gibraltar parent institution, where";

(ii) in paragraph (a), for "parent institution in a Member State" substitute "Gibraltar parent institution";

(iii) in paragraph (b), for "parent institution in a Member State" substitute "Gibraltar parent institution"; and

(iv) omit the closing sub-paragraph.

(9) In Article 8–

(a) in paragraph 1–

(i) for "The competent authorities" substitute "The GFSC";

(ii) for "the Union" substitute "Gibraltar";

(iii) for point (b) substitute–

"(b) the parent institution on a consolidated basis or the subsidiary institution on a sub-consolidated basis:

(i) monitors and has oversight at all times over the liquidity positions of all institutions within the group or sub-group that are subject to the waiver and over the funding positions of all institutions within the group or sub-group where the net stable funding ratio (NSFR) requirement set out in Title IV of Part Six is waived; and

(ii) ensures a sufficient level of liquidity, and of stable funding where the NSFR requirement set out in Title IV of Part Six is waived, for all of those institutions;";

(iv) in point (c), for "competent authorities" substitute "GFSC"; and

(v) omit the closing sub-paragraph;

(b) omit paragraphs 2, 3 and 4;

(c) for paragraph 5, substitute–

"5. Where a waiver has been granted under paragraph 1, the GFSC may also–

(a) apply all or part of regulation 43 of the CICR Regulations at the level of the single liquidity sub-group; and

(b) waive the application of all or part of regulation 43 of the CICR Regulations on an individual basis."; and

(d) After paragraph 5, insert–

"6. Where, in accordance with this Article, the GFSC waives, in part or in full, the application of Part Six to an institution, it may also waive the application of the associated liquidity reporting requirements under Article 430.1(d) for that institution.".

(10) In Article 9–

(a) in paragraph 1–

(i) for "paragraphs 2 and 3" substitute "paragraph 2";

(ii) for "Article 144(3) of Directive 2013/36/EU" substitute "regulation 174(3) of the CICR Regulations"; and

(iii) for "competent authorities" substitute "GFSC";

(b) in paragraph 2, for "competent authorities" substitute "GFSC"; and

(c) omit paragraph 3.

(11) Omit Article 10.

(12) After Article 10, insert–

"*Article 10a*

Application of prudential requirements on a consolidated basis where investment firms are parent undertakings

For the purposes of the application of this Chapter, an investment firm must be considered to be a Gibraltar parent financial holding company where it is the parent undertaking of an institution (including of an investment firm to which Article 2.4 applies).".

(13) In Article 11–

(a) in paragraph 1, for "Parent institutions in a Member State" substitute "Gibraltar parent institutions";

(b) in paragraph 2–

(i) for "'parent institution in a Member State', 'EU parent institution'" substitute "'Gibraltar parent institution'";

(ii) for "Article 21a of Directive 2013/36/EU" substitute "regulation 16A of the CICR Regulations";

(iii) in both places it occurs, for "Article 21a(4) of Directive 2013/36/EU" substitute "regulation 16A(5) of the CICR Regulations"; and

(iv) for "point (d) of Article 21a(6) of Directive 2013/36/EU" substitute "regulation 16A(12)(d) of the CICR Regulations";

(c) in paragraph 3a–

(i) in both places it occurs, for "non-EU G-SII" substitute "third-country G-SII";

(ii) for "EU parent undertakings" substitute "Gibraltar parent undertakings"; and

(iii) omit "Where Article 21b(2) of Directive 2013/36/EU applies, the two intermediate EU parent undertakings jointly identified as a material subsidiary shall each comply with Article 92b of this Regulation on the basis of their consolidated situation.";

(d) for paragraph 4 substitute–

"4. Gibraltar parent institutions must comply with Part Six and Article 430.1(d) on the basis of their consolidated situation where the group comprises one or more credit institutions or investment firms that are authorised to provide the investment services and activities listed in paragraphs 50 and 53 of Schedule 2 to the Act.

Where a waiver has been granted under Article 8.1 to 8.5, the institutions and, where applicable, the financial holding companies or mixed financial holding companies that are part of a liquidity sub-group must comply with Part Six and Article 430.1(d) on a consolidated basis or on the sub-consolidated basis of the liquidity sub-group.".

(e) omit paragraph 5;

(f) for paragraph 6, substitute–

"6. In addition to the requirements of paragraphs 1 to 3, the GFSC may require an institution to comply with the obligations mentioned in the third sub-paragraph on a sub-consolidated basis where–

(a) it is justified for supervisory purposes by the specificities of the risk or the capital structure of the institution, or

(b) the law of Gibraltar requires the structural separation of activities within a banking group.

Applying the approach set out in the first sub-paragraph shall be without prejudice to effective supervision on a consolidated basis.

The obligations mentioned in this paragraph are those provided for in–

(a) Parts Two to Four and Six to Eight of this Regulation; and

(b) Chapter 3 of Part 5 of the CICR Regulations.".

(14) In Article 12a–

(a) in the first paragraph, in both places it occurs, for "EU parent institution" substitute "Gibraltar parent institution"; and

(b) omit the second and third paragraphs.

(15) For Article 13 substitute–

"Article 13

Application of disclosure requirements on a consolidated basis

1. A Gibraltar parent institution shall comply with Part Eight on the basis of its consolidated situation.

2. Large subsidiaries of Gibraltar parent institutions, Gibraltar parent financial holding companies or Gibraltar parent mixed financial holding companies and large subsidiaries of parent undertakings established in a third country shall disclose the information specified in Articles 437, 438, 440, 442, 450, 451a and 453 on an individual basis or, where applicable in accordance with this Regulation and the CICR Regulations, on a sub-consolidated basis.

3. Paragraph 1 shall not apply to a consolidation entity or a resolution entity where it is included in an equivalent disclosure on a consolidated basis provided by a parent undertaking established in a third country.".

(16) In Article 14–

(a) in the heading, for "Regulation (EU) 2017/2402" substitute " the Securitisation Regulation";

(b) in paragraph 1, for "Regulation (EU) 2017/2402" substitute " the Securitisation Regulation"; and

(c) in paragraph 2, for "Regulation (EU) 2017/2402" substitute " the Securitisation Regulation".

(17) Omit Articles 15 to 17.

(18) In Article 18–

(a) in paragraph 3, for "within the meaning of Article 22(7) of Directive 2013/34/EU, competent authorities" substitute "by a common management relationship, the GFSC";

(b) in paragraph 4, after "The" insert "GFSC as";

(c) in paragraph 5–

(i) for "competent authorities" substitute "the GFSC"; and

(ii) for "they" substitute "it";

(d) in paragraph 6–

(i) for “Competent authorities” substitute “The GFSC”;

(ii) in the two places it occurs, for “competent authorities” substitute “GFSC”; and

(iii) in the second sub-paragraph, for “provided for in Article 22(7), (8) and (9) of Directive 2013/34/EU” substitute “used by undertakings that are linked by a common management relationship”; and

(f) omit paragraph 7;

(g) in paragraph 8–

(i) for “Competent authorities” substitute “The GFSC”; and

(ii) for “Directive 2009/138/EC in accordance with Article 4 of that Directive” substitute “the Financial Services (Insurance Companies) Regulations 2020 in accordance with regulation 5 of those Regulations”; and

(h) for paragraph 9, substitute–

“9. The Minister may make technical standards specifying conditions in accordance with which consolidation shall be carried out in the cases set out in this Article.”.

(19) In Article 19.2–

(a) for “competent authorities responsible for exercising supervision on a consolidated basis pursuant to Article 111 of Directive 2013/36/EU” substitute “GFSC as consolidating supervisor”; and

(b) in paragraph (c), for “competent authorities responsible for exercising supervision on a consolidated basis” substitute “GFSC”.

(20) For Article 20, substitute–

“*Article 20*
Decisions on prudential requirements

Where a Gibraltar parent institution and its subsidiaries, the subsidiaries of a Gibraltar parent financial holding company or a Gibraltar parent mixed financial holding company use an Advanced Measurement Approach referred to in Article 312(2) or an IRB Approach referred to in Article 143 on a unified basis, the GFSC shall allow the qualifying criteria set out in Articles 321 and 322 or in Part Three, Title II, Chapter 3, Section 6 respectively to be met by the parent and its subsidiaries considered together,

in a way that is consistent with the structure of the group and its risk management systems, processes and methodologies.”.

(21) Omit Article 21.

(22) For Article 22 substitute–

“Article 22
Sub-consolidation in case of entities in third countries

1. Subsidiary institutions must apply the requirements in Articles 89, 90 and 91 and Parts Three, Four and Seven and the associated reporting requirements in Part Seven A on the basis of their sub-consolidated situation if those institutions have an institution or a financial institution as a subsidiary in a third country, or hold a participation in such an undertaking.

2. Despite paragraph 1, subsidiary institutions may choose not to apply the requirements in Articles 89, 90 and 91 and Parts Three, Four and Seven and the associated reporting requirements in Part Seven A on the basis of their sub-consolidated situation where the total assets and off-balance-sheet items of their subsidiaries and participations in third countries are less than 10% of the total amount of the assets and off-balance-sheet items of the subsidiary institution.”.

(23) In Article 23, for “the Union” substitute “Gibraltar”.

(24) In Article 24.2–

(a) for “competent authorities” substitute “the GFSC”; and

(b) for “Regulation (EC) No 1606/2002” substitute “the IAS Regulation”.

Amendment of Part 2.

6.(1) In Article 26–

(a) in paragraph 2, in both places it occurs, for “competent authority” substitute “GFSC”;

(b) in paragraph 3–

(i) for “Competent authorities shall evaluate” substitute “The GFSC shall evaluate”;

(ii) for “competent authorities” substitute “GFSC”; and

(iii) omit the third, fourth and fifth sub-paragraphs; and

(c) in paragraph 4–

(i) for "EBA shall develop draft regulatory technical standards to specify" substitute "The Minister may make technical standards specifying"; and

(ii) omit the second and third sub-paragraphs.

(2) In Article 27–

(a) in paragraph 1–

(i) in point (a), for "under applicable national law and which competent authorities consider" substitute "under the applicable law of Gibraltar and which the GFSC considers";

(ii) in point (v), for "relevant competent authority" substitute "the GFSC"; and

(iii) in the second sub-paragraph, for "applicable national law" substitute "the applicable law of Gibraltar"; and

(b) in paragraph 2–

(i) for "EBA shall develop draft regulatory technical standards to specify the conditions according to which competent authorities may determine that a type of undertaking recognised under applicable national law qualifies" substitute "The Minister may make technical standards specifying the types of undertaking that qualify"; and

(ii) omit the second and third sub-paragraphs.

(3) In Article 28–

(a) in paragraph 1–

(i) in paragraph (a), for "applicable national law" substitute "the applicable law of Gibraltar or a third country";

(ii) in paragraph (c)–

(aa) for sub-paragraph (i), substitute–

"(i) they qualify as capital, which for these purposes comprises all amounts, regardless of their actual designations, which, in accordance with the legal structure of the institution concerned, are regarded under the applicable law of Gibraltar or a third country, as equity capital subscribed by the shareholders or other proprietors;"; and

(bb) in sub-paragraph (iii), for "national insolvency law" substitute the insolvency laws of Gibraltar or a third country"

(iii) in paragraph (g), for "applicable national law" substitute "the applicable law of Gibraltar or a third country";

(b) in paragraph 3(b), for "the same Member State" substitute "Gibraltar"; and

(c) in paragraph 5–

(i) for "EBA shall develop draft regulatory technical standards to specify the following" substitute "The Minister may make technical standards specifying"; and

(ii) omit the second and third sub-paragraphs.

(4) In Article 29–

(a) in paragraph 2, in both places it occurs, for "applicable national law" substitute "the applicable law of Gibraltar or a third country";

(b) in paragraph 3, for "applicable national law" substitute "the applicable law of Gibraltar or a third country";

(c) in paragraph 6–

(i) for "EBA shall develop draft regulatory technical standards to specify" substitute "The Minister may make technical standards specifying";

(ii) for "applicable national law" substitute "the applicable law of a third country"; and

(iii) omit the second and third sub-paragraphs.

(5) In Article 31–

(a) in paragraph 1(

(i) for "competent authorities" substitute "the GFSC";

(ii) in paragraph (h), for "competent authority" substitute "GFSC"and

(b) omit paragraph 2.

(6) In Article 32.2–

(a) for "EBA shall develop draft regulatory technical standards to specify further" substitute "The Minister may make technical standards further specifying"; and

(b) omit the second and third sub-paragraphs.

(7) In Article 33–

(a) in paragraph 3(a), for "in the form of bonds as referred to in Article 52(4) of Directive 2009/65/EC" substitute "CRR covered bonds"; and

(b) in paragraph 4–

(i) for "EBA shall develop draft regulatory technical standards to specify" substitute "The Minister may make technical standards specifying"; and

(ii) omit the second and third sub-paragraphs.

(8) In Article 36–

(a) in paragraph 1, for point (b) substitute–

"(b) intangible assets with the exception of prudently valued software assets the value of which is not negatively affected by resolution, insolvency or liquidation of the institution;"; and

(b) for paragraphs 2 to 4, substitute–

"2. The Minister may make technical standards specifying:

(a) the application of the deductions referred to in paragraph 1(a), (c), (e), (f), (h), (i) and (l) and related deductions referred to in Article 56(a), (c), (d) and (f) and Article 66 points (a), (c) and (d);

(b) the types of capital instruments of financial institutions, third country insurance and reinsurance undertakings, and undertakings within Article 4(1)(27)(k) that shall be deducted from the following elements of own funds:

(i) Common Equity Tier 1 items;

(ii) Additional Tier 1 items;

(iii) Tier 2 items;

(c) the application of the deductions referred to in paragraph 1 point (b), including the materiality of negative effects on the value which do not cause prudential concerns.".

(9) In Article 38.3(a), for "applicable national law" substitute "the applicable law of Gibraltar or a third country".

(10) In Article 39.2–

(a) in paragraph (b), for "applicable national tax law" substitute "applicable tax law of Gibraltar or a third country"; and

(b) in paragraph (c), for "the central government of the Member State in which the institution is incorporated" substitute "the government of Gibraltar".

(11) For Article 41.2, substitute–

"2. The Minister may make technical standards specifying the criteria according to which the GFSC may permit an institution to reduce the amount of assets in the defined benefit pension fund as specified in paragraph 1(b).".

(12) For Article 47c.5, substitute–

"5. The Minister may make technical standards specifying a common methodology for:

(a) the prudential valuation of eligible forms of funded and unfunded credit protection, including:

(i) possible minimum requirements for re-valuation in terms of timing and ad hoc methods; and

(ii) assumptions pertaining to their recoverability and enforceability; and

(b) the determination of the secured part of a non-performing exposure, as referred to in paragraph 1.".

(13) In Article 49–

(a) in the heading, for ", supplementary supervision or institutional protection schemes are" substitute "or supplementary supervision is";

(b) in paragraph 1–

(i) for "where the competent authorities require or permit institutions to apply method 1, 2 or 3 of Annex I to Directive 2002/87/EC, the competent authorities" substitute "where the GFSC requires or permits institutions to apply method 1, 2 or 3 in Schedule 1 to the Financial Services (Financial Conglomerates) Regulations 2020, the GFSC";

(ii) in paragraph (b), for "Directive 2002/87/EC" substitute "the Financial Services (Financial Conglomerates) Regulations 2020";

(iii) in paragraph (c), for "competent authorities" substitute "GFSC"; and

(iv) in paragraph (d), for “competent authorities are ” substitute “GFSC is”;

(c) in paragraph 2–

(i) for “competent authorities determine” substitute “GFSC determines”; and

(ii) omit the second sub-paragraph;

(d) omit paragraph 3;

(e) in paragraph 4, for “1, 2 or 3” substitute “1 or 2”;

(f) in paragraph 5–

(i) for “of Annex I to Directive 2002/87/EC” substitute “in Schedule 1 to the Financial Services (Financial Conglomerates) Regulations 2020”; and

(ii) for “Article 6 of and Annex I to that Directive” substitute “those Regulations”; and

(g) for paragraph 6, substitute–

“6. The Minister may make technical standards specifying for the purposes of this Article the conditions of application of the technical calculation methods set out in Schedule 1 to the Financial Services (Financial Conglomerates) Regulations 2020 for the purposes of the alternatives to deduction referred to in paragraph 1.”.

(14) In Article 52–

(a) in paragraph 1–

(i) in paragraph (m), for “applicable national law” substitute “the applicable law of Gibraltar or a third country”;

(ii) In paragraph (p)–

(aa) in both places it occurs, for “Article 12 of Directive 2014/59/EU” substitute “regulation 12 of the Recovery and Resolution Regulations”;

(bb) in both places it occurs, for “the Union” substitute “Gibraltar”;

(cc) for “in a Member State” substitute “in Gibraltar”; and

(dd) for “Article 59 of that Directive” substitute “regulation 59 of those Regulations”;

(iii) in paragraph (q)–

(aa) for “Article 12 of Directive 2014/59/EU” substitute “regulation 12 of the Recovery and Resolution Regulations”;

(bb) for “the Union” substitute “Gibraltar”;

(cc) for “in a Member State” substitute “in Gibraltar”; and

(dd) for “Article 59 of that Directive” substitute “regulation 59 of those Regulations”; and

(b) in paragraph 2–

(i) for “EBA shall develop draft regulatory technical standards to specify all the following” substitute “The Minister may make technical standards specifying”; and

(ii) omit the second and third sub-paragraphs.

(15) In Article 54–

(a) in paragraph 1(e), for “competent authority, after consulting EBA,” substitute “GFSC”.; and

(b) in paragraph 5(a), for “competent authorities” substitute “GFSC”.

(16) In Article 63–

(a) in paragraph (n)–

(i) in both places it occurs, for “Article 12 of Directive 2014/59/EU” substitute “regulation 12 of the Recovery and Resolution Regulations”; and

(ii) in both places it occurs, for “the Union” substitute “Gibraltar”;

(iii) for “a Member State” substitute “Gibraltar”; and

(iv) for “Article 59 of that Directive” substitute “regulation 59 of those Regulations”; and

(b) in paragraph (o)–

(i) for “Article 12 of Directive 2014/59/EU” substitute “regulation 12 of the Recovery and Resolution Regulations”;

(ii) for “the Union” substitute “Gibraltar”;

(iii) for “a Member State” substitute “Gibraltar”; and

(iv) for "Article 59 of that Directive" substitute "regulation 59 of those Regulations".

(17) In Article 72a.2–

(a) in paragraph (c), for "in Article 6 of Directive 2014/49/EU of the European Parliament and of the Council" substitute "section 214 of the Act";

(b) in paragraph (d), in both places it occurs, for "the Union" substitute "Gibraltar";

(c) in paragraph (e), for "national law" substitute "the law of Gibraltar";

(d) in paragraph (i)–

(i) in sub-paragraph (i), for "Directive 98/26/EC of the European Parliament and of the Council" substitute "regulation 5 of the Financial Services (Financial Markets and Insolvency: Settlement Finality) Regulations 2020";

(ii) for sub-paragraph (ii), substitute–

"(ii) participants, as defined in regulation 2(1) of the Financial Services (Financial Markets and Insolvency: Settlement Finality) Regulations 2020, in a system designated in accordance with regulation 5 of those Regulations and arising from the participation in such a system; or"; and

(iii) in sub-paragraph (iii), for "Regulation (EU) No 648/2012" substitute "EMIR"; and

(e) in paragraph (j)–

(i) in sub-paragraph (i), for "as referred to in Article 92(2) of Directive 2013/36/EU" substitute "within the scope of regulation 49(1) of the CICR Regulations"; and

(ii) in sub-paragraph (iv), for "Directive 2014/49/EU" substitute "Chapter 3 of Part 15 of the Act".

(18) In Article 72b–

(a) in paragraph 2–

(i) in paragraph (d)–

(aa) in sub-paragraph (i), for "point (47) of Article 2(1) of Directive 2014/59/EU" substitute "regulation 3(1) of the Recovery and Resolution Regulations"; and

(bb) in sub-paragraph (ii), for "point (47) of Article 2(1) of Directive 2014/59/EU" substitute "regulation 3(1) of the Recovery and Resolution Regulations";

(ii) in paragraph (n), for "Article 48 of Directive 2014/59/EU" substitute "regulation 48 of the Recovery and Resolution Regulations"; and

(iii) in the final sub-paragraph, for "national" substitute "Gibraltar";

(b) in paragraph 3–

(i) in paragraph (b), for "national" substitute "Gibraltar"; and

(ii) in paragraph (c), for "the principles referred to in in point (g) of Article 34(1) and Article 75 of Directive 2014/59/EU" substitute "the principles set out in regulations 34(1)(g) and 75 of the Recovery and Resolution Regulations";

(c) in paragraph 4–

(i) in paragraph (c), for "national" substitute "Gibraltar"; and

(ii) in paragraph (e), for "the principles referred to in in point (g) of Article 34(1) and Article 75 of Directive 2014/59/EU" substitute "the principles set out in regulations 34(1)(g) and 75 of the Recovery and Resolution Regulations"; and

(d) in paragraph 7–

(i) for "EBA shall develop draft regulatory technical standards to specify" substitute "The Minister may make technical standards specifying";

(ii) for "draft regulatory technical standards shall be fully aligned with the delegated act" substitute "technical standards shall be aligned with the technical standards"; and

(iii) omit the third and fourth sub-paragraphs.

(19) In Article 72e.4–

(a) for "an EU parent institution or a parent institution in a Member State" substitute "a Gibraltar parent institution or a parent institution in Gibraltar";

(b) for "of that parent institution, after duly considering the opinion of the resolution authorities of any subsidiaries concerned" substitute "after duly considering the opinion of any relevant third country resolution authority"; and

(c) in the definition of "r_i", for "Article 45d of Directive 2014/59/EU" substitute "regulation 45D of the Recovery and Resolution Regulations".

(20) In Article 73–

(a) in paragraph 1, for "competent authority" substitute "GFSC";

(b) in paragraph 2–

(i) for "Competent authorities" substitute "The GFSC";

(ii) for "they consider" substitute "it considers";

(iii) for "The competent authority" substitute "The GFSC";

(c) in paragraph 5(b), for "competent authority" substitute "GFSC"; and

(d) in paragraph 7–

(i) for "EBA shall develop draft regulatory technical standards to specify" substitute "The Minister may make technical standards specifying"; and

(ii) omit the second and third sub-paragraphs.

(21) In Article 76–

(a) in paragraph 1(d), for –

(i) for "competent authorities assess" substitute "GFSC assesses"; and

(ii) for "are" substitute "is"; and

(b) in paragraph 3–

(i) for "Competent authorities" substitute "The GFSC"; and

(ii) for "their" substitute "its"; and

(c) in paragraph 4–

(i) for "EBA shall develop draft regulatory technical standards to specify" substitute "The Minister may make technical standards specifying"; and

(ii) omit the second and third sub-paragraphs.

(22) In Article 77(1)(a), for "applicable national law" substitute "the applicable law of Gibraltar or a third country".

(23) In Article 78–

(a) in paragraph 1–

(i) in paragraph (b), for "Directives 2013/36/EU and 2014/59/EU" substitute "the CICR Regulations and the Recovery and Resolution Regulations";

(ii) in the second sub-paragraph–

(aa) for "Directive 2013/36/EU" substitute "the CICR Regulations";

(bb) for "Directives 2013/36/EU and 2014/59/EU" substitute "the CICR Regulations and the Recovery and Resolution Regulations";

(iii) in the third sub-paragraph, for "Competent authorities" substitute "The competent authority";

(b) in paragraph 2, for "competent authorities" substitute "the competent authority";

(c) in paragraph 3, for "applicable national law" substitute "the applicable law of Gibraltar or a third country";

(d) in paragraph 4, for "Competent authorities" substitute "The competent authority";

(e) in paragraph 5–

(i) for "EBA shall develop draft regulatory technical standards to specify the following" substitute "The Minister may make technical standards specifying"; and

(ii) omit the second and third sub-paragraphs.

(24) In Article 78a–

(a) in paragraph 1–

(i) in paragraph (b), for "Directives 2013/36/EU and 2014/59/EU" substitute "the CICR Regulations and the Recovery and Resolution Regulations";

(ii) in paragraph (c), "Directive 2013/36/EU" substitute "the CICR Regulations";

(iii) in the second sub-paragraph, for "Directives 2013/36/EU and 2014/59/EU" substitute "the CICR Regulations and the Recovery and Resolution Regulations";

(b) in paragraph 2, for "resolution authorities" substitute "the resolution authority";

(c) in paragraph 3–

(i) for "EBA shall develop draft regulatory technical standards to specify the following" substitute "The Minister may make technical standards specifying";

(ii) for "draft regulatory technical standards shall be fully aligned with the delegated act" substitute "technical standards shall be aligned with the technical standards"; and

(ii) omit the third and fourth sub-paragraphs.

(25) In Article 79.2–

(a) for "EBA shall develop draft regulatory technical standards to specify the following" substitute "The Minister may make technical standards specifying"; and

(b) omit the second and third sub-paragraphs.

(26) Omit Article 80.

(27) In Article 81.1, for paragraph (a) substitute–

"(a) the subsidiary is one of the following:

(i) an institution;

(ii) an undertaking that is subject to this Regulation and the CICR Regulations;

(iii) an intermediate financial holding company or intermediate mixed financial holding company that is subject to this Regulation on a sub-consolidated basis, or an intermediate investment holding company that is subject to the IFPR Regulations on a consolidated basis;

(iv) an investment firm;

(v) an intermediate financial holding company in a third country that is subject to prudential requirements as stringent as those applied to credit institutions of that third country, where the Minister has determined in accordance with Article 107.4 that those prudential requirements are at least equivalent to those of this Regulation;".

(28) In Article 82, for paragraph (a) substitute–

"(a) the subsidiary is one of the following:

(i) an institution;

(ii) an undertaking that is subject to this Regulation and the CICR Regulations;

(iii) an intermediate financial holding company or intermediate mixed financial holding company that is subject to this Regulation on a sub-consolidated basis, or an intermediate investment holding company that is subject to the IFPR Regulations on a consolidated basis;

(iv) an investment firm;

(v) an intermediate financial holding company in a third country that is subject to prudential requirements as stringent as those applied to credit institutions of that third country, where the Minister has determined in accordance with Article 107.4 that those prudential requirements are at least equivalent to those of this Regulation;".

(29) In Article 83.2–

(a) for "EBA shall develop draft regulatory technical standards to specify" substitute "The Minister may make technical standards specifying"; and

(b) omit the second and third sub-paragraphs.

(30) In Article 84–

(a) for paragraph 1, substitute–

"1. Institutions must determine the amount of minority interests of a subsidiary that is included in consolidated Common Equity Tier 1 capital by subtracting from the minority interests of that undertaking the result of multiplying the amount in point (a) by the percentage in point (b) as follows:

(a) the Common Equity Tier 1 capital of the subsidiary minus the lower of the following:

(i) the amount of Common Equity Tier 1 capital of that subsidiary required to meet the following:

(aa) the sum of the requirement laid down Article 92.1(a), the requirements referred to in Articles 458 and 459, the specific own funds requirements referred to in regulation 140 of the CICR Regulations, the combined buffer requirement defined in

regulation 82(1) of those Regulations and any additional local supervisory regulations in third countries so far as those requirements are to be met by Common Equity Tier 1 capital;

(bb) where the subsidiary is an investment firm, the sum of the requirement in regulation 14 of the IFPR Regulations, the specific own funds requirements in regulation 91(2)(a) of those Regulations and any additional local supervisory regulations in third countries, so far as those requirements are to be met by Common Equity Tier 1 capital;

(ii) the amount of consolidated Common Equity Tier 1 capital that relates to that subsidiary that is required on a consolidated basis to meet the sum of the requirement in Article 92.1(a), the requirements referred to in Articles 458 and 459, the specific own funds requirements referred to in regulation 140 of the CICR Regulations, the combined buffer requirement defined in regulation 82(1) of those Regulations, and any additional local supervisory regulations in third countries insofar as those requirements are to be met by Common Equity Tier 1 capital;

(b) the minority interests of the subsidiary expressed as a percentage of all Common Equity Tier 1 items of that undertaking.”;

(b) for paragraph 3, substitute–

“3. Where the GFSC derogates from the application of prudential requirements on an individual basis under Article 7 or, as applicable, regulation 8 of the IFPR Regulations, minority interests within the subsidiaries to which the waiver is applied shall not be recognised in own funds at the sub-consolidated or at the consolidated level, as applicable.”;

(c) in paragraph 4–

(i) for “EBA shall develop draft regulatory technical standards to specify” substitute “The Minister may make technical standards specifying”; and

(ii) omit the second and third sub-paragraphs;

(d) In paragraph 5–

(i) for “Competent authorities” substitute “The GFSC;

(ii) for “by virtue of the control relationship defined in Article 1 of Directive 83/349/EEC” substitute “ and which is a subsidiary because of section 276 of the Companies Act 2014”; and

(iii) for “competent authorities” substitute “the GFSC”; and

(e) omit paragraph 6.

(31) In Article 85–

(a) for paragraph 1, substitute–

“1. Institutions must determine the amount of qualifying Tier 1 capital of a subsidiary that is included in consolidated own funds by subtracting from the qualifying Tier 1 capital of that undertaking the result of multiplying the amount in point (a) by the percentage in point (b) as follows:

(a) the Tier 1 capital of the subsidiary minus the lower of the following:

(i) the amount of Tier 1 capital of the subsidiary required to meet the following:

(aa) the sum of the requirement laid down in Article 92.1(b), the requirements referred to in Articles 458 and 459, the specific own funds requirements referred to in regulation 140 of the CICR Regulations, the combined buffer requirement defined in regulation 82(1) of those Regulations, and any additional local supervisory regulations in third countries insofar as those requirements are to be met by Tier 1 Capital;

(bb) where the subsidiary is an investment firm, the sum of the requirement in regulation 14 of the IFPR Regulations, the specific own funds requirements in regulation 91(2)(a) of those Regulations and any additional local supervisory regulations in third countries, insofar as those requirements are to be met by Common Equity Tier 1 capital;

(ii) the amount of consolidated Tier 1 capital that relates to the subsidiary that is required on a consolidated basis to meet the sum of the requirement laid down in Article 92.1(b), the requirements referred to in Articles 458 and 459, the specific own funds requirements referred to in regulation 140 of the CICR Regulations, the combined buffer requirement defined in regulation 82(1) of those Regulations, and any additional local supervisory regulations in third countries insofar as those requirements are to be met by Tier 1 Capital;

(b) the qualifying Tier 1 capital of the subsidiary expressed as a percentage of all Common Equity Tier 1 and Additional Tier 1 items of that undertaking.”; and

(b) for paragraph 3, substitute–

“3. Where the GFSC derogates from the application of prudential requirements on an individual basis under Article 7 or, as applicable, regulation 8 of the IFPR Regulations, Tier 1 instruments within the subsidiaries to which the waiver is

applied must not be recognised as own funds at the sub-consolidated or at the consolidated level, as applicable.".

(32) In Article 87–

(a) for paragraph 1, substitute–

"1. Institutions must determine the amount of qualifying own funds of a subsidiary that is included in consolidated own funds by subtracting from the qualifying own funds of that undertaking the result of multiplying the amount in point (a) by the percentage in point (b) as follows:

(a) the own funds of the subsidiary minus the lower of the following:

(i) the amount of own of the subsidiary required to meet the following:

(aa) the sum of the requirement laid down in Article 92.1(c), the requirements referred to in Articles 458 and 459, the specific own funds requirements referred to in regulation 140 of the CICR Regulations, the combined buffer requirement defined in regulation 82(1) of those Regulations, and any additional local supervisory regulations in third countries;

(bb) where the subsidiary is an investment firm, the sum of the requirement in regulation 14 of the IFPR Regulations, the specific own funds requirements in regulation 91(2)(a) of those Regulations and any additional local supervisory regulations in third countries;

(ii) the amount of own funds that relates to the subsidiary that is required on a consolidated basis to meet the sum of the requirement laid down in Article 92.1(c), the requirements referred to in Articles 458 and 459, the specific own funds requirements referred to in regulation 140 of the CICR Regulations, the combined buffer requirement defined in regulation 82(1) of those Regulations, and any additional local supervisory own funds requirement in third countries;

(b) the qualifying own funds of the undertaking, expressed as a percentage of the sum of all Common Equity Tier 1, Additional Tier 1 items and Tier 2 items (excluding the amounts in Article 62(c) and (d)) of that undertaking."; and

(b) for paragraph 3, substitute–

"3. Where the GFSC derogates from the application of prudential requirements on an individual basis under Article 7 or, as applicable, regulation 8 of the IFPR Regulations, own funds instruments within the subsidiaries to which the waiver is

applied must not be recognised as own funds at the sub-consolidated or at the consolidated level, as applicable.”.

(33) In Article 89–

(a) in paragraph 3–

(i) for “Competent authorities” substitute “The GFSC”;

(ii) for “the competent authorities” substitute “the GFSC”; and

(iii) for “Competent authorities shall publish their” substitute “The GFSC shall publish its”; and

(b) omit paragraph 4.

(34) In Article 91.2, for “financial fixed assets as referred to in Article 35(2) of Directive 86/635/EEC” substitute “participating interests, shares in affiliated undertakings or securities intended for use on a continuing basis in the normal course of an undertaking's activities”.

(35) In Article 92–

(a) in paragraph 1, after point (c), insert–

“(d) a leverage ratio of 3%;”;

(b) after paragraph 1, insert–

“1a. In addition to the requirement in paragraph 1(d), a G-SII shall maintain a leverage ratio buffer equal to the G-SII’s total exposure measure referred to in Article 429(4) multiplied by 50% of the G-SII buffer rate applicable to the G-SII in accordance with regulation 85 of the CICR Regulations.

A G-SII shall meet the leverage ratio buffer requirement with Tier 1 capital only. Tier 1 capital that is used to meet the leverage ratio buffer requirement shall not be used towards meeting any of the leverage based requirements set out in this Regulation and the CICR Regulations, unless either enactment explicitly provides otherwise.

Where a G-SII does not meet the leverage ratio buffer requirement, it shall be subject to the capital conservation requirement in accordance with regulation 94B of the CICR Regulations.

Where a G-SII does not meet at the same time the leverage ratio buffer requirement and the combined buffer requirement as defined in regulation 82 of the CICR Regulations, it shall be subject to the higher of the capital conservation requirements in accordance with regulations 94 and 94B of those Regulations.”;

(c) in paragraph 3, for points (b) and (c) substitute–

“(b) the own funds requirements for the trading-book business of an institution for the following:

(i) market risk as determined in accordance with Title IV of this Part, excluding the approaches set out in Chapters 1a and 1b of that Title;

(ii) large exposures exceeding the limits specified in Articles 395 to 401, to the extent that an institution is permitted to exceed those limits, as determined in accordance with Part Four;

(c) the own funds requirements for market risk as determined in Title IV of this Part, excluding the approaches set out in Chapters 1a and 1b of that Title, for all business activities that are subject to foreign exchange risk or commodity risk;

(ca) the own funds requirements calculated in accordance with Title V of this Part, with the exception of Article 379 for settlement risk;”.

Amendment of Part 3.

7.(1) In Article 92a–

(a) in paragraph 2–

(i) in paragraph (b), for “Directive 2014/59/EU” substitute “the Recovery and Resolution Regulations”; and

(ii) in paragraph (c), omit “referred to in point (b) of Article 32(1) of Directive 2014/59/EU”; and

(b) omit paragraph 3.

(2) In Article 92b–

(a) in the heading, for “non-EU” substitute “third-country”;

(b) in paragraph 1, for “non-EU” substitute “third-country”;’

(c) in paragraph 2–

(i) for “non-EU” substitute “third-country”; and

(ii) for “in a Member State” substitute “in Gibraltar”; and

(d) in paragraph 3–

(i) in paragraph (a), for "point (47) of Article 2(1) of Directive 2014/59/EU" substitute "regulation 3(1) of the Recovery and Resolution Regulations"; and

(ii) in paragraph (b), for "in accordance with Articles 59 to 62 of Directive 2014/59/EU" substitute "under regulations 59 to 62 of those Regulations".

(3) In Article 93–

(a) omit paragraph 3; and

(b) for paragraphs 4 to 6, substitute–

"4. Where control of an institution to which paragraph 2 applies is taken by an individual or legal person other than the person who controlled the institution previously, the amount of own funds of that institution must attain the amount of initial capital required.

5. Where there is a merger of two or more institutions to which paragraph 2 applies, the amount of own funds of the institution resulting from the merger must not fall below the total own funds of the merged institutions at the time of the merger, as long as the amount of initial capital required has not been attained.

6. If the GFSC considers that it is necessary for an institution to comply with paragraph 1 in order to guarantee its solvency, the provisions of paragraphs 2, 4 and 5 do not apply.".

(4) For Article 94 substitute–

"*Article 94*

Derogation for small trading book business

1. By way of derogation from Article 92.3(b), institutions may calculate the own funds requirement for their trading-book business in accordance with paragraph 2, where the size of the institutions' on- and off-balance-sheet trading-book business is equal to or less than both of the following thresholds on the basis of an assessment carried out on a monthly basis using the data as of the last day of the month:

(a) 5% of the institution's total assets; and

(b) £44 million.

2. Where both conditions in paragraph 1 are met, institutions may calculate the own funds requirement for their trading-book business as follows:

(a) for the contracts listed in point 1 of Annex II, contracts relating to equities which are referred to in point 3 of that Annex and credit derivatives,

institutions may exempt those positions from the own funds requirement in Article 92.3(b); and

(b) for trading book positions other than those in point (a), institutions may replace the own funds requirement in Article 92.3(b) with the requirement calculated in accordance with Article 92.3(a).

3. Institutions must calculate the size of their on- and off-balance-sheet trading book business on the basis of data as of the last day of each month for the purposes of paragraph 1 in accordance with the following requirements:

(a) all the positions assigned to the trading book in accordance with Article 104 must be included in the calculation except for the following:

(i) positions concerning foreign exchange and commodities; and

(ii) positions in credit derivatives that are recognised as internal hedges against non-trading book credit risk exposures or counterparty risk exposures and the credit derivate transactions that perfectly offset the market risk of those internal hedges as referred to in Article 106(3);

(b) all positions included in the calculation in accordance with point (a) must be valued at their market value on that given date; where the market value of a position is not available on a given date, institutions must take a fair value for the position on that date; where the market value and fair value of a position are not available on a given date, institutions must take the most recent of the market value or fair value for that position; and

(c) the absolute value of long positions must be summed with the absolute value of short positions.

4. Where both conditions in paragraph 1 are met, irrespective of the obligations set out in regulations 31 and 40 of the CICR Regulations, Article 102(3) and (4), 103 and 104b of this Regulation shall not apply.

5. Institutions must notify the GFSC when they calculate, or cease to calculate, the own funds requirements of their trading-book business in accordance with paragraph 2.

6. An institution that no longer meets one or more of the conditions in paragraph 1 must immediately notify the GFSC of that fact.

7. An institution must cease to calculate the own funds requirements of its trading-book business in accordance with paragraph 2 within three months of one of the following occurring:

(a) the institution does not meet the conditions set out in paragraph 1(a) or (b) for three consecutive months; or

(b) the institution does not meet the conditions set out in paragraph 1(a) or (b) during more than 6 out of the last 12 months.

8. Where an institution has ceased to calculate the own funds requirements of its trading-book business in accordance with this Article, it may only be permitted to calculate the own funds requirements of its trading-book business in accordance with this Article where it demonstrates to the GFSC that all the conditions in paragraph 1 have been met for an uninterrupted full-year period.

9. Institutions must not enter into, buy or sell a trading-book position for the sole purpose of complying with any of the conditions set out in paragraph 1 during the monthly assessment.".

(5) In Article 95–

(a) in paragraph 1, for "points (3) and (6) of Section A of Annex I to Directive 2004/39/EC" substitute "paragraphs 50 and 53 of Schedule 2 to the Act";

(b) in paragraph 2–

(i) in each place it occurs, for "points (2) and (4) of Section A of Annex I to Directive 2004/39/EC" substitute "paragraphs 49 and 51 of Schedule 2 to the Act";

(ii) for "Competent authorities" substitute "The GFSC";

(iii) for "be binding on those firms according to the national transposition measures in force on 31 December 2013 for Directives 2006/49/EC and 2006/48/EC" substitute "apply to those firms under the law of Gibraltar which transposed Directives 2006/49/EC and 2006/48/EC, as it had effect on 31 December 2013";

(c) in paragraph 3, for "laid down in Title VII, Chapter 2, Section II, Sub-section 2 of Directive 2013/36/EU" substitute "in regulations 33 to 44 of the CICR Regulations"; and

(d) after paragraph 3, insert–

"4. This Article ceases to have effect from 31st December 2026.".

(6) In Article 96–

(a) for the heading, substitute "Own funds requirements for Regulation 19(2) investment firms";

(b) in paragraph 1, for "Article 28(2) of Directive 2013/36/EU" substitute "regulation 19(2) of the CICR Regulations"; and

(c) in paragraph 3, for "laid down in Title VII, Chapter 3, Section II, Sub-section 1 of Directive 2013/36/EU" substitute "in regulations 33 to 44 of the CICR Regulations"; and

(d) after paragraph 3, insert–

"4. This Article ceases to have effect from 31st December 2026.".

(7) In Article 97–

(a) in paragraph 1, for "points (2) and (4) of Section A of Annex I to Directive 2004/39/EC" substitute "paragraphs 49 and 51 of Schedule 2 to the Act";

(b) in paragraph 4–

(i) for "EBA in consultation with ESMA shall develop draft regulatory technical standards to specify in greater detail the following" substitute "The Minister may make technical standards further specifying"; and

(ii) omit the second and third sub-paragraphs; and

(c) after paragraph 4, insert–

"5. This Article ceases to have effect from 31st December 2026.".

(8) In Article 98–

(a) in paragraph 1, for "parent investment firm in a Member State" substitute "Gibraltar parent investment firm";

(b) in paragraph 2, for "parent investment firm in a Member State" substitute "Gibraltar parent investment firm";

(c) after paragraph 2, insert–

"3. In this Article "Gibraltar parent investment firm" means an investment firm in Gibraltar which has an institution or financial institution as a subsidiary or which holds a participation in such an institution or financial institution, and which is not itself a subsidiary of another institution authorised in Gibraltar, or of a financial holding company or mixed financial holding company set up in Gibraltar."; and

(d) after paragraph 3, insert–

"4. This Article ceases to have effect from 31srt December 2026.".

(9) Omit Articles 99 to 101.

(10) In Article 102, for paragraphs 2 to 4 substitute–

“2. Trading intent shall be evidenced on the basis of the strategies, policies and procedures set up by the institution to manage the position or portfolio in accordance with Articles 103, 104 and 104a.

3. Institutions shall establish and maintain systems and controls to manage their trading book in accordance with Article 103.

4. For the purposes of the reporting requirements set out in Article 430b(3), trading book positions shall be assigned to trading desks established in accordance with Article 104b.

5. Positions in the trading book shall be subject to the requirements for prudent valuation specified in Article 105.

6. Institutions shall treat internal hedges in accordance with Article 106.”;

(11) For Article 103 substitute–

“*Article 103*

Management of the trading book

1. Institutions shall have in place clearly defined policies and procedures for the overall management of the trading book. Those policies and procedures shall at least address:

(a) the activities which the institution considers to be trading business and as constituting part of the trading book for own funds requirement purposes;

(b) the extent to which a position can be marked-to-market daily by reference to an active, liquid two-way market;

(c) for positions that are marked-to-model, the extent to which the institution can:

(i) identify all material risks of the position;

(ii) hedge all material risks of the position with instruments for which an active, liquid two-way market exists;

(iii) derive reliable estimates for the key assumptions and parameters used in the model;

(d) the extent to which the institution can, and is required to, generate valuations for the position that can be validated externally in a consistent manner;

(e) the extent to which legal restrictions or other operational requirements would impede the institution's ability to effect a liquidation or hedge of the position in the short term;

(f) the extent to which the institution can, and is required to, actively manage the risks of positions within its trading operation;

(g) the extent to which the institution may reclassify risk or positions between the non-trading and trading books and the requirements for such reclassifications as referred to in Article 104a.

2. In managing its positions or portfolios of positions in the trading book, the institution shall comply with all the following requirements:

(a) the institution shall have in place a clearly documented trading strategy for the position or portfolios in the trading book, which shall be approved by senior management and include the expected holding period;

(b) the institution shall have in place clearly defined policies and procedures for the active management of positions or portfolios in the trading book; those policies and procedures shall include the following:

(i) which positions or portfolios of positions may be entered into by each trading desk or, as the case may be, by designated dealers;

(ii) the setting of position limits and monitoring them for appropriateness;

(iii) ensuring that dealers have the autonomy to enter into and manage the position within agreed limits and according to the approved strategy;

(iv) ensuring that positions are reported to senior management as an integral part of the institution's risk management process;

(v) ensuring that positions are actively monitored with reference to market information sources and an assessment is made of the marketability or hedgeability of the position or its component risks, including the assessment, the quality and availability of market inputs to the valuation process, level of market turnover, sizes of positions traded in the market;

(vi) active anti-fraud procedures and controls;

(c) the institution shall have in place clearly defined policies and procedures to monitor the positions against the institution's trading strategy, including the monitoring of turnover and positions for which the originally intended holding period has been exceeded.";

(12) in Article 104, omit paragraph 2.

(13) After Article 104, insert–

"Article 104a
Reclassification of a position

1. Institutions shall have in place clearly defined policies for identifying the exceptional circumstances which justify the reclassification of a trading book position as a non-trading book position or, conversely, the reclassification of a non-trading book position as a trading book position, for the purpose of determining their own funds requirements to the satisfaction of the GFSC. The institutions shall review those policies at least annually.

2. The GFSC may grant permission to reclassify a trading book position as a non-trading book position or conversely a non-trading book position as a trading book position for the purpose of determining an institution's own funds requirements only where the institution has provided the GFSC with written evidence that its decision to reclassify that position is the result of an exceptional circumstance that is consistent with the policies the institution has in place in accordance with paragraph 1 and, for that purpose, the institution shall provide sufficient evidence that the position no longer meets the condition to be classified as a trading book or non-trading book position pursuant to Article 104.

The decision referred to in the first subparagraph shall be approved by the management body.

3. Where the GFSC has granted permission for the reclassification of a position in accordance with paragraph 2, the institution which received that permission shall:

(a) publicly disclose, without delay,

(i) information that its position has been reclassified; and

(ii) where the effect of that reclassification is a reduction in the institution's own funds requirements, the size of that reduction; and

(b) where the effect of that reclassification is a reduction in the institution's own funds requirements, not recognise that effect until the position matures, unless the GFSC permits it to recognise that effect at an earlier date.

4. The institution shall calculate the net change in the amount of its own funds requirements arising from the reclassification of the position as the difference between the own funds requirements immediately after the reclassification and the own funds requirements immediately before the reclassification, each calculated in accordance

with Article 92. The calculation shall not take into account the effects of any factors other than the reclassification.

5. The reclassification of a position in accordance with this Article shall be irrevocable.

(14) In Article 104b–

(a) in paragraph 2(f), for "competent authorities" substitute "GFSC";

(b) in paragraph 3, for "its competent authority" substitute "the GFSC"; and

(c) in paragraph 4–

(i) for "competent authorities" substitute "GFSC"; and

(ii) for "Competent authorities" substitute "The GFSC".

(15) In Article 105–

(a) for paragraph 1 substitute–

"1. All trading book positions and non-trading book positions measured at fair value shall be subject to the standards for prudent valuation specified in this Article. Institutions shall in particular ensure that the prudent valuation of their trading book positions achieves an appropriate degree of certainty having regard to the dynamic nature of trading book positions and non-trading book positions measured at fair value, the demands of prudential soundness and the mode of operation and purpose of capital requirements in respect of trading book positions and non-trading book positions measured at fair value.";

(b) for paragraphs 3 and 4 substitute–

"3. Institutions shall revalue trading book positions at fair value at least on a daily basis. Changes in the value of those positions shall be reported in the profit and loss account of the institution.

4. Institutions shall mark their trading book positions and non-trading book positions measured at fair value to market whenever possible, including when applying the relevant capital treatment to those positions.";

(c) in paragraph 5, for "their competent authorities" substitute "the GFSC";

(d) for paragraph 6 substitute–

"6. Where marking to market is not possible, institutions shall conservatively mark to model their positions and portfolios, including when calculating own funds requirements for positions in the trading book and positions measured at fair value in the non-trading book.";

(e) in paragraph 7, for the second sub-paragraph substitute–

"For the purposes of point (d) of the first subparagraph, the model shall be developed or approved independently of the trading desks and shall be independently tested, including validation of the mathematics, assumptions and software implementation.";

(f) in paragraph 11, for point (a) substitute:

"(a) the additional amount of time it would take to hedge out the position or the risks within the position beyond the liquidity horizons that have been assigned to the risk factors of the position in accordance with Article 325bd;"; and

(g) in paragraph 14–

(i) for "EBA shall develop draft regulatory technical standards to specify" substitute "The Minister may make technical standards specifying"; and

(ii) omit the second and third sub-paragraphs.

(16) In Article 106–

(a) for paragraphs 2 and 3 substitute–

"2. The requirements set out in paragraph 1 shall apply without prejudice to the requirements applicable to the hedged position in the non-trading book or in the trading book, where relevant.

3. Where an institution hedges a non-trading book credit risk exposure or counterparty risk exposure using a credit derivative booked in its trading book, that credit derivative position shall be recognised as an internal hedge of the non-trading book credit risk exposure or counterparty risk exposure for the purpose of calculating the risk-weighted exposure amounts referred to in Article 92(3)(a) where the institution enters into another credit derivative transaction with an eligible third party protection provider that meets the requirements for unfunded credit protection in the non-trading book and perfectly offsets the market risk of the internal hedge.

Both an internal hedge recognised in accordance with the first subparagraph and the credit derivative entered into with the third party shall be included in the trading book for the purpose of calculating the own funds requirements for market risk."; and

(b) after paragraph 3, insert–

“4. Where an institution hedges a non-trading book equity risk exposure using an equity derivative booked in its trading book, that equity derivative position shall be recognised as an internal hedge of the non-trading book equity risk exposure for the purpose of calculating the risk-weighted exposure amounts referred to in Article 92(3)(a) where the institution enters into another equity derivative transaction with an eligible third party protection provider that meets the requirements for unfunded credit protection in the non- trading book and perfectly offsets the market risk of the internal hedge.

Both an internal hedge recognised in accordance with the first subparagraph and the equity derivative entered into with the eligible third party protection provider shall be included in the trading book for the purpose of calculating the own funds requirements for market risk.

5. Where an institution hedges non-trading book interest rate risk exposures using an interest rate risk position booked in its trading book, that interest rate risk position shall be considered to be an internal hedge for the purpose of assessing the interest rate risk arising from non-trading positions in accordance with regulations 41 and 55 of the CICR Regulations where the following conditions are met:

(a) the position has been assigned to a separate portfolio from the other trading book position, the business strategy of which is solely dedicated to manage and mitigate the market risk of internal hedges of interest rate risk exposure; for that purpose, the institution may assign to that portfolio other interest rate risk positions entered into with third parties, or its own trading book as long as the institution perfectly offsets the market risk of those interest rate risk positions entered into with its own trading book by entering into opposite interest rate risk positions with third parties;

(b) for the purposes of the reporting requirements set out in Article 430b(3), the position has been assigned to a trading desk established in accordance with Article 104b the business strategy of which is solely dedicated to manage and mitigate the market risk of internal hedges of interest rate risk exposure; for that purpose, that trading desk may enter into other interest rate risk positions with third parties or other trading desks of the institution, as long as those other trading desks perfectly offset the market risk of those other interest rate risk positions by entering into opposite interest rate risk positions with third parties;

(c) the institution has fully documented how the position mitigates the interest rate risk arising from non- trading book positions for the purposes of the requirements in regulations 41 and 55 of the CICR Regulations.

6. The own funds requirements for the market risk of all the positions assigned to a separate portfolio as referred to in paragraph 5(a) shall be calculated on a stand-alone basis and shall be in addition to the own funds requirements for the other trading book positions.

7. For the purposes of the reporting requirements set out in Article 430b, the calculation of the own funds requirements for market risk of all the positions assigned to the separate portfolio as referred to in paragraph 5(a) or to the trading desk or entered into by the trading desk referred to in paragraph 5(b), where appropriate, shall be calculated on a stand-alone basis as a separate portfolio and shall be additional to the calculation of own funds requirements for the other trading book positions.”.

(17) In Article 107–

(a) in paragraph 1, for “competent authorities” substitute “GFSC”;

(b) for paragraph 3 substitute–

“3. For the purposes of this Regulation, exposures to a third-country investment firm, a third-country credit institution and a third-country exchange shall be treated as exposures to an institution only where the third country applies prudential and supervisory requirements to that entity that are at least equivalent to those applied in Gibraltar.”; and

(c) for paragraph (4), substitute–

“4. For the purposes of paragraph 3, the Minister may by regulations make a determination that a third country applies prudential supervisory and regulatory requirements at least equivalent to those applied in Gibraltar”.

(18) In Article 110.4–

(a) for “EBA shall develop draft regulatory technical standards to specify” substitute “The Minister may make technical standards specifying”; and

(b) omit the second and third sub-paragraphs.

(19) In Article 113–

(a) in paragraph 6–

(i) for “the competent authorities” substitute “the GFSC”;

(ii) for “relationship within the meaning of Article 12(1) of Directive 83/349/EEC” substitute “common management relationship”;

(iii) for “Competent authorities are” substitute “The GFSC is”; and

(iv) for “same Member State as the institution” substitute “Gibraltar”; and

(b) omit paragraph 7.

(20) In Article 114–

(a) in paragraph 4, for "Member States' central governments, and central banks denominated and funded in the domestic currency of that central government and central bank" substitute "the government of Gibraltar, the central government of the United Kingdom and the Bank of England denominated and funded in sterling"; and

(b) in paragraph 7–

(i) in the first sub-paragraph, for "the Union" substitute "Gibraltar"; and

(ii) for the second sub-paragraph, substitute–

"For the purposes of this paragraph, the Minister may by regulations make a determination that a third country applies supervisory and regulatory arrangements at least equivalent to those applied in Gibraltar.".

(21) In Article 115–

(a) in paragraph 2, omit the second sub-paragraph;

(b) in paragraph 4–

(i) in the first sub-paragraph, for "the Union" substitute "Gibraltar"; and

(ii) for the second sub-paragraph, substitute–

"For the purposes of this paragraph, the Minister may by regulations make a determination that a third country applies supervisory and regulatory arrangements at least equivalent to those applied in Gibraltar."; and

(c) omit paragraph 5.

(22) In Article 116–

(a) in paragraph 4, for "competent authorities of this jurisdiction" substitute "GFSC"; and

(b) in paragraph 5–

(i) in the first sub-paragraph, for "the Union" substitute "Gibraltar"; and

(ii) for the second sub-paragraph, substitute–

"For the purposes of this paragraph, the Minister may by regulations make a determination that a third country applies supervisory and regulatory arrangements at least equivalent to those applied in Gibraltar.".

(23) In Article 117–

(a) in paragraph 2, for the second sub-paragraph substitute–

"The Minister may by regulations, in accordance with international standards, amend the list of multilateral development banks referred to in the first subparagraph"; and

(b) omit paragraph 3.

(24) In Article 118–

(a) in paragraph (a), omit "and the European Atomic Energy Community"; and

(b) omit paragraph (f).

(25) In Article 119–

(a) omit paragraph 4;

(b) in paragraph 5, for "competent authorities" substitute "GFSC"; and

(c) after paragraph 5, insert–

"6. For the purposes of paragraph 5, the prudential requirements set out in the IFPR Regulations must be considered to be comparable to those applied to institutions in terms of robustness.".

(26) In Article 124–

(a) in paragraph 1, for the second sub-paragraph, substitute–

"The part of an exposure treated as fully secured by immovable property shall not be higher than the pledged amount of the market value or, if rigorous criteria are in force at the time in Gibraltar for the assessment of the mortgage lending value, the mortgage lending value of the property in question.";

(b) in paragraph 1a–

(i) omit the first sub-paragraph;

(ii) for the second sub-paragraph, substitute–

"The GFSC must ensure that the Minister is informed of the GFSC's intention to make use of this Article and is appropriately involved in the assessment of financial stability concerns in Gibraltar in accordance with paragraph 2.";

(iii) omit the third sub-paragraph;

(c) in paragraph 2–

(i) in the first and second sub-paragraphs—

(aa) in each place it occurs, for "authority designated in accordance with paragraph 1a of this Article", substitute "GFSC";

(bb) for "one or more parts of the territory of the Member State of the relevant authority", in each place, substitute "Gibraltar";

(ii) in the second sub-paragraph, for "its Member State" substitute "Gibraltar";

(iii) omit the third sub-paragraph; and

(iv) in the fourth sub-paragraph, for "authority designated in accordance with paragraph 1a" substitute "GFSC";

(d) in paragraph 3, for "authority designated in accordance with paragraph 1a" substitute "GFSC";

(e) for paragraph 4, substitute–

"4. The Minister may make technical standards specifying the rigorous criteria for the assessment of the mortgage lending value referred to in paragraph 1 and the types of factors to be considered for the assessment of the appropriateness of the risk weights referred in the first subparagraph of paragraph 2."; and

(f) omit paragraph 5 and 6.

(27) In Article 125–

(a) in paragraph 1, for "competent authorities" substitute "GFSC";

(b) in paragraph 2(d), for "in those Member States that have laid down rigorous criteria for the assessment of the mortgage lending value in statutory or regulatory provisions" substitute "if rigorous criteria are in force at the time in Gibraltar for the assessment of the mortgage lending value"; and

(c) in paragraph 3, for the opening words, substitute–

"3. Institutions may derogate from point (b) of paragraph 2 for exposures fully and completely secured by mortgages on residential property which is situated in Gibraltar, where the GFSC has determined that loss rates do not exceed the following limits:".

(28) In Article 126–

(a) in paragraph 1, for "competent authorities" substitute "GFSC";

(b) in paragraph 2(d), for "in those Member States that have laid down rigorous criteria for the assessment of the mortgage lending value in statutory or regulatory provisions" substitute "if rigorous criteria are in force at the time in Gibraltar for the assessment of the mortgage lending value"; and

(c) in paragraph 3, for the opening words, substitute–

"3. Institutions may derogate from point (b) of paragraph 2 for exposures fully and completely secured by mortgages on commercial immovable property which is situated in Gibraltar, where the GFSC has determined that loss rates do not exceed the following limits:".

(29) In Article 128–

(a) for paragraphs 1 and 2 substitute–

"1. Institutions shall assign a 150 % risk weight to exposures that are associated with particularly high risks.

2. For the purposes of this Article, institutions shall treat any of the following exposures as exposures associated with particularly high risks:

(a) investments in venture capital firms, except where those investments are treated in accordance with Article 132;

(b) investments in private equity, except where those investments are treated in accordance with Article 132;

(c) speculative immovable property financing."; and

(b) in paragraph 3, omit the second and third sub-paragraphs.

(30) In Article 129–

(a) in paragraph 1–

(i) in the opening words, for "bonds as referred to in Article 52(4) of Directive 2009/65/EC (covered bonds)" substitute "CRR covered bonds";

(ii) for paragraph (a), substitute–

“(a) exposures to or guaranteed by the Government;”;

(iii) in paragraph (c), for “the Union” substitute “Gibraltar”;

(iv) for paragraph (d), substitute–

“(d) loans secured by residential property 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;”;

(v) omit paragraph (e);

(vi) in paragraph (f), for the first sub-paragraph, including points (i) and (ii), substitute–

“(f) loans secured by commercial immovable property 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.”; and

(vii) in paragraph (g)–

(aa) in the second sub-paragraph, for “points (c), (d)(ii) and (f)(ii)” substitute “point (c)”;

(bb) in the third sub-paragraph, for “competent authorities may, after consulting EBA,” substitute “GFSC may”; and

(cc) in the third sub-paragraph, for “the Member States concerned” substitute “Gibraltar”;

(b) in paragraph 3, for “covered bonds” substitute “CRR covered bonds”;

(c) in paragraph 4, for “Covered bonds” substitute “CRR covered bonds”;

(d) in paragraph 5–

(i) for “Covered bonds” substitute “CRR covered bonds”; and

(ii) in each place it occurs, for “covered bond” substitute “CRR covered bond”;

(e) in paragraph 6, for “Covered bonds” substitute “CRR covered bonds”; and

(f) in paragraph 7–

(i) in each place it occurs, for “covered bonds” substitute “CRR covered bonds”; and

(ii) for "competent authorities" substitute "GFSC".

(31) For Article 132 substitute–

"*Article 132*

Own funds requirements for exposures in the form of units or shares in CIUs

1. Institutions shall calculate the risk-weighted exposure amount for their exposures in the form of units or shares in a CIU by multiplying the risk-weighted exposure amount of the CIU's exposures, calculated in accordance with the approaches referred to in the first subparagraph of paragraph 2, with the percentage of units or shares held by those institutions.

2. Where the conditions set out in paragraph 3 are met, institutions may apply the look-through approach in accordance with Article 132a(1) or the mandate-based approach in accordance with Article 132a(2).

Subject to Article 132b(2), institutions that do not apply the look-through approach or the mandate-based approach shall assign a risk weight of 1,250% ("fall-back approach") to their exposures in the form of units or shares in a CIU.

Institutions may calculate the risk-weighted exposure amount for their exposures in the form of units or shares in a CIU by using a combination of the approaches referred to in this paragraph, provided that the conditions for using those approaches are met.

3. Institutions may determine the risk-weighted exposure amount of a CIU's exposures in accordance with the approaches set out in Article 132a where all the following conditions are met:

(a) the CIU's prospectus or equivalent document includes the following:

(i) the categories of assets in which the CIU is authorised to invest;

(ii) where investment limits apply, the relative limits and the methodologies to calculate them;

(b) reporting by the CIU or the CIU management company to the institution complies with the following requirements:

(i) the exposures of the CIU are reported at least quarterly;

(ii) the granularity of the financial information is sufficient to allow the institution to calculate the CIU's risk-weighted exposure amount in accordance with the approach chosen by the institution;

(iii) where the institution applies the look-through approach, information about the underlying exposures is verified by an independent third party.

By way of derogation from point (b)(i), where the institution determines the risk-weighted exposure amount of a CIU's exposures in accordance with the mandate-based approach, the reporting by the CIU or the CIU management company to the institution may be limited to the investment mandate of the CIU and any changes thereof and may be done only when the institution incurs the exposure to the CIU for the first time and when there is a change in the investment mandate of the CIU.

4. Institutions that do not have adequate data or information to calculate the risk-weighted exposure amount of a CIU's exposures in accordance with the approaches set out in Article 132a may rely on the calculations of a third party where all the following conditions are met:

(a) the third party is one of the following:

(i) the depository institution or the depository financial institution of the CIU, provided that the CIU exclusively invests in securities and deposits all securities at that depository institution or depository financial institution;

(ii) for CIUs not covered by point (i), the CIU management company, provided that the company meets the condition set out in point (a) of paragraph 3;

(b) the third party carries out the calculation in accordance with the approaches set out in Article 132a(1), (2) or (3), as applicable;

(c) an external auditor has confirmed the correctness of the third party's calculation.

Institutions that rely on third-party calculations shall multiply the risk-weighted exposure amount of a CIU's exposures resulting from those calculations by a factor of 1.2.

By way of derogation from the second subparagraph, where the institution has unrestricted access to the detailed calculations carried out by the third party, the factor of 1.2 shall not apply. The institution shall provide those calculations to the GFSC upon request.

5. Where an institution applies the approaches referred to in Article 132a for the purpose of calculating the risk-weighted exposure amount of a CIU's exposures ("level 1 CIU"), and any of the underlying exposures of the level 1 CIU is an exposure in the form of units or shares in another CIU ("level 2 CIU"), the risk-weighted exposure amount of the level 2 CIU's exposures may be calculated by using any of the three approaches described in paragraph 2 of this Article. The institution may use the look-

through approach to calculate the risk-weighted exposure amounts of CIUs' exposures in level 3 and any subsequent level only where it used that approach for the calculation in the preceding level. In any other scenario it shall use the fall-back approach.

6. The risk-weighted exposure amount of a CIU's exposures calculated in accordance with the look-through approach and the mandate-based approach set out in Article 132a(1) and (2) shall be capped at the risk-weighted amount of that CIU's exposures calculated in accordance with the fall-back approach.

7. By way of derogation from paragraph 1, institutions that apply the look-through approach in accordance with Article 132a(1) may calculate the risk-weighted exposure amount for their exposures in the form of units or shares in a CIU by multiplying the exposure values of those exposures, calculated in accordance with Article 111, with the risk weight (RW*) calculated in accordance with the formula set out in Article 132c, where the following conditions are met:

(a) the institutions measure the value of their holdings of units or shares in a CIU at historical cost but measure the value of the underlying assets of the CIU at fair value if they apply the look-through approach;

(b) a change in the market value of the units or shares for which institutions measure the value at historical cost changes neither the amount of own funds of those institutions nor the exposure value associated with those holdings.

8. An institution must notify the GFSC if either:

(a) the total risk weighted exposure amounts for all of its exposures in the form of units or shares in relevant CIUs exceed 0.5% of the institution's total risk weighted exposures for credit risk and dilution risk calculated in accordance with Title II of Part Three; or

(b) the total exposure values for all of its exposures in the form of units or shares in relevant CIUs exceed £500 million;

in each case calculated on an individual or consolidated basis.

9. Institutions must make the notification in paragraph 8 promptly if:

(a) at any time either of the thresholds in paragraph 8(a) or (b) is reached; and

(b) until such time as it makes a notification under paragraph 10, on an annual basis thereafter.

10. Institutions which have made or are required to have made a notification under paragraph 8 must also notify the GFSC promptly when both the total risk weighted exposure amounts and total exposure values are below the relevant thresholds set out paragraph 8(a) and (b).

11. Institutions must include in the notification made under paragraph 8:

(a) a list of the countries in which fund managers of all relevant CIUs to which it is exposed are located; and

(b) the total exposure values and total risk weighted exposure amounts in respect of its exposures in the form of units or shares in relevant CIUs for each of those countries.".

(32) For Article 132a substitute–

"*Article 132a*

Approaches for calculating risk-weighted exposure amounts of CIUs

1. Where the conditions set out in Article 132(3) are met, institutions that have sufficient information about the individual underlying exposures of a CIU shall look through to those exposures to calculate the risk-weighted exposure amount of the CIU, risk weighting all underlying exposures of the CIU as if they were directly held by those institutions.

2. Where the conditions set out in Article 132(3) are met, institutions that do not have sufficient information about the individual underlying exposures of a CIU to use the look-through approach may calculate the risk-weighted exposure amount of those exposures in accordance with the limits set in the CIU's mandate and relevant law.

Institutions shall carry out the calculations referred to in the first subparagraph under the assumption that the CIU first incurs exposures to the maximum extent allowed under its mandate or relevant law in the exposures attracting the highest own funds requirement and then continues incurring exposures in descending order until the maximum total exposure limit is reached, and that the CIU applies leverage to the maximum extent allowed under its mandate or relevant law, where applicable.

Institutions shall carry out the calculations referred to in the first subparagraph in accordance with the methods set out in this Chapter, in Chapter 5, and in Section 3, 4 or 5 of Chapter 6 of this Title.

3. By way of derogation from Article 92(3)(d), institutions that calculate the risk-weighted exposure amount of a CIU's exposures in accordance with paragraph 1 or 2 may calculate the own funds requirement for the credit valuation adjustment risk of derivative exposures of that CIU as an amount equal to 50% of the own funds requirement for those derivative exposures calculated in accordance with Section 3, 4 or 5 of Chapter 6 of this Title, as applicable.

By way of derogation from the first subparagraph, an institution may exclude from the calculation of the own funds requirement for credit valuation adjustment risk derivative exposures which would not be subject to that requirement if they were incurred directly by the institution.

4. Where institutions calculate the risk-weighted exposure amount of a CIU's exposures in accordance with paragraph 2 of this Article, and where one or more of the inputs required for the calculation in Section 3, 4 or 5 of Chapter 6 of Title Two is not available, institutions shall carry out the calculation as follows:

Where the replacement cost is unknown, institutions shall set the replacement cost as referred to in Articles 274(2) and 282(2) equal to the sum of the notional amounts of the derivatives in the netting set, and where relevant the multiplier referred to in Article 278(1) shall be set equal to 1.

Where the potential future exposure is unknown, institutions shall set the potential future exposure as referred to in Articles 274(2) and 282(2) equal to 15% of the sum of the notional amounts of the derivatives in the netting set.”.

(33) After Article 132a, insert–

“*Article 132b*

Exclusions from the approaches for calculating risk-weighted exposure amounts of CIUs

1. Institutions may exclude from the calculations referred to in Article 132 Common Equity Tier 1, Additional Tier 1, Tier 2 instruments and eligible liabilities instruments held by a CIU which institutions shall deduct in accordance with Article 36(1) and Articles 56, 66 and 72e respectively.

2. Institutions may exclude from the calculations referred to in Article 132 exposures in the form of units or shares in CIUs referred to in Article 150(1)(g) and (h) and instead apply the treatment set out in Article 133 to those exposures.

Article 132c

Treatment of off-balance-sheet exposures to CIUs

Institutions shall calculate the risk-weighted exposure amount for their off-balance-sheet items with the potential to be converted into exposures in the form of units or shares in a CIU by multiplying the exposure values of those exposures calculated in accordance with Article 111, with the following risk weight:

(a) for all exposures for which institutions use one of the approaches set out in Article 132a:

$$RW_i^* = \frac{RWAE_i}{E_i^*} \cdot \frac{A_i}{EQ_i}$$

where:

RW^*_i = the risk weight;

i = the index denoting the CIU;

RWAEi = the amount calculated in accordance with Article 132a for a CIUi;

E^*_i = the exposure value of the exposures of CIUi;

A_i = the accounting value of assets of CIUi; and

EQ_i = the accounting value of the equity of CIUi;

(b) for all other exposures, RW*i = 1,250%.”.

(34) In Article 134–

(a) in paragraph 1, for “under the heading 'Assets' in Article 4 of Directive 86/635/EEC” substitute “of the balance sheet format specified in Part 2 of the Financial Services (Credit Institutions) (Accounts) Regulations 2021”; and

(b) in paragraph 2, for “Directive 86/635/EEC” substitute “the Financial Services (Credit Institutions) (Accounts) Regulations 2021”.

(35) In Article 135–

(a) in paragraph 1, for “Regulation (EC) No 1060/2009” substitute “the CRA Regulation”; and

(b) in paragraph 2–

(i) for “EBA” substitute “The GFSC”; and

(ii) omit “in accordance with Article 2(4) and Article 18(3) of Regulation (EC) No 1060/2009”.

(36) Omit Article 136.

(37) In Article 138–

(a) for “if EBA has” substitute “if the GFSC has”; and

(b) for “EBA shall” substitute “The GFSC must”.

(38) In Article 142–

(a) in paragraph 1–

(i) in paragraph (4)(b), in both places it occurs, for “the Union”, substitute “Gibraltar”;

(ii) in paragraph (5), for “listed in Annex I to Directive 2013/36/EU or in Annex I to Directive 2004/39/EC” substitute “in the Schedule to the CICR Regulations or Parts 6 and 10 of Schedule 2 to the Act”; and

(b) for paragraph 2, substitute–

“2. For the purposes of paragraph 1(4)(b), the Minister may by regulations make a determination that a third country applies supervisory and regulatory arrangements at least equivalent to those applied in Gibraltar.”.

(39) In Article 143–

(a) in paragraph 1, for “competent authority” substitute “GFSC”;

(b) in paragraph 3, for “competent authorities” substitute “GFSC”;

(c) in paragraph 4, for “competent authorities” substitute “GFSC”; and

(d) in paragraph 5–

(i) for “EBA shall develop draft regulatory technical standards to specify” substitute “The Minister may make technical standards specifying”; and

(ii) omit the second and third sub-paragraphs.

(40) In Article 144–

(a) in the heading, for “Competent authorities’” substitute “GFSC’s”;

(b) in paragraph 1, for point (g) substitute–

“(g) the institution has calculated under the IRB Approach the own funds requirements resulting from its risk parameters estimates and is able to submit the reporting as required by Article 430;”; and

(c) in paragraph 2–

(i) for “EBA shall develop draft regulatory technical standards to specify the assessment methodology competent authorities” substitute “The Minister may make technical standards specifying the assessment methodology the GFSC”; and

(ii) omit the second and third sub-paragraphs.

(41) In Article 145.2, for “competent authorities” substitute “GFSC”.

(42) In Article 146–

(a) in the opening words, for "competent authority" substitute "GFSC";

(b) in paragraph (a), in both places it occurs, for "competent authority" substitute "GFSC"; and

(c) in paragraph (b), for "competent authorities" substitute "GFSC".

(43) In Article 148–

(a) in paragraph 1, in both places it occurs, for "competent authorities" substitute "GFSC";

(b) in paragraph 2–

(i) for "Competent authorities" substitute "The GFSC"; and

(ii) for "competent authorities consider" substitute "the GFSC considers";

(c) in paragraph 3, for "competent authorities. The competent authority" substitute "GFSC. The GFSC";

(d) in paragraph 4–

(i) for "competent authorities" substitute "GFSC"; and

(ii) for "competent authorities notify" substitute "GFSC notifies"; and

(e) in paragraph 6–

(i) for "EBA shall develop draft regulatory technical standards to specify" substitute "The Minister may make technical standards specifying";

(ii) for "competent authorities" substitute "the GFSC"; and

(iii) omit the second and third sub-paragraphs.

(44) In Article 149–

(a) in paragraph 1, in both places it occurs, for "competent authority" substitute "GFSC";

(b) in paragraph 2, in both places it occurs, for "competent authority" substitute "GFSC"; and

(c) in paragraph 3, for "competent authorities" substitute "GFSC".

(45) In Article 150–

(a) in paragraph 1–

(i) for “competent authorities” substitute “GFSC”;

(ii) in paragraph (d)–

(aa) in the opening words, for “central governments and central banks of the Member States and their regional governments, local authorities, administrative bodies and public sector entities” substitute “the government or a public sector entity in Gibraltar”;

(bb) in sub-paragraph (i), for “that central government and central bank” substitute “the government”; and

(cc) in sub-paragraph (ii), for “central government and central banks” substitute “the government”;

(iii) in paragraph (e), for “relationship within the meaning of Article 12(1) of Directive 83/349/EEC” substitute “common management relationship”; and

(iv) omit the final sub-paragraph

(b) in paragraph 3–

(i) for “EBA shall develop draft regulatory technical standards to determine” substitute “The Minister may make technical standards specifying”; and

(ii) omit the second and third sub-paragraphs; and

(c) omit paragraph 4.

(46) In Article 151–

(a) in paragraph 4–

(i) for “competent authorities” substitute “GFSC”; and

(ii) for “Competent authorities” substitute “The GFSC”; and

(b) in paragraph 9, for “competent authority” substitute “GFSC”.

(47) For Article 152 substitute–

"*Article 152*

Treatment of exposures in the form of units or shares in CIUs

1. Institutions shall calculate the risk-weighted exposure amounts for their exposures in the form of units or shares in a CIU by multiplying the risk-weighted exposure amount of the CIU, calculated in accordance with the approaches set out in paragraphs 2 and 5, with the percentage of units or shares held by those institutions.

2. Where the conditions set out in Article 132(3) are met, institutions that have sufficient information about the individual underlying exposures of a CIU shall look through to those underlying exposures to calculate the risk-weighted exposure amount of the CIU, risk weighting all underlying exposures of the CIU as if they were directly held by the institutions.

3. By way of derogation from Article 92(3)(d), institutions that calculate the risk-weighted exposure amount of the CIU in accordance with paragraph 1 or 2 may calculate the own funds requirement for credit valuation adjustment risk of derivative exposures of that CIU as an amount equal to 50% of the own funds requirement for those derivative exposures calculated in accordance with Section 3, 4 or 5 of Chapter 6 of this Title, as applicable.

By way of derogation from the first subparagraph, an institution may exclude from the calculation of the own funds requirement for credit valuation adjustment risk derivative exposures which would not be subject to that requirement if they were incurred directly by the institution.

4. Institutions that apply the look-through approach in accordance with paragraphs 2 and 3 and that meet the conditions for permanent partial use in accordance with Article 150, or that do not meet the conditions for using the methods set out in this Chapter or one or more of the methods set out in Chapter 5 for all or parts of the underlying exposures of the CIU, shall calculate risk-weighted exposure amounts and expected loss amounts in accordance with the following principles:

(a) for exposures assigned to the equity exposure class referred to in Article 147(2)(e), institutions shall apply the simple risk-weight approach set out in Article 155(2);

(b) for exposures assigned to the items representing securitisation positions referred to in Article 147(2)(f), institutions shall apply the treatment set out in Article 254 as if those exposures were directly held by those institutions;

(c) for all other underlying exposures, institutions shall apply the Standardised Approach laid down in Chapter 2 of this Title.

For the purposes of point (a) of the first subparagraph, where the institution is unable to differentiate between private equity exposures, exchange-traded exposures and other equity exposures, it shall treat the exposures concerned as other equity exposures.

5. Where the conditions set out in Article 132(3) are met, institutions that do not have sufficient information about the individual underlying exposures of a CIU may calculate the risk-weighted exposure amount for those exposures in accordance with the mandate-based approach set out in Article 132a(2). However, for the exposures listed in points (a), (b) and (c) of paragraph 4, institutions shall apply the approaches set out in those points.

6. Subject to Article 132b(2), institutions that do not apply the look-through approach in accordance with paragraphs 2 and 3 or the mandate-based approach in accordance with paragraph 5 shall apply the fall-back approach referred to in Article 132(2).

7. Institutions may calculate the risk-weighted exposure amount for their exposures in the form of units or shares in a CIU by using a combination of the approaches referred to in this Article where the conditions for using those approaches are met.

8. Institutions that do not have adequate data or information to calculate the risk-weighted amount of a CIU in accordance with the approaches set out in paragraphs 2, 3, 4 and 5 may rely on the calculations of a third party where all the following conditions are met:

(a) the third party is one of the following:

(i) the depository institution or the depository financial institution of the CIU, provided that the CIU exclusively invests in securities and deposits all securities at that depository institution or depository financial institution; or

(ii) for CIUs not covered by point (i), the CIU management company;

(b) for exposures other than those listed in points (a), (b) and (c) of paragraph 4, the third party carries out the calculation in accordance with the look-through approach set out in Article 132a(1);

(c) for exposures listed in points (a), (b) and (c) of paragraph 4, the third party carries out the calculation in accordance with the approaches set out in those points; and

(d) an external auditor has confirmed the correctness of the third party's calculation.

Institutions that rely on third-party calculations shall multiply the risk-weighted exposure amounts of a CIU's exposures resulting from those calculations by a factor of 1.2.

By way of derogation from the second subparagraph, where the institution has unrestricted access to the detailed calculations carried out by the third party, the 1.2

factor shall not apply. The institution shall provide those calculations to the GFSC upon request.

9. For the purposes of this Article:

(a) Articles 132(5) and (6) and 132b shall apply; and

(b) Article 132c shall apply, using the risk weights calculated in accordance with Chapter 3 of this Title.”.

(48) In Article 153.9–

(a) for “EBA shall develop draft regulatory technical standards to specify” substitute “The Minister may make technical standards specifying”; and

(b) omit the second and third sub-paragraphs.

(49) In Article 154.4, in the final sub-paragraph–

(a) for “Competent authorities” substitute “The GFSC”; and

(b) omit “, and shall share information on the typical characteristics of qualifying revolving retail loss rates across Member States”.

(50) In Article 157.5, for “competent authorities” substitute “GFSC”.

(51) In Article 158, after paragraph 9, insert –

“9a. The loss amount for a minimum value commitment that meets the requirements set out in Article 132c shall be zero.”.

(52) In Article 160.4, in both places it occurs, for “EBA” substitute “the GFSC”.

(53) In Article 162–

(a) in paragraph 1, in the second sub-paragraph, for “competent authorities” substitute “GFSC”; and

(b) in paragraph 2–

(i) in paragraph (h), for “competent authorities” substitute “GFSC”; and

(ii) in paragraph (i), for “competent authorities” substitute “GFSC”;

(c) in paragraph 3, in the second sub-paragraph, for point (a) substitute–

“(a) exposures to institutions or investment firms arising from the settlement of foreign exchange obligations;”; and

(d) in paragraph 4, for "the Union" substitute "Gibraltar".

(54) In Article 163.3, for "competent authorities" substitute "GFSC".

(55) In Article 164–

(a) in paragraph 1, for "competent authorities" substitute "GFSC";

(b) in paragraph 2, for "competent authorities" substitute "GFSC";

(c) in paragraph 5–

(i) omit the first sub-paragraph;

(ii) for the second sub-paragraph substitute–

"The GFSC must ensure that the Minister is informed of the GFSC's intention to make use of this Article and is appropriately involved in the assessment of financial stability concerns in Gibraltar in accordance with paragraph 6.";

(iii) omit the third sub-paragraph;

(d) in paragraph 6–

(i) in the first sub-paragraph–

(aa) for "authority designated in accordance with paragraph 5 of this Article" substitute "GFSC";

(bb) for "one or more parts of the territory of the Member State of the relevant authority" substitute "Gibraltar";

(ii) in the second sub-paragraph–

(aa) for "authority designated in accordance with paragraph 5" substitute "GFSC";

(bb) for "its Member State" substitute "Gibraltar";

(cc) for "one or more parts of the territory of the Member State of the relevant authority" substitute "Gibraltar";

(iii) omit the third sub-paragraph;

(e) in paragraph 7, for "authority designated in accordance with paragraph 5" substitute "GFSC";

(f) for paragraph 8, substitute–

"8. The Minister may make technical standards specifying–

(a) the conditions that the GFSC shall take into account when–

(i) determining higher minimum LGD values; and

(ii) assessing the appropriateness of LGD values;

(b) indicative benchmarks that the GFSC is to take into account when determining higher minimum LGD values; and

(c) factors which may adversely affect current or future financial stability for the purposes of paragraph 6."; and

(e) omit paragraphs 9 and 10.

(56) In Article 173.3–

(a) for "EBA shall develop draft regulatory technical standards for the methodologies of the competent authorities" substitute "The Minister may make technical standards specifying methodologies for the GFSC"; and

(b) omit the second and third sub-paragraphs.

(57) In Article 175–

(a) in paragraph 2, for "competent authorities" substitute "GFSC"; and

(b) in paragraph 5, for "competent authority" substitute "GFSC".

(58) In Article 178–

(a) in paragraph 1(b), for "Competent authorities" substitute "The GFSC";

(b) in paragraph 6–

(i) for "EBA shall develop draft regulatory technical standards to specify the conditions according to which a competent authority" substitute "The Minister may make technical standards specifying conditions according to which the GFSC"; and

(ii) omit the second and third sub-paragraphs; and

(c) omit paragraph 7.

(59) In Article 179.1, in the final sub-paragraph, in both places it occurs, for “competent authorities” substitute “the GFSC”.

(60) In Article 180–

(a) in paragraph 1(h)–

(i) for “competent authorities” substitute “the GFSC”; and

(ii) for “competent authority” substitute “GFSC”; and

(b) in paragraph 2(e), for “competent authorities” substitute “the GFSC”; and

(c) in paragraph 3–

(i) for “EBA shall develop draft regulatory technical standards to specify” substitute “The Minister may make technical standards specifying”;

(ii) in both places it occurs, for “competent authorities” substitute “the GFSC”; and

(iii) omit the second and third sub-paragraphs.

(61) In Article 181–

(a) in paragraph 2, for “competent authorities” substitute “GFSC”; and

(b) in paragraph 3–

(i) for “EBA shall develop draft regulatory technical standards to specify” substitute “The Minister may make technical standards specifying”;

(ii) for “a competent authority” substitute “the GFSC”; and

(iii) omit the second and third sub-paragraphs.

(62) In Article 182.4–

(a) for “EBA shall develop draft regulatory technical standards to specify” substitute “The Minister may make technical standards specifying”;

(b) for “a competent authority” substitute “the GFSC”; and

(c) omit the second and third sub-paragraphs.

(63) In Article 183–

(a) in paragraph 1(c), for “competent authorities” substitute “the GFSC”; and

(b) in paragraph 6–

(i) for "EBA shall develop draft regulatory technical standards to specify" substitute "The Minister may make technical standards specifying";

(ii) for "competent authorities" substitute "the GFSC"; and

(iii) omit the second and third sub-paragraphs.

(64) In Article 190.4, in both places it occurs, for "competent authorities" substitute "GFSC".

(65) In Article 192–

(a) re-number the existing text as paragraph 1; and

(b) after paragraph 1, insert–

"2. For the purposes of this Chapter, references to "institutions" as issuers or eligible credit providers include undertakings established in third countries which would fall within the definition in Article 4 if they were established in Gibraltar.".

(66) In Article 194–

(a) in paragraph 1, for "competent authority" substitute "GFSC";

(b) in paragraph 8, for "competent authority" substitute "GFSC";

(c) in paragraph 9, for "competent authorities" substitute "GFSC"; and

(d) in paragraph 10–

(i) for "EBA shall develop draft regulatory technical standards to specify" substitute "The Minister may make technical standards specifying"; and

(ii) omit the second and third sub-paragraphs.

(67) In Article 197–

(a) in paragraph 1–

(i) in each place it occurs, for "EBA", substitute "the GFSC"; and

(ii) for point (c), substitute–

"(c) debt securities issued by institutions or investment firms, which securities have a credit assessment by an ECAI which has been determined by the GFSC to be associated with credit quality step 3 or

above under the rules for the risk weighting of exposures to institutions under Chapter 2;";

(b) in paragraph 4–

(i) for the opening words, substitute–

"4. An institution may use debt securities that are issued by other institutions or investment firms and that do not have a credit assessment by an ECAI as eligible collateral where those debt securities fulfil all the following criteria:"; and

(ii) in point (c), for "EBA", substitute "the GFSC";

(c) in paragraph 8–

(i) for "ESMA shall develop draft regulatory technical standards to specify" substitute "The Minister may make technical standards specifying"; and

(ii) omit the second and third sub-paragraphs.

(68) In Article 199–

(a) in paragraph 3–

(i) for "within the territory of a Member State" substitute "in Gibraltar";

(ii) omit "of that Member State"; and

(iii) omit "in that territory";

(b) in paragraph 4–

(i) for "within the territory of a Member State" substitute "in Gibraltar";

(ii) omit "of that Member State"; and

(iii) omit "in that territory";

(c) in paragraph 6–

(i) for "Competent authorities" substitute "The GFSC"; and

(ii) for "competent authorities" substitute "GFSC"; and

(d) in paragraph 8, for "EBA shall disclose" substitute " The GFSC may publish".

(69) For Article 200(c), substitute–

"(c) instruments issued by a third-party institution or investment firm which are to be repurchased by that institution or investment firm on request.".

(70) In Article 201–

(a) in paragraph 1, for point (h) substitute–

"(h) qualifying central counterparties."; and

(b) in paragraph 2, in the second sub-paragraph–

(i) for "Competent authorities" substitute "The GFSC"; and

(ii) omit ", and share their list with other competent authorities in accordance with Article 117 of Directive 2013/36/EU".

(71) In Article 202–

(a) in the opening words, after "institutions," insert "investment firms,"; and

(b) in paragraph (b), for "EBA" substitute "the GFSC".

(72) After Article 204, insert–

"*Article 204a*
Eligible types of equity derivatives

1. Institutions may use equity derivatives which are total return swaps or economically effectively similar, as eligible credit protection only for the purpose of conducting internal hedges.

Where an institution buys credit protection through a total return swap and records the net payments received on the swap as net income, but does not record the offsetting deterioration in the value of the asset that is protected either through reductions in fair value or by an addition to reserves, that credit protection shall not qualify as eligible credit protection.

2. Where an institution conducts an internal hedge using an equity derivative, in order for the internal hedge to qualify as eligible credit protection for the purposes of this Chapter, the credit risk transferred to the trading book shall be transferred out to a third party or parties.

Where an internal hedge has been conducted in accordance with the first subparagraph and the requirements in this Chapter have been met, institutions shall apply the rules set out in Sections 4 to 6 of this Chapter for the calculation of risk-weighted exposure amounts and expected loss amounts where they acquire unfunded credit protection.";

(73) In Article 212.2(j)–

(a) for "subject to Directive 2009/138/EC" insert "an insurance undertaking or reinsurance undertaking"; and

(b) for "the Union" substitute "Gibraltar".

(74) In Article 213.2, in both places it occurs, for "competent authorities" substitute "GFSC".

(75) In Article 215.2(b), for "competent authorities" substitute "GFSC".

(76) In Article 221–

(a) in paragraph 1, for "competent authorities" substitute "the GFSC";

(b) in paragraph 2, for "competent authorities" substitute "GFSC";

(c) in paragraph 3, for "competent authorities" substitute "GFSC";

(d) in paragraph 4, for "Competent authorities" substitute "The GFSC"; and

(e) in paragraph 9–

(i) for "EBA shall develop draft regulatory technical standards to specify" substitute "The Minister may make technical standards specifying"; and

(ii) omit the second and third sub-paragraphs.

(77) In Article 223–

(a) in paragraph 1, for "competent authorities" substitute "GFSC";

(b) in paragraph 3, for the second sub-paragraph substitute–

"In the case of OTC derivative transactions, institutions using the method laid down in Section 6 of Chapter 6 shall calculate E_{VA} as follows:

EVA = E."; and

(c) in paragraph 5, as the second sub-paragraph, insert–

"In the case of OTC derivative transactions, institutions using the methods laid down in Sections 3, 4 and 5 of Chapter 6 shall take into account the risk-mitigating effects of collateral in accordance with the provisions laid down in Sections 3, 4 and 5 of Chapter 6, as applicable.".

(78) In Article 224–

(a) in paragraph 3, for "EBA" substitute "the GFSC"; and

(b) for paragraph 6, substitute–

"6. For unrated debt securities issued by institutions or investment firms and satisfying the eligibility criteria in Article 197(4), the volatility adjustments is the same as for securities issued by institutions or corporates with an external credit assessment associated with credit quality step 2 or 3.".

(79) In Article 225–

(a) in paragraph 1, in both places it occurs, for "competent authorities" substitute "GFSC"; and

(b) in paragraph 2(e)–

(i) for "competent authorities" substitute "GFSC"; and

(ii) for "competent authorities'" substitute "GFSC's";

(80) In Article 227.3–

(a) after point (b), insert–

"(ba) investment firms;";

(b) in point (c), for "within the meaning of points (25)(b) and (d) of Article 13 of Directive 2009/138/EC" substitute "that are an insurance or reinsurance undertaking, an insurance holding company, or a mixed financial holding company"; and

(c) in point (h), for "competent authorities" substitute "GFSC".

(81) In Article 229.1, for "In those Member States that have laid down rigorous criteria for the assessment of the mortgage lending value in statutory or regulatory provisions" substitute "If rigorous criteria are in force at the time in Gibraltar for the assessment of the mortgage lending value".

(82) In Article 230.3, for "situated within the territory of a Member State" substitute "in Gibraltar".

(83) In Article 237.2(b), for "competent authorities" substitute "GFSC".

(84) In Article 242–

(a) in each place it occurs, for "Regulation (EU) 2017/2402" substitute "the Securitisation Regulation"; and

(b) in paragraph (19)–

(i) in both places it occurs, omit "Member State's"; and

(ii) for "provided that, subject to State aid rules," substitute "where".

(85) in Article 243.1, for the second sub-paragraph, substitute–

"In the case of trade receivables, point (b) of the first subparagraph does not apply where the credit risk of those trade receivables is fully covered by eligible credit protection in accordance with Chapter 4 and the protection provider is an institution, an investment firm, an insurance undertaking or a reinsurance undertaking.".

(86) In Article 244–

(a) in paragraph 2, for "competent authorities" substitute "the GFSC";

(b) in paragraph 3, for "competent authorities" substitute "the GFSC";

(c) in paragraph 4(c), for "Regulation (EU) 2017/2402" substitute "the Securitisation Regulation"; and

(d) omit paragraphs 5 and 6.

(87) In Article 245–

(a) in paragraph 2, for "competent authorities" substitute "the GFSC";

(b) in paragraph 3, for "competent authorities" substitute "the GFSC"; and

(c) omit paragraphs 5 and 6.

(88) In Article 248–

(a) in paragraph 1–

(i) in point (b) for "competent authority" substitute "GFSC";

(ii) in the second sub-paragraph, for "EBA shall develop draft regulatory technical standards to specify" substitute "The Minister may make technical standards specifying"; and

(iii) omit the third and fourth sub-paragraphs; and

(b) in paragraph 3, for "competent authorities" to "GFSC".

(89) In Article 250–

(a) in paragraph 3, for "competent authority" substitute "GFSC"; and

(b) in paragraph 4, for "The EBA shall, in accordance with Article 16 of Regulation (EU) No 1093/2010, issue guidelines" substitute "The GFSC may issue guidance".

(90) In Article 254–

(a) in paragraph 3, in the three places it occurs, for "competent authority" substitute "GFSC";

(b) in paragraph 4, for "competent authority" substitute "GFSC"; and

(c) omit paragraph 8.

(91) In Article 255–

(a) in paragraph 8, for "the EBA shall, in accordance with Article 16 of Regulation (EU) No 1093/2010, issue guidelines" substitute "the GFSC may issue guidance"; and

(b) in paragraph 9–

(i) for "EBA shall develop draft regulatory technical standards to further specify" substitute "The Minister may make technical standards further specifying"; and

(ii) omit the second and third sub-paragraphs.

(92) Omit Article 257.4.

(93) In Article 258–

(a) in paragraph .2, for "Competent authorities" substitute "The GFSC"; and

(b) in paragraph 4, in both places it occurs, for "competent authority" substitute "GFSC".

(94) In Article 265.2, for "The competent authorities" substitute "The GFSC".

(95) In Article 270–

(a) in paragraph (a), for "Regulation (EU) 2017/2402" substitute "the Securitisation Regulation"; and

(b) in paragraph (e)–

(i) in sub-paragraph (i), for "the central government or the central bank of a Member State" substitute "a government or central bank"; and

(ii) in sub-paragraph (ii), for "Regulation (EU) 2017/2402" substitute "the Securitisation Regulation".

(96) In Article 270a–

(a) in paragraph 1, in each place it occurs, for "Regulation (EU) 2017/2402" substitute "the Securitisation Regulation"; and

(b) omit paragraphs 2 and 3.

(97) In Article 270b, for "Regulation (EC) No 1060/2009" " substitute "the CRA Regulation".

(98) In Article 270c(b), for "Regulation (EC) No 1060/2009" substitute "the CRA Regulation".

(99) In Article 270e–

(a) in the first sub-paragraph–

(i) for "The EBA shall develop draft regulatory technical standards to map" substitute "The Minister may make technical standards mapping"; and

(ii) for "the EBA" substitute "the Minister"; and

(b) omit the second and third sub-paragraphs.

(100) In Article 272–

(a) for point (6) substitute–

"(6) "hedging set" means a group of transactions within a single netting set for which full or partial offsetting is allowed for determining the potential future exposure under the methods set out in Section 3 or 4 of this Chapter;";

(b) after point (7), insert–

"(7a) "one way margin agreement" means a margin agreement under which an institution is required to post variation margin to a counterparty but is not entitled to receive variation margin from that counterparty or vice-versa;";

(c) for point (12) substitute–

"(12) "current market value" or "CMV" means the net market value of all the transactions within a netting set gross of any collateral held or posted where positive and negative market values are netted in computing the CMV;"; and

(d) after point (12), insert–

"(12a) "net independent collateral amount" or "NICA" means the sum of the volatility-adjusted value of net collateral received or posted, as applicable, to the netting set other than variation margin;".

(101) In Article 273–

(a) for paragraph 1 substitute–

"1. Institutions shall calculate the exposure value for the contracts listed in Annex II on the basis of one of the methods set out in Sections 3 to 6 in accordance with this Article.

An institution which does not meet the conditions set out in Article 273a(1) shall not use the method set out in Section 4. An institution which does not meet the conditions set out in Article 273a(2) shall not use the method set out in Section 5.

Institutions may use in combination the methods set out in Sections 3 to 6 on a permanent basis within a group. A single institution shall not use in combination the methods set out in Sections 3 to 6 on a permanent basis.";

(b) in paragraph 2, for "competent authorities" substitute "GFSC";

(c) for paragraphs 6, 7 and 8 substitute–

"6. Under the methods set out in Sections 3 to 6, the exposure value for a given counterparty shall be equal to the sum of the exposure values calculated for each netting set with that counterparty.

By way of derogation from the first subparagraph, where one margin agreement applies to multiple netting sets with that counterparty and the institution is using one of the methods set out in Sections 3 to 6 to calculate the exposure value of those netting sets, the exposure value shall be calculated in accordance with the relevant Section.

For a given counterparty, the exposure value for a given netting set of OTC derivative instruments listed in Annex II calculated in accordance with this Chapter shall be the greater of zero and the difference between the sum of exposure values across all netting sets with the counterparty and the sum of credit valuation adjustments for that counterparty being recognised by the institution as an incurred write-down. The credit valuation adjustments

shall be calculated without taking into account any offsetting debit value adjustment attributed to the own credit risk of the firm that has been already excluded from own funds in accordance with Article 33(1)(c).

7. In calculating the exposure value in accordance with the methods set out in Sections 3, 4 and 5, institutions may treat two OTC derivative contracts included in the same netting agreement that are perfectly matching as if they were a single contract with a notional principal equal to zero.

For the purposes of the first subparagraph, two OTC derivative contracts are perfectly matching when they meet all the following conditions:

(a) their risk positions are opposite;

(b) their features, with the exception of the trade date, are identical;

(c) their cash flows fully offset each other.

8. Institutions shall determine the exposure value for exposures arising from long settlement transactions by any of the methods set out in Sections 3 to 6 of this Chapter, regardless of which method the institution has chosen for treating OTC derivatives and repurchase transactions, securities or commodities lending or borrowing transactions, and margin lending transactions. In calculating the own funds requirements for long settlement transactions, an institution that uses the approach set out in Chapter 3 may assign the risk weights under the approach set out in Chapter 2 on a permanent basis and irrespective of the materiality of those positions.”; and

(d) after paragraph 8, insert–

“9. For the methods set out in Sections 3 to 6 of this Chapter, institutions shall treat transactions where Specific Wrong-Way risk has been identified in accordance with Article 291(2), (4), (5), and (6).”.

(102) After Article 273, insert–

“*Article 273a*

Conditions for using simplified methods for calculating the exposure value

1. An institution may calculate the exposure value of its derivative positions in accordance with the method set out in Section 4 where the size of its on- and off-balance-sheet derivative business is equal to or less than both of the following thresholds on the basis of an assessment carried out on a monthly basis using the data as of the last day of the month:

(a) 10% of the institution’s total assets; and

(b) £260 million.

2. An institution may calculate the exposure value of its derivative positions in accordance with the method set out in Section 5 where the size of its on- and off-balance-sheet derivative business is equal to or less than both of the following thresholds on the basis of an assessment carried out on a monthly basis using the data as of the last day of the month:

(a) 5% of the institution's total assets; and

(b) £88 million.

3. For the purposes of paragraphs 1 and 2, institutions shall calculate the size of their on- and off-balance- sheet derivative business on the basis of data as of the last day of each month in accordance with the following requirements:

(a) derivative positions shall be valued at their market values on that given date; where the market value of a position is not available on a given date, institutions shall take a fair value for the position on that date; where the market value and fair value of a position are not available on a given date, institutions shall take the most recent of the market value or fair value for that position;

(b) the absolute value of long derivative positions shall be summed with the absolute value of short derivative positions;

(c) all derivative positions shall be included, except credit derivatives that are recognised as internal hedges against non-trading book credit risk exposures.

4. By way of derogation from paragraph 1 or 2, as applicable, where the derivative business on a consolidated basis does not exceed the thresholds set out in paragraph 1 or 2, as applicable, an institution which is included in the consolidation and which would have to apply the method set out in Section 3 or 4 because it exceeds those thresholds on an individual basis, may, subject to the approval of the GFSC, instead choose to apply the method that would apply on a consolidated basis.

5. Institutions shall notify the GFSC of the methods set out in Section 4 or 5 that they use, or cease to use, as applicable, to calculate the exposure value of their derivative positions.

6. Institutions shall not enter into a derivative transaction or buy or sell a derivative instrument for the sole purpose of complying with any of the conditions set out in paragraphs 1 and 2 during the monthly assessment.

Article 273b

Non-compliance with the conditions for using simplified methods for calculating the exposure value of derivatives

1. An institution that no longer meets one or more of the conditions set out in Article 273a(1) or (2) shall immediately notify the GFSC of that fact.

2. An institution shall cease to calculate the exposure values of its derivative positions in accordance with Section 4 or 5, as applicable, within three months of one of the following occurring:

(a) the institution does not meet the conditions set out in point (a) of Article 273a(1) or (2), as applicable, or the conditions set out in point (b) of Article 273a(1) or (2), as applicable, for three consecutive months;

(b) the institution does not meet the conditions set out in point (a) of Article 273a(1) or (2), as applicable, or the conditions set out in point (b) of Article 273a(1) or (2), as applicable, for more than six of the preceding 12 months.

3. Where an institution has ceased to calculate the exposure values of its derivative positions in accordance with Section 4 or 5, as applicable, it shall only be permitted to resume calculating the exposure value of its derivative positions as set out in Section 4 or 5 where it demonstrates to the GFSC that all the conditions set out in Article 273a(1) or (2) have been met for an uninterrupted period of one year.”.

(103) In Chapter 6 of Title II of Part Three, for Sections 3, 4 and 5 substitute–

“Section 3

Standardised approach for counterparty credit risk

Article 274

Exposure value

1. An institution may calculate a single exposure value at netting set level for all the transactions covered by a contractual netting agreement where all the following conditions are met:

(a) the netting agreement belongs to one of the types of contractual netting agreements referred to in Article 295;

(b) the netting agreement has been recognised by the GFSC in accordance with Article 296;

(c) the institution has fulfilled the obligations laid down in Article 297 in respect of the netting agreement.

Where any of the conditions set out in the first subparagraph are not met, the institution shall treat each transaction as if it was its own netting set.

2. Institutions shall calculate the exposure value of a netting set under the standardised approach for counterparty credit risk as follows:

$$\text{Exposure value} = \alpha \cdot (RC + PFE)$$

where:

RC = the replacement cost calculated in accordance with Article 275;

PFE = the potential future exposure calculated in accordance with Article 278; and

$\alpha = 1.4$.

3. The exposure value of a netting set that is subject to a contractual margin agreement shall be capped at the exposure value of the same netting set not subject to any form of margin agreement.

4. Where multiple margin agreements apply to the same netting set, institutions shall calculate the replacement cost of the netting set in accordance with Article 275(2) for margined transactions. The potential future exposure of the netting set shall be calculated in accordance with Article 278 with the modification that AggAddOn shall be set equal to the sum of AggAddOn across each sub-netting set, with sub-netting sets constructed as follows:

(a) all transactions that are unmargined or are subject to a one way margin agreement where the institution is required to post, but not entitled to receive, variation margin, within the netting set form a single sub-netting set;

(b) all margined transactions within the netting set that share the same margin period of risk form a single sub-netting set.

5. Institutions may set to zero the exposure value of a netting set that satisfies all the following conditions:

(a) the netting set is solely composed of sold options;

(b) the current market value of the netting set is at all times negative;

(c) the premium of all the options included in the netting set has been received upfront by the institution to guarantee the performance of the contracts;

(d) the netting set is not subject to any margin agreement.

6. In a netting set, institutions shall replace a transaction which is a finite linear combination of bought or sold call or put options with all the single options that form that linear combination, taken as an individual transaction, for the purpose of

calculating the exposure value of the netting set in accordance with this Section. Each such combination of options shall be treated as an individual transaction in the netting set in which the combination is included for the purpose of calculating the exposure value.

7. The exposure value of a credit derivative transaction representing a long position in the underlying may be capped to the amount of outstanding unpaid premium provided it is treated as its own netting set that is not subject to a margin agreement.

Article 275
Replacement cost

1. Institutions shall calculate the replacement cost RC for netting sets that are not subject to a margin agreement, in accordance with the following formula:

$$RC = \max\{CMV - NICA, 0\}$$

2. Institutions shall calculate the replacement cost for single netting sets that are subject to a margin agreement in accordance with the following formula:

$$RC = \max\{CMV - VM - NICA, TH + MTA - NICA, 0\}$$

where:

RC = the replacement cost;

VM = the volatility-adjusted value of the net variation margin received or posted, as applicable, to the netting set on a regular basis to mitigate changes in the netting set's CMV;

TH = the margin threshold applicable to the netting set under the margin agreement below which the institution cannot call for collateral; and

MTA = the minimum transfer amount applicable to the netting set under the margin agreement.

3. Institutions shall calculate the replacement cost for multiple netting sets that are subject to the same margin agreement in accordance with the following formula:

$$RC = \max\left\{\sum_i \max\{CMV_i, 0\} - \max\{VM_{MA} + NICA_{MA}, 0\}, 0\right\} + \max\left\{\sum_i \min\{CMV_i, 0\} - \min\{VM_{MA} + NICA_{MA}, 0\}, 0\right\}$$

where:

RC = the replacement cost;

i = the index that denotes the netting sets that are subject to the single margin agreement;

CMV_i = the CMV of netting set i;

VM_{MA} = the sum of the volatility-adjusted value of collateral received or posted, as applicable, to multiple netting sets on a regular basis to mitigate changes in their CMV; and

$NICA_{MA}$ = the sum of the volatility-adjusted value of collateral received or posted, as applicable, to multiple netting sets other than VM MA.

For the purposes of the first subparagraph, $NICA_{MA}$ may be calculated at trade level, at netting set level or at the level of all the netting sets to which the margin agreement applies depending on the level at which the margin agreement applies.

Article 276

Recognition and treatment of collateral #

1. For the purposes of this Section, institutions shall calculate the collateral amounts of VM, VM_{MA}, NICA and $NICA_{MA}$, by applying all the following requirements:

(a) where all the transactions included in a netting set belong to the trading book, only collateral that is eligible under Articles 197 and 299 shall be recognised;

(b) where a netting set contains at least one transaction that belongs to the non-trading book, only collateral that is eligible under Article 197 shall be recognised;

(c) collateral received from a counterparty shall be recognised with a positive sign and collateral posted to a counterparty shall be recognised with a negative sign;

(d) the volatility-adjusted value of any type of collateral received or posted shall be calculated in accordance with Article 223; for the purposes of that calculation, institutions shall not use the method set out in Article 225;

(e) the same collateral item shall not be included in both VM and NICA at the same time;

(f) the same collateral item shall not be included in both VM_{MA} and $NICA_{MA}$ at the same time;

(g) any collateral posted to the counterparty that is segregated from the assets of that counterparty and, as a result of that segregation, is bankruptcy

remote in the event of the default or insolvency of that counterparty shall not be recognised in the calculation of NICA and $NICA_{MA}$.

2. For the calculation of the volatility-adjusted value of collateral posted referred to in paragraph 1(d), institutions shall replace the formula set out in Article 223(2) with the following formula:

$$C_{VA} = C \cdot (1 + H_C + Hfx)$$

where:

C_{VA} = the volatility-adjusted value of collateral posted;

C = the collateral; and

H_C and Hfx are defined in accordance with Article 223(2).

3. For the purposes of paragraph 1(d), institutions shall set the liquidation period relevant for the calculation of the volatility-adjusted value of any collateral received or posted in accordance with one of the following time horizons:

(a) one year for the netting sets referred to in Article 275(1);

(b) the margin period of risk determined in accordance with point (b) of Article 279c(1) for the netting sets referred to in Article 275(2) and (3).

Article 277

Mapping of transactions to risk categories

1. Institutions shall map each transaction of a netting set to one of the following risk categories to determine the potential future exposure of the netting set referred to in Article 278:

(a) interest rate risk;

(b) foreign exchange risk;

(c) credit risk;

(d) equity risk;

(e) commodity risk;

(f) other risks.

2. Institutions shall conduct the mapping referred to in paragraph 1 on the basis of the primary risk driver of a derivative transaction. The primary risk driver shall be the only material risk driver of a derivative transaction.

3. By way of derogation from paragraph 2, institutions shall map derivative transactions that have more than one material risk driver to more than one risk category. Where all the material risk drivers of one of those transactions belong to the same risk category, institutions shall only be required to map that transaction once to that risk category on the basis of the most material of those risk drivers. Where the material risk drivers of one of those transactions belong to different risk categories, institutions shall map that transaction once to each risk category for which the transaction has at least one material risk driver, on the basis of the most material of the risk drivers in that risk category.

4. Notwithstanding paragraphs 1, 2 and 3, when mapping transactions to the risk categories listed in paragraph 1, institutions shall apply the following requirements:

(a) where the primary risk driver of a transaction, or the most material risk driver in a given risk category for transactions referred to in paragraph 3, is an inflation variable, institutions shall map the transaction to the interest rate risk category;

(b) where the primary risk driver of a transaction, or the most material risk driver in a given risk category for transactions referred to in paragraph 3, is a climatic conditions variable, institutions shall map the transaction to the commodity risk category.

5. The Minister may make technical standards specifying:

(a) the method for identifying transactions with only one material risk driver;

(b) the method for identifying transactions with more than one material risk driver and for identifying the most material of those risk drivers for the purposes of paragraph 3.

Article 277a
Hedging sets

1. Institutions shall establish the relevant hedging sets for each risk category of a netting set and assign each transaction to those hedging sets as follows:

(a) transactions mapped to the interest rate risk category shall be assigned to the same hedging set only where their primary risk driver, or the most material risk driver in the given risk category for transactions referred to in Article 277(3), is denominated in the same currency;

(b) transactions mapped to the foreign exchange risk category shall be assigned to the same hedging set only where their primary risk driver, or the most material risk driver in the given risk category for transactions referred to in Article 277(3), is based on the same currency pair;

(c) all the transactions mapped to the credit risk category shall be assigned to the same hedging set;

(d) all the transactions mapped to the equity risk category shall be assigned to the same hedging set;

(e) transactions mapped to the commodity risk category shall be assigned to one of the following hedging sets on the basis of the nature of their primary risk driver or the most material risk driver in the given risk category for transactions referred to in Article 277(3):

(i) energy;

(ii) metals;

(iii) agricultural goods;

(iv) other commodities;

(v) climatic conditions;

(f) transactions mapped to the other risks category shall be assigned to the same hedging set only where their primary risk driver, or the most material risk driver in the given risk category for transactions referred to in Article 277(3), is identical.

For the purposes of point (a) of the first subparagraph, transactions mapped to the interest rate risk category that have an inflation variable as the primary risk driver shall be assigned to separate hedging sets, other than the hedging sets established for transactions mapped to the interest rate risk category that do not have an inflation variable as the primary risk driver. Those transactions shall be assigned to the same hedging set only where their primary risk driver, or the most material risk driver in the given risk category for transactions referred to in Article 277(3), is denominated in the same currency.

2. By way of derogation from paragraph 1, institutions shall establish separate individual hedging sets in each risk category for the following transactions:

(a) transactions for which the primary risk driver, or the most material risk driver in the given risk category for transactions referred to in Article 277(3), is either the market implied volatility or the realised volatility of a risk driver or the correlation between two risk drivers;

(b) transactions for which the primary risk driver, or the most material risk driver in the given risk category for transactions referred to in Article 277(3), is the difference between two risk drivers mapped to the same risk category or transactions that consist of two payment legs denominated in the same currency and for which a risk driver from the same risk category

of the primary risk driver is contained in the other payment leg than the one containing the primary risk driver.

For the purposes of point (a) of the first subparagraph, institutions shall assign transactions to the same hedging set of the relevant risk category only where their primary risk driver, or the most material risk driver in the given risk category for transactions referred to in Article 277(3), is identical.

For the purposes of point (b) of the first subparagraph, institutions shall assign transactions to the same hedging set of the relevant risk category only where the pair of risk drivers in those transactions as referred to therein is identical and the two risk drivers contained in this pair are positively correlated. Otherwise, institutions shall assign transactions referred to in point (b) of the first subparagraph to one of the hedging sets established in accordance with paragraph 1, on the basis of only one of the two risk drivers referred to in point (b) of the first subparagraph.

3. Institutions shall make available upon request by the GFSC the number of hedging sets established in accordance with paragraph 2 for each risk category, with the primary risk driver, or the most material risk driver in the given risk category for transactions referred to in Article 277(3), or the pair of risk drivers of each of those hedging sets and with the number of transactions in each of those hedging sets.

Article 278

Potential future exposure

1. Institutions shall calculate the potential future exposure of a netting set as follows:

$$\text{PFE} = \text{multiplier} \cdot \sum_{a} \text{AddOn}^{(a)}$$

where:

PFE = the potential future exposure;

a = the index that denotes the risk categories included in the calculation of the potential future exposure of the netting set;

$\text{AddOn}^{(a)}$ = the add-on for risk category a calculated in accordance with Articles 280a to 280f, as applicable; and

multiplier = the multiplication factor calculated in accordance with the formula referred to in paragraph 3.

For the purpose of this calculation, institutions shall include the add-on of a given risk category in the calculation of the potential future exposure of a netting set where at least one transaction of the netting set has been mapped to that risk category.

2. The potential future exposure of multiple netting sets that are subject to one margin agreement, as referred in Article 275(3), shall be calculated as the sum of the potential future exposures of all the individual netting sets as if they were not subject to any form of a margin agreement.

3. For the purposes of paragraph 1, the multiplier shall be calculated as follows:

$$\text{multiplier} = \begin{cases} 1 \text{ if } z \geq 0 \\ \min\left\{1, \text{Floor}_m + (1 - \text{Floor}_m) \cdot \exp\left(\frac{z}{y}\right)\right\} \text{ if } z < 0 \end{cases}$$

where:

$\text{Floor}_m = 5\%$;

$y = 2 \cdot (1 - \text{Floor}_m) \cdot \Sigma_a \text{AddOn}^{(a)}$;

z = CMV – NICA for the netting sets referred to in Article 275(1);

CMV – VM – NICA for the netting sets referred to in Article 275(2);

CMVi – $NICA_i$ for the netting sets referred to in Article 275(3);

$NICA_i$ = the net independent collateral amount calculated only for transactions that are included in netting set i. $NICA_i$ shall be calculated at trade level or at netting set level depending on the margin agreement.

Article 279
Calculation of the risk position

For the purpose of calculating the risk category add-ons referred to in Articles 280a to 280f, institutions shall calculate the risk position of each transaction of a netting set as follows:

$$\text{Risk Position} = \delta \cdot \text{AdjNot} \cdot \text{MF}$$

where:

δ = the supervisory delta of the transaction calculated in accordance with the formula laid down in Article 279a;

AdjNot = the adjusted notional amount of the transaction calculated in accordance with Article 279b; and

MF = the maturity factor of the transaction calculated in accordance with the formula laid down in Article 279c.

Article 279a

Supervisory delta

1. Institutions shall calculate the supervisory delta as follows:

   (a) for call and put options that entitle the option buyer to purchase or sell an underlying instrument at a positive price on a single or multiple dates in the future, except where those options are mapped to the interest rate risk category, institutions shall use the following formula:

$$\delta = \text{sign} \cdot N\left(\text{type} \cdot \frac{(\ln((P+\lambda)/(K+\lambda)) + 0.5 \cdot \sigma^2 \cdot T}{\sigma \cdot \sqrt{T}}\right)$$

where:

δ = the supervisory delta;

sign = – 1 where the transaction is a sold call option or a bought put option;

sign = + 1 where the transaction is a bought call option or sold put option;

type = – 1 where the transaction is a put option;

type = + 1 where the transaction is a call option;

N(x) = the cumulative distribution function for a standard normal random variable meaning the probability that a normal random variable with mean zero and variance of one is less than or equal to x;

P = the spot or forward price of the underlying instrument of the option; for options the cash flows of which depend on an average value of the price of the underlying instrument, P shall be equal to the average value at the calculation date;

K = the strike price of the option;

T = the expiry date of the option; for options which can be exercised at one future date only, the expiry date is equal to that date; for options which can be exercised at multiple future dates, the expiry date is equal to the latest of those dates; the expiry date shall be expressed in years using the relevant business day convention;

σ = the supervisory volatility of the option determined in accordance with Table 1 on the basis of the risk category of the transaction and the nature of the underlying instrument of the option; and

λ = the presumed lowest possible extent to which prices of the underlying instrument of the option can become negative. The same parameter must be used consistently for all options in the same underlying instrument. For options on interest rates, the same parameter must be used consistently for all options in the same currency.

Table 1

Risk category	Underlying instrument	Supervisory volatility
Foreign exchange	All	15%
Credit	Single-name instrument	100%
	Multiple-names instrument	80%
Equity	Single-name instrument	120%
	Multiple-names instrument	75%
Commodity	Electricity	150 %
	Other commodities	70%
Others	All	150%

Institutions using the forward price of the underlying instrument of an option shall ensure that:

(i) the forward price is consistent with the characteristics of the option;

(ii) the forward price is calculated using a relevant interest rate prevailing at the reporting date;

(iii) the forward price integrates the expected cash flows of the underlying instrument before the expiry of the option;

(b) for tranches of a synthetic securitisation and a nth-to-default credit derivative, institutions shall use the following formula:

$$\delta = \text{sign} \cdot \frac{15}{(1 + 14 \cdot A) \cdot (1 + 14 \cdot D)}$$

where:

sign = +1 where credit protection has been obtained through the transaction;

sign = -1 where credit protection has been provided through the transaction;

A = the attachment point of the tranche; for a nth-to-default credit derivative transaction based on reference entities k, A = (n – 1)/k; and

D = the detachment point of the tranche; for a nth-to- default credit derivative transaction based on reference entities k, D = n/k;

(c) for transactions not referred to in point (a) or (b), institutions shall use the following supervisory delta (δ), where δ = +1 if the transaction is a long position in the primary risk driver or in the most material risk driver in the given risk category and δ = -1 if the transaction is a short position in the primary risk driver or in the most material risk driver in the given risk category

2. For the purposes of this Section, a long position in the primary risk driver or in the most material risk driver in the given risk category for transactions referred to in Article 277(3) means that the market value of the transaction increases when the value of that risk driver increases and a short position in the primary risk driver or in the most material risk driver in the given risk category for transactions referred to in Article 277(3) means that the market value of the transaction decreases when the value of that risk driver increases.

3. The Minister may make technical standards specifying:

(a) in accordance with international regulatory developments, the formula that institutions shall use to calculate the supervisory delta of call and put options mapped to the interest rate risk category compatible with market conditions in which interest rates may be negative as well as the supervisory volatility that is suitable for that formula;

(b) the method for determining whether a transaction is a long or short position in the primary risk driver or in the most material risk driver in the given risk category for transactions referred to in Article 277(3).

Article 279b
Adjusted notional amount

1. Institutions shall calculate the adjusted notional amount as follows:

(a) for transactions mapped to the interest rate risk category or the credit risk category, institutions shall calculate the adjusted notional amount as the product of the notional amount of the derivative contract and the supervisory duration factor, which shall be calculated as follows:

$$\text{supervisory duration factor} = \frac{\exp(-R \cdot S) - \exp(-R \cdot E)}{R}$$

where:

R = the supervisory discount rate; R = 5%;

S = the period between the start date of a transaction and the reporting date, which shall be expressed in years using the relevant business day convention; and

E = the period between the end date of a transaction and the reporting date, which shall be expressed in years using the relevant business day convention.

The start date of a transaction is the earliest date at which at least a contractual payment under the transaction, to or from the institution, is either fixed or exchanged, other than payments related to the exchange of collateral in a margin agreement. Where the transaction has already been fixing or making payments at the reporting date, the start date of a transaction shall be equal to 0.

Where a transaction involves one or more contractual future dates on which the institution or the counterparty may decide to terminate the transaction prior to its contractual maturity, the start date of a transaction shall be equal to the earliest of the following:

(i) the date or the earliest of the multiple future dates at which the institution or the counterparty may decide to terminate the transaction earlier than its contractual maturity;

(ii) the date at which a transaction starts fixing or making payments, other than payments related to the exchange of collateral in a margin agreement.

Where a transaction has a financial instrument as the underlying instrument that may give rise to contractual obligations additional to those of the transaction, the start date of a transaction shall be determined on the basis of the earliest date at which the underlying instrument starts fixing or making payments.

The end date of a transaction is the latest date at which a contractual payment under the transaction, to or from the institution, is or may be exchanged.

Where a transaction has a financial instrument as an underlying instrument that may give rise to contractual obligations additional to those of the transaction, the end date of a transaction shall be determined on the basis of the last contractual payment of the underlying instrument of the transaction.

Where a transaction is structured to settle an outstanding exposure following specified payment dates and where the terms are reset so that the market value of the transaction is zero on those specified dates, the

settlement of the outstanding exposure at those specified dates is considered a contractual payment under the same transaction;

(b) for transactions mapped to the foreign exchange risk category, institutions shall calculate the adjusted notional amount as follows:

(i) where the transaction consists of one payment leg, the adjusted notional amount shall be the notional amount of the derivative contract;

(ii) where the transaction consists of two payment legs and the notional amount of one payment leg is denominated in the institution's reporting currency, the adjusted notional amount shall be the notional amount of the other payment leg;

(iii) where the transaction consists of two payment legs and the notional amount of each payment leg is denominated in a currency other than the institution's reporting currency, the adjusted notional amount shall be the largest of the notional amounts of the two payment legs after those amounts have been converted into the institution's reporting currency at the prevailing spot exchange rate;

(c) for transactions mapped to the equity risk category or commodity risk category, institutions shall calculate the adjusted notional amount as the product of the market price of one unit of the underlying instrument of the transaction and the number of units in the underlying instrument referenced by the transaction;

where a transaction mapped to the equity risk category or commodity risk category is contractually expressed as a notional amount, institutions shall use the notional amount of the transaction rather than the number of units in the underlying instrument as the adjusted notional amount;

(d) for transactions mapped to the other risks category, institutions shall calculate the adjusted notional amount on the basis of the most appropriate method among the methods set out in points (a), (b) and (c), depending on the nature and characteristics of the underlying instrument of the transaction.

2. Institutions shall determine the notional amount or number of units of the underlying instrument for the purpose of calculating the adjusted notional amount of a transaction referred to in paragraph 1 as follows:

(a) where the notional amount or the number of units of the underlying instrument of a transaction is not fixed until its contractual maturity:

(i) for deterministic notional amounts and numbers of units of the underlying instrument, the notional amount shall be the weighted

average of all the deterministic values of notional amounts or number of units of the underlying instrument, as applicable, until the contractual maturity of the transaction, where the weights are the proportion of the time period during which each value of notional amount applies;

(ii) for stochastic notional amounts and numbers of units of the underlying instrument, the notional amount shall be the amount determined by fixing current market values within the formula for calculating the future market values;

(b) for contracts with multiple exchanges of the notional amount, the notional amount shall be multiplied by the number of remaining payments still to be made in accordance with the contracts;

(c) for contracts that provide for a multiplication of the cash-flow payments or a multiplication of the underlying of the derivative contract, the notional amount shall be adjusted by an institution to take into account the effects of the multiplication on the risk structure of those contracts.

3. Institutions shall convert the adjusted notional amount of a transaction into their reporting currency at the prevailing spot exchange rate where the adjusted notional amount is calculated under this Article from a contractual notional amount or a market price of the number of units of the underlying instrument denominated in another currency.

Article 279c
Maturity Factor

1. Institutions shall calculate the maturity factor as follows:

(a) for transactions included in the netting sets referred to in Article 275(1), institutions shall use the following formula:

$$MF = \sqrt{\min\{\max\{M,\ 10/OneBusinessYear\},\ 1\}}$$

where:

MF = the maturity factor;

M = the remaining maturity of the transaction which is equal to the period of time needed for the termination of all contractual obligations of the transaction; for that purpose, any optionality of a derivative contract shall be considered to be a contractual obligation; the remaining maturity shall be expressed in years using the relevant business day convention;

where a transaction has another derivative contract as underlying instrument that may give rise to additional contractual obligations beyond the contractual obligations of the transaction, the remaining maturity of the transaction shall be equal to the period of time needed for the termination of all contractual obligations of the underlying instrument;

where a transaction is structured to settle outstanding exposure following specified payment dates and where the terms are reset so that the market value of the transaction is zero on those specified dates, the remaining maturity of the transaction shall be equal to the time until the next reset date; and

One Business Year = one year expressed in business days using the relevant business day convention;

(b) for transactions included in the netting sets referred to in Article 275(2) and (3), the maturity factor is defined as:

$$MF = \frac{3}{2}\sqrt{\frac{MPOR}{OneBusinessYear}}$$

where:

MF = the maturity factor;

MPOR = the margin period of risk of the netting set determined in accordance with Article 285(2) to (5); and

One Business Year = one year expressed in business days using the relevant business day convention.

When determining the margin period of risk for transactions between a client and a clearing member, an institution acting either as the client or as the clearing member shall replace the minimum period set out in point (b) of Article 285(2) with five business days.

2. For the purposes of paragraph 1, the remaining maturity shall be equal to the period of time until the next reset date for transactions that are structured to settle outstanding exposure following specified payment dates and where the terms are reset in such a way that the market value of the contract shall be zero on those specified payment dates.

Article 280

Hedging set supervisory factor coefficient

For the purpose of calculating the add-on of a hedging set as referred to in Articles 280a to 280f, the hedging set supervisory factor coefficient (ϵ) shall be the following:

ϵ = 1 for the hedging sets established in accordance with Article 277a(1);

5 for the hedging sets established in accordance with Article 277a(2)(a); and

0.5 for the hedging sets established in accordance with Article 277a(2)(b).

Article 280a
Interest rate risk category add-on

1. For the purposes of Article 278, institutions shall calculate the interest rate risk category add-on for a given netting set as follows:

$$\text{AddOn}^{IR} = \sum_j \text{AddOn}_j^{IR}$$

where:

AddOn^{IR} = the interest rate risk category add-on;

j = the index that denotes all the interest rate risk hedging sets established in accordance with Article 277a(1)(a) and with Article 277a(2) for the netting set; and

AddOn_j^{IR} = the interest rate risk category add-on for hedging set j calculated in accordance with paragraph 2.

2. Institutions shall calculate the interest rate risk category add-on for hedging set j as follows:

$$\text{AddOn}_j^{IR} = \epsilon_j \cdot SF^{IR} \cdot \text{EffNot}_j^{IR}$$

where:

ϵ_j = the hedging set supervisory factor coefficient of hedging set j determined in accordance with the applicable value specified in Article 280;

SF^{IR} = the supervisory factor for the interest rate risk category with a value equal to 0.5%; and

EffNot_j^{IR} = the effective notional amount of hedging set j calculated in accordance with paragraph 3.

3. For the purpose of calculating the effective notional amount of hedging set j, institutions shall first map each transaction of the hedging set to the appropriate bucket

in Table 2. They shall do so on the basis of the end date of each transaction as determined under Article 279b(1)(a):

Table 2

Bucket	End date (in years)
1	> 0 and <= 1
2	> 1 and <= 5
3	> 5

Institutions shall then calculate the effective notional amount of hedging set j in accordance with the following formula:

$$EffNot_j^{IR} = \sqrt{\left[(D_{j,1})^2 + (D_{j,2})^2 + 1{,}4 \cdot D_{j,1} \cdot D_{j,2} + 1{,}4 \cdot D_{j,2} \cdot D_{j,3} + 0{,}6 \cdot D_{j,1} \cdot D_{j,3}\right]}$$

where:

$EffNot_j^{IR}$ = the effective notional amount of hedging set j; and

$D_{j,k}$ = the effective notional amount of bucket k of hedging set j calculated as follows:

$$D_{j,k} = \sum_{l \in Bucket\ k} RiskPosition_l$$

where:

l = the index that denotes the risk position.

Article 280b

Foreign exchange risk category add-on

1. For the purposes of Article 278, institutions shall calculate the foreign exchange risk category add-on for a given netting set as follows:

$$AddOn^{FX} = \sum_j AddOn_j^{FX}$$

where:

$AddOn^{FX}$ = the foreign exchange risk category add on;

j = the index that denotes the foreign exchange risk hedging sets established in accordance with Article 277a(1)(b) of and with Article 277a(2) for the netting set; and

$AddOn_j^{FX}$ = the foreign exchange risk category add-on for hedging set j calculated in accordance with paragraph 2.

2. Institutions shall calculate the foreign exchange risk category add-on for hedging set j as follows:

$$AddOn_j^{FX} = \epsilon_j \cdot SF^{FX} \cdot \left| EffNot_j^{FX} \right|$$

where:

ϵ_j = the hedging set supervisory factor coefficient of hedging set j determined in accordance with Article 280;

SF^{FX} = the supervisory factor for the foreign exchange risk category with a value equal to 4%; and

$EffNot_j^{FX}$ = the effective notional amount of hedging set j calculated as follows:

$$EffNot_j^{FX} = \sum_{l \in \text{Hedging set } j} RiskPosition_l$$

where:

l = the index that denotes the risk position.

Article 280c
Credit risk category add-on

1. For the purposes of paragraph 2, institutions shall establish the relevant credit reference entities of the netting set in accordance with the following:

(a) there shall be one credit reference entity for each issuer of a reference debt instrument that underlies a single-name transaction allocated to the credit risk category; single-name transactions shall be assigned to the same credit reference entity only where the underlying reference debt instrument of those transactions is issued by the same issuer;

(b) there shall be one credit reference entity for each group of reference debt instruments or single-name credit derivatives that underlie a multi-name transaction allocated to the credit risk category; multi-names transactions shall be assigned to the same credit reference entity only where the group of underlying reference debt instruments or single-name credit derivatives of those transactions have the same constituents.

2. For the purposes of Article 278, institutions shall calculate the credit risk category add-on for a given netting set as follows:

$$\mathrm{AddOn}^{\mathrm{Credit}} = \sum_{j} \mathrm{AddOn}_{j}^{\mathrm{Credit}}$$

where:

$\mathrm{AddOn}^{\mathrm{Credit}}$ = credit risk category add-on;

j = the index that denotes all the credit risk hedging sets established in accordance with point (c) of Article 277a(1) and with Article 277a(2) for the netting set; and

$\mathrm{AddOn}_{j}^{\mathrm{Credit}}$ = the credit risk category add-on for hedging set j calculated in accordance with paragraph 3.

3. Institutions shall calculate the credit risk category add-on for hedging set j as follows:

$$\mathrm{AddOn}_{j}^{\mathrm{Credit}} = \epsilon_{j}\sqrt{\left(\sum_{k} \rho_{k}^{\mathrm{Credit}} \cdot \mathrm{AddOn}(\mathrm{Entity}_{k})\right)^{2} + \sum_{k} 1 - (\rho_{k}^{\mathrm{Credit}})^{2}) \cdot (\mathrm{AddOn}(\mathrm{Entity}_{k}))^{2}}$$

where:

$\mathrm{AddOn}_{j}^{\mathrm{Credit}}$ = the credit risk category add-on for hedging set j;

ϵ_{j} = the hedging set supervisory factor coefficient of hedging set j determined in accordance with Article 280;

k = the index that denotes the credit reference entities of the netting set established in accordance with paragraph 1;

$\rho_{k}^{\mathrm{Credit}}$ = the correlation factor of the credit reference entity k; where the credit reference entity k has been established in accordance paragraph 1(a), $\rho_{k}^{\mathrm{Credit}}$ = 50%, where the credit reference entity k has been established in accordance with paragraph 1(a), $\rho_{k}^{\mathrm{Credit}}$ = 80%,; and

$\mathrm{AddOn}(\mathrm{Entity}_{k})$ = the add-on for the credit reference entity k determined in accordance with paragraph 4.

4. Institutions shall calculate the add-on for the credit reference entity k as follows:

$$\mathrm{AddOn}(\mathrm{Entity}_{k}) = \mathrm{EffNot}_{k}^{\mathrm{Credit}}$$

where:

$EffNot_k^{Credit}$ = the effective notional amount of the credit reference entity k calculated as follows:

$$EffNot_k^{Credit} = \sum_{l \in \text{Credit reference entity } k} SF_{k,l}^{Credit} \cdot RiskPosition_l$$

where:

l = the index that denotes the risk position; and

$SF_{k,l}^{Credit}$ = the supervisory factor applicable to the credit reference entity k calculated in accordance with paragraph 5.

5. Institutions shall calculate the supervisory factor applicable to the credit reference entity k as follows:

(a) for the credit reference entity k established in accordance with paragraph 1(a), $SF_{k,l}^{Credit}$ shall be mapped to one of the six supervisory factors set out in Table 3 of this paragraph on the basis of an external credit assessment by a nominated ECAI of the corresponding individual issuer; for an individual issuer for which a credit assessment by a nominated ECAI is not available:

(i) an institution using the approach referred to in Chapter 3 shall map the internal rating of the individual issuer to one of the external credit assessments;

(ii) an institution using the approach referred to in Chapter 2 shall assign $SF_{k,l}^{Credit}$ = 0.54% to that credit reference entity; however, where an institution applies Article 128 to risk weight counterparty credit risk exposures to that individual issuer, $SF_{k,l}^{Credit}$ = 1.6% shall be assigned to that credit reference entity;

(b) for the credit reference entity k established in accordance with paragraph 1(b):

(i) where a risk position l assigned to the credit reference entity k is a credit index listed on a recognised exchange, $SF_{k,l}^{Credit}$ shall be mapped to one of the two supervisory factors set out in Table 4 of this paragraph on the basis of the credit quality of the majority of its individual constituents;

(ii) where a risk position l assigned to the credit reference entity k is not referred to in point (i), $SF_{k,l}^{Credit}$ shall be the weighted average of the supervisory factors mapped to each constituent in accordance with the method set out in point (a), where the weights are defined by the proportion of notional of the constituents in that position.

Table 3

Credit quality step	Supervisory factor for single-name transactions
1	0.38%
2	0.42%
3	0.54%
4	1.06%
5	1.60%
6	6.00%

Table 4

Dominant credit quality	Supervisory factor for quoted indices
Investment grade	0.38%
Non-investment grade	1.06%

Article 280d
Equity risk category add-on

1. For the purposes of paragraph 2, institutions shall establish the relevant equity reference entities of the netting set in accordance with the following:

(a) there shall be one equity reference entity for each issuer of a reference equity instrument that underlies a single-name transaction allocated to the equity risk category; single-name transactions shall be assigned to the same equity reference entity only where the underlying reference equity instrument of those transactions is issued by the same issuer;

(b) there shall be one equity reference entity for each group of reference equity instruments or single-name equity derivatives that underlie a multi-name transaction allocated to the equity risk category; multi-names transactions shall be assigned to the same equity reference entity only where the group of underlying reference equity instruments or single-name equity derivatives of those transactions, as applicable, has the same constituents.

2. For the purposes of Article 278, institutions shall calculate the equity risk category add-on for a given netting set as follows:

$$\text{AddOn}^{\text{Equity}} = \sum_{j} \text{AddOn}_{j}^{\text{Equity}}$$

where:

$AddOn^{Equity}$ = the equity risk category add-on;

j = the index that denotes all the equity risk hedging sets established in accordance with Articles 277a(1)(d) and 277a(2) for the netting set; and

$AddOn_j^{Equity}$ = the equity risk category add-on for hedging set j calculated in accordance with paragraph 3.

3. Institutions shall calculate the equity risk category add-on for hedging set j as follows:

$$AddOn_j^{Equity} = \epsilon_j \sqrt{\left(\sum_k \rho_k^{Equity} \cdot AddOn(Entity_k)\right)^2 + \sum_k 1 - \left(\left(\rho_k^{Equity}\right)^2\right) \cdot \left(AddOn(Entity_k)\right)^2}$$

where:

$AddOn_j^{Equity}$ = the equity risk category add-on for hedging set j;

ϵ_j = the hedging set supervisory factor coefficient of hedging set j determined in accordance with Article 280;

k = the index that denotes the equity reference entities of the netting set established in accordance with paragraph 1;

ρ_k^{Equity} = the correlation factor of the equity reference entity k; where the equity reference entity k has been established in accordance with paragraph 1(a), that factor = 50% and where it has been established in accordance with paragraph 1(b), that factor = 80%; and

$AddOn(Entity_k)$ = the add-on for the equity reference entity k determined in accordance with paragraph 4.

4. Institutions shall calculate the add-on for the equity reference entity k as follows:

$$AddOn(Entity_k) = SK_k^{Equity} \cdot EffNot_k^{Equity}$$

where:

$AddOn(Entity_k)$ = the add-on for the equity reference entity k;

SF_k^{Equity} = the supervisory factor applicable to the equity reference entity k; where the equity reference entity k has been established in accordance with paragraph 1(a), that factor = 32% and where it has been established in accordance with of paragraph 1(b), that factor = 20%; and

$EffNot_k^{Equity}$ = the effective notional amount of the equity reference entity k calculated as follows:

$$EffNot_k^{Equity} = \sum_{l \in \text{Equity reference entity } k} RiskPosition_l$$

where l = the index that denotes the risk position.

Article 280e

Commodity risk category add-on

1. For the purposes of Article 278, institutions shall calculate the commodity risk category add-on for a given netting set as follows:

$$AddOn^{Com} = \sum_{i} AddOn_j^{Com}$$

where:

$AddOn^{Com}$ = the commodity risk category add-on;

j = the index that denotes the commodity hedging sets established in accordance with Articles 277a(1)(e) and 277a(2) for the netting set; and

$AddOn_j^{Com}$ = the commodity risk category add-on for hedging set j calculated in accordance with paragraph 4.

2. For the purpose of calculating the add-on for a commodity hedging set of a given netting set in accordance with paragraph 3, institutions shall establish the relevant commodity reference types of each hedging set. Commodity derivative transactions shall be assigned to the same commodity reference type only where the underlying commodity instrument of those transactions has the same nature, irrespective of the delivery location and quality of the commodity instrument.

3. Institutions shall calculate the commodity risk category add-on for hedging set j as follows:

$$AddOn_j^{Com} = \epsilon_j \sqrt{\left(\rho^{Com} \cdot \sum_k AddOn(Type_k^j)\right)^2 + (1 - (\rho^{Com})^2) \cdot \sum_k AddOn(Type_k^j))^2}$$

where:

$AddOn_j^{Com}$ = the commodity risk category add-on for hedging set j;

ϵ_j = the hedging set supervisory factor coefficient of hedging set j determined in accordance with Article 280;

ρ^{Com} = the correlation factor of the commodity risk category with a value equal to 40%;

k = the index that denotes the commodity reference types of the netting set established in accordance with paragraph 2; and

$AddOn(Type^j_k)$ = the add-on for the commodity reference type k calculated in accordance with paragraph 4.

4. Institutions shall calculate the add-on for the commodity reference type k as follows:

$$AddOn(Type^j_k) = SF^{Com}_k \cdot EffNot^{Com}_k$$

where:

$AddOn(Type^j_k)$ = the add-on for the commodity reference type k;

SF_k^{Com} = the supervisory factor applicable to the commodity reference type k; where the commodity reference type k corresponds to transactions allocated to the hedging set referred to Article 277a(1) in point (e)(i), excluding transactions concerning electricity, that factor = 18% and for transactions concerning electricity, that factor = 40%; and

$EffNot_k^{Com}$ = the effective notional amount of the commodity reference type k calculated as follows:

$$EffNot^{Com}_k = \sum_{l \in \text{Commodity reference type k}} RiskPosition_l$$

where l = the index that denotes the risk position.

Article 280f

Other risks category add-on

1. For the purposes of Article 278, institutions shall calculate the other risks category add-on for a given netting set as follows:

$$AddOn^{Other} = \sum_j AddOn^{Other}_j$$

where:

$AddOn^{Other}$ = the other risks category add-on;

Єj = the index that denotes the other risk hedging sets established in accordance with Articles 277a(1)(f) and 277a(2) for the netting set; and

$AddOn_j^{Other}$ = the other risks category add-on for hedging set j calculated in accordance with paragraph 2.

2. Institutions shall calculate the other risks category add-on for hedging set j as follows:

$$\text{AddOn}_j^{\text{Other}} = \epsilon_j \cdot \text{SF}^{\text{Other}} \cdot \left|\text{EffNot}_j^{\text{Other}}\right|$$

where:

$\text{AddOn}_j^{\text{Other}}$ = the other risks category add-on for hedging set j;

ϵ_j = the hedging set supervisory factor coefficient of hedging set j determined in accordance with Article 280;

SF^{Other} = the supervisory factor for the other risk category with a value equal to 8%; and

$\text{EffNot}_j^{\text{Other}}$ = the effective notional amount of hedging set j calculated as follows:

$$\text{EffNot}_j^{\text{Other}} = \sum_{l \in \text{Hedging set } j} \text{RiskPosition}_l$$

where l = the index that denotes the risk position.

Section 4
Simplified standardised approach for counterparty credit risk

Article 281
Calculation of the exposure value

1. Institutions shall calculate a single exposure value at netting set level in accordance with Section 3, subject to paragraph 2.

2. The exposure value of a netting set shall be calculated in accordance with the following requirements:

(a) institutions shall not apply the treatment referred to in Article 274(6);

(b) by way of derogation from Article 275(1), for netting sets that are not referred to in Article 275(2), institutions shall calculate the replacement cost in accordance with the following formula:

$$RC = \max\{CMV, 0\}$$

where:

RC = the replacement cost; and

CMV = the current market value.

(c) by way of derogation from Article 275(2), for netting sets of transactions: that are traded on a recognised exchange; that are centrally cleared by a central counterparty authorised in accordance with Article 14 of EMIR or recognised in accordance with Article 25 of that Regulation; or for which collateral is exchanged bilaterally with the counterparty in accordance with Article 11 of EMIR, institutions shall calculate the replacement cost in accordance with the following formula:

$$RC = TH + MTA$$

where:

RC = the replacement cost;

TH = the margin threshold applicable to the netting set under the margin agreement below which the institution cannot call for collateral; and

MTA = the minimum transfer amount applicable to the netting set under the margin agreement;

(d) by way of derogation from Article 275(3), for multiple netting sets that are subject to a margin agreement, institutions shall calculate the replacement cost as the sum of the replacement cost of each individual netting set, calculated in accordance with paragraph 1 as if they were not margined;

(e) all hedging sets shall be established in accordance with Article 277a(1);

(f) institutions shall set to 1 the multiplier in the formula that is used to calculate the potential future exposure in Article 278(1), as follows:

$$PFE = \sum_{a} AddOn^{(a)}$$

where:

PFE = the potential future exposure; and

$AddOn^{(a)}$ = the add-on for risk category a;

(g) by way of derogation from Article 279a(1), for all transactions, institutions shall calculate the supervisory delta (δ) as δ = +1 where the transaction is a long position in the primary risk driver and δ = –1 where the transaction is a short position in the primary risk driver;

(h) the formula referred to in Article 279b(1)(a) that is used to compute the supervisory duration factor shall read as follows:

$$\text{supervisory duration factor} = E - S$$

where:

E = the period between the end date of a transaction and the reporting date; and

S = the period between the start date of a transaction and the reporting date;

(i) the maturity factor referred to in Article 279c(1) shall be calculated as follows:

(i) for transactions included in netting sets referred to in Article 275(1), MF = 1;

(ii) for transactions included in netting sets referred to in Article 275(2) and (3), MF = 0.42;

(j) the formula referred to in Article 280a(3) that is used to calculate the effective notional amount of hedging set j shall read as follows:

$$\text{EffNot}_j^{IR} = |D_{j,1}| + |D_{j,2}| + |D_{j,3}|$$

where:

EffNot_j^{IR} = the effective notional amount of hedging set j; and

$D_{j,k}$ = the effective notional amount of bucket k of hedging set j;

(k) the formula referred to in Article 280c(3) that is used to calculate the credit risk category add-on for hedging set j shall read as follows:

$$\text{AddOn}_j^{\text{Credit}} = \sum_k |\text{AddOn}(\text{Entity}_k)|$$

where:

$\text{AddOn}_j^{\text{Credit}}$ = the credit risk category add-on for hedging set j; and

$\text{AddOn}(\text{Entity}_k)$ = the add-on for the credit reference entity k;

(l) the formula referred to in Article 280d(3) that is used to calculate the equity risk category add-on for hedging set j shall read as follows:

$$\text{AddOn}_j^{\text{Equity}} = \sum_k |\text{AddOn}(\text{Entity}_k)|$$

where:

$\text{AddOn}_j^{\text{Equity}}$ = the equity risk category add-on for hedging set j; and

$AddOn(Entity_k)$ = the add-on for the credit reference entity k;

(m) the formula referred to in Article 280e(4) that is used to calculate the commodity risk category add-on for hedging set j shall read as follows:

$$AddOn_j^{Com} = \sum_k \left| AddOn(Type_k^j) \right|$$

where:

$AddOn_j^{Com}$ = the commodity risk category add-on for hedging set j; and

$AddOn(Type^j_k)$ = the add-on for the commodity reference type k.

Section 5
Original exposure method

Article 282
Calculation of the exposure value

1. Institutions may calculate a single exposure value for all the transactions within a contractual netting agreement where all the conditions set out in Article 274(1) are met. Otherwise, institutions shall calculate an exposure value separately for each transaction, which shall be treated as its own netting set.

2. The exposure value of a netting set or a transaction shall be the product of 1.4 times the sum of the current replacement cost and the potential future exposure.

3. The current replacement cost referred to in paragraph 2 shall be calculated as follows:

(a) for netting sets of transactions: that are traded on a recognised exchange; centrally cleared by a central counterparty authorised in accordance with Article 14 of Regulation (EU) No 648/2012 or recognised in accordance with Article 25 of that Regulation; or for which collateral is exchanged bilaterally with the counterparty in accordance with Article 11 of Regulation (EU) No 648/2012, institutions shall use the following formula:

$$RC = TH + MTA$$

where:

RC = the replacement cost;

TH = the margin threshold applicable to the netting set under the margin agreement below which the institution cannot call for collateral; and

MTA = the minimum transfer amount applicable to the netting set under the margin agreement;

(b) for all other netting sets or individual transactions, institutions shall use the following formula:

$$RC = \max\{CMV, 0\}$$

where:

RC = the replacement cost; and

CMV = the current market value.

In order to calculate the current replacement cost, institutions shall update current market values at least monthly.

4. Institutions shall calculate the potential future exposure referred to in paragraph 2 as follows:

(a) the potential future exposure of a netting set is the sum of the potential future exposure of all the transactions included in the netting set, calculated in accordance with point (b);

(b) the potential future exposure of a single transaction is its notional amount multiplied by:

(i) the product of 0.5% and the residual maturity of the transaction expressed in years for interest-rate derivative contracts;

(ii) the product of 6% and the residual maturity of the transaction expressed in years for credit derivative contracts;

(iii) 4% for foreign-exchange derivatives;

(iv) 18% for gold and commodity derivatives other than electricity derivatives;

(v) 40% for electricity derivatives;

(vi) 32% for equity derivatives;

(c) the notional amount referred to in point (b) shall be determined in accordance with Article 279b(2) and (3) for all derivatives listed in that point; in addition, the notional amount of the derivatives referred to in points (b)(iii) to (b)(vi) shall be determined in accordance with Article 279b(1)(b) and (c);

(d) the potential future exposure of netting sets referred to in paragraph 3(a) shall be multiplied by 0.42.

For calculating the potential exposure of interest-rate derivatives and credit derivatives in accordance with points b(i) and (b)(ii), an institution may choose to use the original maturity instead of the residual maturity of the contracts.”.

(104) In Article 283–

(a) in paragraph 1–

(i) for “competent authorities are” substitute “GFSC is”; and

(ii) for “they” substitute “it”;

(b) in paragraph 2–

(i) for “Competent authorities” substitute “The GFSC”; and

(ii) for “competent authorities” substitute “GFSC;

(c) in paragraph 3, for “competent authorities” substitute “GFSC; and

(d) for paragraph 4 substitute–

“4. For all OTC derivative transactions, and for long settlement transactions for which an institution has not received permission under paragraph 1 to use the IMM, the institution shall use the methods set out in Section 3. Those methods may be used in combination on a permanent basis within a group.”;

(e) in paragraph 5–

(i) for “Competent authorities” substitute “The GFSC”; and

(ii) for “competent authority” substitute “GFSC”; and

(f) in paragraph 6,in the three places it occurs, for “competent authority” substitute “GFSC”.

(105) In Article 284–

(a) in paragraph 4, for “competent authorities require” substitute “the GFSC requires”;

(b) in paragraph 9, for “competent authorities” substitute “the GFSC”;

(c) in paragraph 11, for “competent authorities” substitute “GFSC”; and

(d) in paragraph 12, for “competent authorities require” substitute “the GFSC”.

(106) In Article 285.1–

(a) for “Competent authorities” substitute “The GFSC”;

(b) for “competent authority” substitute “GFSC”; and

(c) for “they verify” substitute “it verifies”.

(107) In Article 289–

(a) in paragraph.2, in both placers it occurs, for “competent authorities” substitute “GFSC”; and

(b) in paragraph 5, for “its competent authorities” substitute “the GFSC”.

(108) In Article 290.3, for “set out in Article 81 of Directive 2013/36/EU” substitute “established in accordance with regulation 38 of the CICR Regulations”.

(109) In Article 292–

(a) in paragraph 3, for “competent authority” substitute “GFSC”;

(b) in paragraph 5, for “The competent authorities” substitute “The GFSC”; and

(c) omit paragraph 10.

(110) In Article 293.2, for “Competent authorities” substitute “The GFSC”.

(111) In Article 294–

(a) in paragraph 1(a), for “competent authorities” substitute “GFSC”.

(b) in paragraph 2, in both places it occurs, for “competent authorities” substitute “GFSC”; and

(c) n paragraph 3, for “competent authorities” substitute “GFSC”.

(112) In Article 295–

(a) for “competent authorities” substitute “the GFSC”; and

(b) omit “Competent authorities shall report to EBA a list of the contractual cross-product netting agreements approved.”.

(113) In Article 296–

(a) in paragraph 1, for “Competent authorities” substitute “The GFSC”;

(b) in paragraph 2–

(i) in paragraph (b), for "competent authorities" substitute "GFSC"; and

(ii) in the second sub-paragraph–

(aa) for "any of the competent authorities are" substitute " the GFSC is"; and

(bb) omit "Competent authorities shall inform each other accordingly.".

(114) For Article 298 substitute:

"*Article 298*
Effects of recognition of netting as risk-reducing

Netting for the purposes of Sections 3 to 6 shall be recognised as set out in those Sections.".

(115) In Article 299–

(a) in paragraph 1, for "point (8) of Section C of Annex I to Directive 2004/39/EC" substitute "paragraph 46(8) of Schedule 2 to the Act"; and

(b) in paragraph 2, omit point (a).

(116) In Article 300–

(a) for the opening words, substitute–

"For the purposes of this Section and of Part Seven, the following definitions apply:";

(b) in paragraph (3), for "Regulation (EU) No 648/2012" substitute "EMIR";

(c) in paragraph (4), for "Regulation (EU) No 648/2012" substitute "EMIR"; and

(d) after paragraph (4), insert–

"(5) "cash transaction" means a transaction in cash, debt instruments or equities, a spot foreign exchange transaction or a spot commodities transaction; however, repurchase transactions, securities or commodities lending transactions, and securities or commodities borrowing transactions, are not cash transactions;

(6) "indirect clearing arrangement" means an arrangement that meets the conditions set out in the second subparagraph of Article 4(3) of EMIR;

(7) “higher-level client” means an entity providing clearing services to a lower-level client;

(8) “lower-level client” means an entity accessing the services of a CCP through a higher-level client;

(9) “multi-level client structure” means an indirect clearing arrangement under which clearing services are provided to an institution by an entity which is not a clearing member, but is itself a client of a clearing member or of a higher-level client;

(10) “unfunded contribution to a default fund” means a contribution that an institution that acts as a clearing member has contractually committed to provide to a CCP after the CCP has depleted its default fund to cover the losses it incurred following the default of one or more of its clearing members;

(11) “fully guaranteed deposit lending or borrowing transaction” means a fully collateralised money market transaction in which two counterparties exchange deposits and a CCP interposes itself between them to ensure the performance of those counterparties’ payment obligations.”.

(117) In Article 301 substitute–

“*Article 301*
Material scope

1. This Section applies to the following contracts and transactions, for as long as they are outstanding with a CCP:

(a) the derivative contracts listed in Annex II and credit derivatives;

(b) securities financing transactions and fully guaranteed deposit lending or borrowing transactions; and

(c) long settlement transactions.

This Section does not apply to exposures arising from the settlement of cash transactions. Institutions shall apply the treatment laid down in Title V to trade exposures arising from those transactions and a 0% risk weight to default fund contributions covering only those transactions. Institutions shall apply the treatment set out in Article 307 to default fund contributions that cover any of the contracts listed in the first subparagraph of this paragraph in addition to cash transactions.

2. For the purposes of this Section, the following requirements shall apply:

(a) `the initial margin shall not include contributions to a CCP for mutualised loss sharing arrangements;

(b) the initial margin shall include collateral deposited by an institution acting as a clearing member or by a client in excess of the minimum amount required respectively by the CCP or by the institution acting as a clearing member, provided the CCP or the institution acting as a clearing member may, in appropriate cases, prevent the institution acting as a clearing member or the client from withdrawing such excess collateral;

(c) where a CCP uses the initial margin to mutualise losses among its clearing members, institutions that act as clearing members shall treat that initial margin as a default fund contribution.".

(118) In Article 302, for paragraph 2 substitute–

"2. Institutions shall assess, through appropriate scenario analysis and stress testing, whether the level of own funds held against exposures to a CCP, including potential future or contingent credit exposures, exposures from default fund contributions and, where the institution is acting as a clearing member, exposures resulting from contractual arrangements as laid down in Article 304, adequately relates to the inherent risks of those exposures.".

(119) For Article 303 substitute–

"*Article 303*
Treatment of clearing members' exposures to CCPs

1. An institution that acts as a clearing member, either for its own purposes or as a financial intermediary between a client and a CCP, shall calculate the own funds requirements for its exposures to a CCP as follows:

(a) it shall apply the treatment set out in Article 306 to its trade exposures with the CCP;

(b) it shall apply the treatment set out in Article 307 to its default fund contributions to the CCP.

2. For the purposes of paragraph 1, the sum of an institution's own funds requirements for its exposures to a QCCP due to trade exposures and default fund contributions shall be subject to a cap equal to the sum of own funds requirements that would be applied to those same exposures if the CCP were a non-qualifying CCP.".

(120) In Article 304–

(a) for paragraph 1 substitute–

"1. An institution that acts as a clearing member and, in that capacity, acts as a financial intermediary between a client and a CCP shall calculate the own funds requirements for its CCP-related transactions with that client in accordance with

Sections 1 to 8 of this Chapter, with Section 4 of Chapter 4 of this Title and with Title VI, as applicable.";

(b) in paragraph 2, for "Regulation (EU) No 648/2012" substitute "EMIR";

(c) for paragraphs 3 to 5 substitute–

"3. Where an institution that acts as a clearing member uses the methods set out in Section 3 or 6 of this Chapter to calculate the own funds requirement for its exposures, the following provisions shall apply:

(a) by way of derogation from Article 285(2), the institution may use a margin period of risk of at least five business days for its exposures to a client;

(b) the institution shall apply a margin period of risk of at least 10 business days for its exposures to a CCP;

(c) by way of derogation from Article 285(3), where a netting set included in the calculation meets the condition set out in point (a) of that paragraph, the institution may disregard the limit set out in that point, provided that the netting set does not meet the condition set out in point (b) of that paragraph and does not contain disputed trades or exotic options;

(d) where a CCP retains variation margin against a transaction, and the institution's collateral is not protected against the insolvency of the CCP, the institution shall apply a margin period of risk that is the lower of one year and the remaining maturity of the transaction, with a floor of 10 business days.

4. By way of derogation from Article 281(2)(i), where an institution that acts as a clearing member uses the method set out in Section 4 to calculate the own funds requirement for its exposures to a client, the institution may use a maturity factor of 0.21 for its calculation.

5. By way of derogation from Article 282(4)(d), where an institution that acts as a clearing member uses the method set out in Section 5 to calculate the own funds requirement for its exposures to a client, that institution may use a maturity factor of 0.21 in that calculation."; and

(d) after paragraph 5, insert–

"6. An institution that acts as a clearing member may use the reduced exposure at default resulting from the calculations set out in paragraphs 3, 4 and 5 for the purposes of calculating its own funds requirements for CVA risk in accordance with Title VI.

7. An institution that acts as a clearing member that collects collateral from a client for a CCP-related transaction and passes the collateral on to the CCP may

recognise that collateral to reduce its exposure to the client for that CCP-related transaction.

In the case of a multi-level client structure, the treatment set out in the first subparagraph may be applied at each level of that structure.”.

(121) In Article 305–

(a) for paragraph 1 substitute–

“1. An institution that is a client shall calculate the own funds requirements for its CCP-related transactions with its clearing member in accordance with Sections 1 to 8 of this Chapter, with Section 4 of Chapter 4 of this Title and with Title VI, as applicable.”;

(b) in paragraph 2–

(i) for point (c) substitute–

“(c) the client has conducted a sufficiently thorough legal review, which it has kept up to date, that substantiates that the arrangements that ensure that the condition set out in point (b) is met are legal, valid, binding and enforceable under the relevant laws of the relevant jurisdiction or jurisdictions;”;

(ii) after point (d), insert–

“When assessing its compliance with the condition set out in point (b), an institution may take into account any clear precedents of transfers of client positions and of corresponding collateral at a CCP, and any industry intent to continue with that practice.”; and

(c) for paragraphs 3 and 4 substitute–

“3. By way of derogation from paragraph 2, where an institution that is a client fails to meet the condition set out in point (a) of that paragraph because that institution is not protected from losses in case the clearing member and another client of the clearing member jointly default, provided that all the other conditions set out in points (a) to (d) of that paragraph are met, the institution may calculate the own funds requirements for its trade exposures for CCP-related transactions with its clearing member in accordance with Article 306, subject to replacing the 2% risk weight set out in Article 306(1)(a) with a 4% risk weight.

4. In the case of a multi-level client structure, an institution that is a lower-level client accessing the services of a CCP through a higher-level client may apply the treatment set out in paragraph 2 or 3 only where the conditions set out therein are met at every level of that structure.”

(122) In Article 306–

(a) In paragraph 1, for point (c) substitute–

"(c) where an institution acts as a financial intermediary between a client and a CCP, and the terms of the CCP-related transaction stipulate that the institution is not required to reimburse the client for any losses suffered due to changes in the value of that transaction in the event that the CCP defaults, that institution may set the exposure value of the trade exposure with the CCP that corresponds to that CCP-related transaction to zero;

(d) where an institution acts as a financial intermediary between a client and a CCP, and the terms of the CCP-related transaction stipulate that the institution is required to reimburse the client for any losses suffered due to changes in the value of that transaction in the event that the CCP defaults, that institution shall apply the treatment in point (a) or (b), as applicable, to the trade exposure with the CCP that corresponds to that CCP-related transaction.";

(b) for paragraphs 2 and 3 substitute–

"2. By way of derogation from paragraph 1, where assets posted as collateral to a CCP or a clearing member are bankruptcy remote in the event that the CCP, the clearing member or one or more of the other clients of the clearing member become insolvent, an institution may attribute an exposure value of zero to the counterparty credit risk exposures for those assets.

3. An institution shall calculate exposure values of its trade exposures with a CCP in accordance with Sections 1 to 8 of this Chapter and with Section 4 of Chapter 4, as applicable.".

(123) For Article 307 substitute–

"*Article 307*

Own funds requirements for contributions to the default fund of a CCP

An institution that acts as a clearing member shall apply the following treatment to its exposures arising from its contributions to the default fund of a CCP:

(a) it shall calculate the own funds requirement for its pre-funded contributions to the default fund of a QCCP in accordance with the approach set out in Article 308;

(b) it shall calculate the own funds requirement for its pre-funded and unfunded contributions to the default fund of a non-qualifying CCP in accordance with the approach set out in Article 309;

(c) it shall calculate the own funds requirement for its unfunded contributions to the default fund of a QCCP in accordance with the treatment set out in Article 310.”.

(124) In Article 308–

(a) for paragraphs 2 and 3 substitute–

“2. An institution shall calculate the own funds requirement to cover the exposure arising from its pre-funded contribution as follows:

$$K_i = \max\left\{K_{CCP} \cdot \frac{DF_i}{DF_{CCP} + DF_{CM}}, 8\,\% \cdot 2\,\% \cdot DF_i\right\}$$

where:

K_i = the own funds requirement;

i = the index denoting the clearing member;

K_{CCP} = the hypothetical capital of the QCCP communicated to the institution by the QCCP in accordance with Article 50c of EMIR;

DF_i = the pre-funded contribution;

DF_{CCP} = the pre-funded financial resources of the CCP communicated to the institution by the CCP in accordance with Article 50c of EMIR; and

DF_{CM} = the sum of pre-funded contributions of all clearing members of the QCCP communicated to the institution by the QCCP in accordance with Article 50c of EMIR.

3. An institution shall calculate the risk-weighted exposure amounts for exposures arising from that institution's pre-funded contribution to the default fund of a QCCP for the purposes of Article 92(3) as the own funds requirement, calculated in accordance with paragraph 2, multiplied by 12.5.”; and

(b) omit paragraphs 4 and 5.

(125) For Articles 309 to 311 substitute–

"*Article 309*
Own funds requirements for pre-funded contributions to the default fund of a non-qualifying CCP and for unfunded contributions to a non-qualifying CCP

1. An institution shall apply the following formula to calculate the own funds requirement for the exposures arising from its pre-funded contributions to the default fund of a non-qualifying CCP and from unfunded contributions to such CCP:

$$K = DF + UC$$

where:

K = the own funds requirement;

DF = the pre-funded contributions to the default fund of a non-qualifying CCP; and

UC = the unfunded contributions to the default fund of a non-qualifying CCP.

2. An institution shall calculate the risk-weighted exposure amounts for exposures arising from that institution's contribution to the default fund of a non-qualifying CCP for the purposes of Article 92(3) as the own funds requirement, calculated in accordance with paragraph 1 of this Article, multiplied by 12.5.

Article 310
Own funds requirements for unfunded contributions to the default fund of a QCCP

An institution shall apply a 0% risk weight to its unfunded contributions to the default fund of a QCCP.

Article 311
Own funds requirements for exposures to CCPs that cease to meet certain conditions

1. Institutions shall apply the treatment set out in this Article where it has become known to them, following a public announcement or notification from the competent authority of a CCP used by those institutions or from that CCP itself, that the CCP will no longer comply with the conditions for authorisation or recognition, as applicable.

2. Where the condition set out in paragraph 1 is met, institutions shall, within three months of becoming aware of those circumstances, do the following with respect to their exposures to that CCP:

(a) apply the treatment set out in Article 306(1)(b) to their trade exposures to that CCP;

(b) apply the treatment set out in Article 309 to their pre-funded contributions to the default fund of that CCP and to its unfunded contributions to that CCP;

(c) treat their exposures to that CCP, other than the exposures listed in points (a) and (b, as exposures to a corporate in accordance with the Standardised Approach for credit risk set out in Chapter 2.”.

(126) In Article 312–

(a) in paragraph 1–

(i) for “Articles 74 and 85 of Directive 2013/36/EU” substitute “regulations 31 and 42 of the CICR Regulations”;

(ii) for “competent authorities” substitute “GFSC”; and

(iii) for “Competent authorities” substitute “The GFSC”;

(b) in paragraph 2–

(i) in both places it occurs, for “Competent authorities” substitute “The GFSC”; and

(ii) for “their competent authorities” substitute “the GFSC”; and

(iii) for “Articles 74 and 85 of Directive 2013/36/EU and Section II, Chapter 3, Title VII of that Directive” substitute “regulations 31, 42 and 74 to 81 of the CICR Regulations”;

(c) in paragraph 3, for “competent authorities” substitute “GFSC”; and

(d) in paragraph 4–

(i) for “EBA shall develop draft regulatory technical standards to specify” substitute “The Minister may make technical standards specifying”; and

(ii) omit the second and third sub-paragraphs.

(127) In Article 314–

(a) in paragraph 1–

(i) for “competent authorities” substitute “GFSC”; and

(ii) for “Competent authorities” substitute “The GFSC”;

(b) in paragraph 2(a), for “competent authorities are” substitute “the GFSC is”;

(c) in paragraph 3–

(i) for “competent authorities shall” substitute “the GFSC shall”; and

(ii) for “its competent authorities” substitute “the GFSC”;

(d) in paragraph 4–

(i) for “a competent authority” substitute “the GFSC”;

(ii) for “A competent authority” substitute “The GFSC”; and;

(iii) for “competent authority” substitute “GFSC”; and;

(e) in paragraph 5–

(i) for “EBA shall develop draft regulatory technical standards to specify” substitute “The Minister may make technical standards specifying”;

(ii) in both places it occurs, for “competent authorities” substitute “GFSC”; and

(iii) omit the second and third sub-paragraphs.

(128) In Article 315.3–

(a) for “its competent authority” substitute “the GFSC”; and

(b) omit “and shall duly inform EBA thereof”; and

(c) in both places it occurs, for “competent authority” substitute “GFSC”.

(129) In Article 316–

(a) in paragraph 1–

(i) for “applying accounting standards established by Directive 86/635/EEC, based on the accounting categories for the profit and loss account of institutions under Article 27 of that Directive” substitute “using the vertical format of profit and loss account in Chapter 4 of Part 2 of Schedule 1 to the Financial Services (Credit Institutions) (Accounts) Regulations 2021”;

(ii) in paragraph (c), for “Article 36(2) of Directive 86/635/EEC” substitute “paragraph 20(4) of Schedule 1 to the Financial Services (Credit Institutions) (Accounts) Regulations 2021; and

(iii) after paragraph (c), insert–

"By way of derogation from the first subparagraph, institutions may choose not to apply the accounting categories for the profit and loss account under Chapter 4 of Part 2 of Schedule 1 to the Financial Services (Credit Institutions) (Accounts) Regulations 2021 to financial and operating leases for the purpose of calculating the relevant indicator, and may instead:

(a) include interest income from financial and operating leases and profits from leased assets in the category referred to in point 1 of Table 1; and

(b) include interest expense from financial and operating leases, losses, depreciation and impairment of operating leased assets in the category referred to in point 2 of Table 1.";

(b) in paragraph 2, for "established by Directive 86/635/EEC" substitute "in the Financial Services (Credit Institutions) (Accounts) Regulations 2021"; and

(c) in paragraph 3–

(i) for "EBA shall develop draft regulatory technical standards to determine the methodology to calculate" substitute "The Minister may make technical standards specifying the methodology for calculating"; and

(ii) omit the second and third sub-paragraphs.

(130) In Article 317.4, in the second sub-paragraph–

(a) for "its competent authority" substitute "the GFSC";

(b) omit "and shall duly inform EBA thereof"; and

(c) in both places it occurs, for "competent authority" substitute "GFSC".

(131) In Article 318.3–

(a) for "EBA shall develop draft implementing technical standards to determine" substitute "The Minister may make technical standards for determining"; and

(b) omit the second and third sub-paragraphs.

(132) In Article 322, in the three places it occurs, for "competent authorities" substitute "GFSC".

(133) In Article 323–

(a) in paragraph 1, for "competent authorities" substitute "GFSC";

(b) in paragraph 2, for "EBA" substitute "the GFSC"; and

(c) in paragraph 3(c), for "competent authorities" substitute "GFSC";

(134) In Article 325.9–

(a) for "EBA shall develop draft regulatory technical standards to specify" substitute "The Minister may make technical standards specifying"; and

(b) omit the second and third sub-paragraphs.

(135) In Article 325a–

(a) in paragraph 3, for "competent authorities" substitute "GFSC";

(b) in paragraph 4, for "competent authority" substitute "GFSC"; and

(c) in paragraph 6, for "competent authority" substitute "GFSC".

(136) In Article 325b.2, for "competent authorities" substitute "GFSC".

(137) In Article 325g, for "delegated act" substitute "regulations".

(138) In Article 325h.2(c), for "delegated act" substitute "regulations".

(139) In Article 325i, for "delegated act" substitute "regulations".

(140) In Article 325j, for "delegated act" substitute "regulations".

(141) In Article 325k.3, for "competent authorities" substitute "GFSC".

(142) In Article 325t–

(a) in paragraph 1, for "competent authorities" substitute "the GFSC";

(b) in paragraph 5, for "competent authorities" substitute "GFSC"; and

(c) in paragraph 6, for "competent authorities" substitute "GFSC".

(143) In Article 325u–

(a) in paragraph 4, for "Regulation (EU) No 648/2012" substitute "EMIR"; and

(b) in paragraph 5–

(i) for "EBA shall develop draft regulatory technical standards to specify" substitute "The Minister may make technical standards specifying";

(ii) for "those draft regulatory technical standards, EBA shall examine" substitute "those technical standards, the Minister shall consider"; and

(iii) omit the third and fourth sub-paragraphs.

(144) In Article 325w.8–

(a) for "EBA shall develop draft regulatory technical standards to specify" substitute "The Minister may make technical standards specifying"; and

(b) omit the second and third sub-paragraphs.

(145) In Article 325ae–

(a) in paragraph 1, for "delegated act" substitute "regulations"; and

(b) in paragraph 2, for "delegated act" substitute "regulations".

(146) Omit Article 325ag.2.

(147) In Article 325ah, in Table 4–

(a) for "Central government, including central banks, of a Member State" substitute "The government of Gibraltar"; and

(b) in row 9, for "Member States" substitute "Gibraltar".

(148) In Article 325ak, in Table 6–

(a) for "Central government, including central banks, of a Member State" substitute "The government of Gibraltar"; and

(b) for "Covered bonds issued by credit institutions in Member States" substitute "Covered bonds issued by credit institutions in Gibraltar".

(149) In Article 325ap.3–

(a) for "EBA shall develop draft regulatory technical standards to specify" substitute "the Minister may make technical standards specifying"; and

(b) omit the second and third sub-paragraphs.

(150) In Article 325as, for "delegated act" substitute "regulations".

(151) In Article 325av–

(a) in paragraph 1, for "delegated act" substitute "regulations"; and

(b) in paragraph 5, for "its competent authority" substitute "the GFSC".

(152) In Article 325az–

(a) in paragraph 2–

(i) for "competent authorities" substitute "the GFSC";

(ii) for "competent authority" substitute "GFSC"; and

(iii) for "its competent authority" substitute "the GFSC";

(b) in paragraph 3, for "competent authorities" substitute "GFSC";

(c) in paragraph 4–

(i) for "its competent authorities" substitute "the GFSC"; and

(ii) for "competent authorities" substitute "GFSC";

(d) in paragraph 5–

(i) for "competent authorities may" substitute "the GFSC may"; and

(ii) omit the final sentence;

(e) in paragraph 7–

(i) for "its competent authorities" substitute "the GFSC"; and

(ii) for "the competent authorities" substitute "the GFSC";

(f) in paragraph 8–

(i) for "EBA shall develop draft regulatory technical standards to specify" substitute "The Minister may make technical standards specifying"; and

(ii) omit the second and third sub-paragraphs; and

(g) in paragraph 9–

(i) for "EBA shall develop draft regulatory technical standards to specify" substitute "The Minister may make technical standards specifying";

(ii) for "competent authorities" substitute "the GFSC"; and

(iii) omit the second and third sub-paragraphs.

(153) In Article 325bc–

(a) in paragraph 2–

(i) in sub-paragraph (a)–

(aa) in both places it occurs, for “competent authorities” substitute “GFSC”;

(bb) for “competent authority” substitute “GFSC”; and

(ii) in sub-paragraph (c), for “competent authorities” substitute “GFSC”; and

(b) in paragraph 4(c)–

(i) for “competent authorities may” substitute “the GFSC may”; and

(ii) omit “; competent authorities shall notify EBA of any decision to require an institution to use historical data from a shorter period than 12 months and shall substantiate that decision”.

(154) In Article 325bd–

(a) in paragraph 3, for “competent authorities” substitute “GFSC”;

(b) omit paragraph 5;

(c) in paragraph 7–

(i) for “EBA shall develop draft regulatory technical standards to specify” substitute “The Minister may make technical standards specifying”; and”;

(ii) omit the second and third sub-paragraphs;

(d) in Table 2–

(i) in the fifth row, for “Central government, including central banks, of Member States” substitute “The government of Gibraltar”; and

(ii) in the sixth row, for “Covered bonds issued by credit institutions in Member States (Investment Grade)” substitute “Covered bonds issued by credit institutions in Gibraltar (Investment Grade)”.

(155) In Article 325be.3–

(a) for “EBA shall develop draft regulatory technical standards to specify” substitute “The Minister may make technical standards specifying”; and”;

(b) omit the second and third sub-paragraphs.

(156) In Article 325bf–

(a) in paragraph 6, for "competent authorities" substitute "the GFSC";

(b) in paragraph 7–

(i) for "Competent authorities" substitute "The GFSC"; and

(ii) in both places it occurs, for "competent authorities" substitute "GFSC";

(c) in paragraph 8–

(i) for "competent authorities" substitute "the GFSC"; and

(ii) for "its competent authority" substitute "the GFSC";

(d) in paragraph 9–

(i) for "EBA shall develop draft regulatory technical standards to specify" substitute "The Minister may make technical standards specifying"; and

(ii) omit the second and third sub-paragraphs.

(157) In Article 325bg.4–

(a) for "EBA shall develop draft regulatory technical standards to specify" substitute "The Minister may make technical standards specifying"; and

(b) omit the second and third sub-paragraphs.

(158) In Article 325bh–

(a) in paragraph 1(a), in both places it occurs, for "competent authorities" substitute "GFSC"; and

(b) omit paragraph 3.

(159) In Article 325bi.1(h), for "competent authorities" substitute "GFSC".

(160) In Article 325bk–

(a) in paragraph 2, for "their competent authorities" substitute "the GFSC"; and

(b) in paragraph 3–

(i) for “EBA shall develop draft regulatory technical standards to specify” substitute “The Minister may make technical standards specifying”;

(ii) for “competent authorities” substitute “the GFSC”;

(iii) for “draft regulatory technical standards, EBA” substitute “technical standards, the Minister”; and

(iv) omit the third and fourth sub-paragraphs.

(161) In Article 325bm.1, for “Competent authorities” substitute “The GFSC”.

(162) In Article 325bp–

(a) in paragraph 11, for “competent authorities” substitute “GFSC”; and

(b) in paragraph 12–

(i) for “EBA shall develop draft regulatory technical standards to specify” substitute “The Minister may make technical standards specifying”; and

(ii) omit the second and third sub-paragraphs.

(163) In Article 327.2–

(a) for “competent authorities” substitute “GFSC”; and

(b) omit the second and third sentences.

(164) In Article 329–

(a) in paragraph 1, for “competent authorities” substitute “GFSC”;

(b) in paragraph 3–

(i) for “EBA shall develop draft regulatory technical standards” substitute “The Minister may make technical standards”; and

(ii) omit the second and third sub-paragraphs; and

(c) omit paragraph 4.

(165) In Article 331.1, for “competent authorities” substitute “GFSC”.

(166) In Article 336.4–

(a) in paragraph (a)(iii)–

(i) for “a Member State” substitute “Gibraltar”; and

(ii) for “competent authorities of the relevant Member State” substitute “GFSC”; and

(b) in paragraph (c), for “Directive 2013/36/EU” substitute “the CICR Regulations”.

(167) In Article 337.2–

(a) for “competent authorities” substitute “GFSC”; and

(b) for “In accordance with Article 16 of Regulation (EU) No 1093/2010, the EBA shall issue guidelines” substitute “The GFSC may issue guidance”.

(168) In Article 340.3, omit “EBA shall, in accordance with Article 16 of Regulation (EU) No 1093/2010, issue guidelines about how to apply such corrections.”.

(169) In Article 341.3–

(a) for “EBA shall develop draft regulatory technical standards defining” substitute “The Minister may make technical standards defining”; and

(b) omit the second and third sub-paragraphs.

(170) In Article 344–

(a) in paragraph 1–

(i) for “EBA shall develop draft implementing technical standards” substitute “The Minister may make technical standards”; and

(ii) omit the second and third sub-paragraphs; and

(b) omit paragraph 2.; and

(c) in paragraph 3, for “competent authority” substitute “GFSC”.

(171) In Article 345.2, for “competent authorities” substitute “GFSC”.

(172) In Article 349(f), for “Directive 2009/65/EC” substitute “the Financial Services (UCITS) Regulations 2020”.

(173) In Article 352–

(a) in paragraph 1, for “competent authorities” substitute “GFSC”;

(b) in paragraph 2, in both places it occurs, for “competent authorities” substitute “GFSC”; and

(c) in paragraph 6–

(i) for "EBA shall develop draft implementing technical standards" substitute "The Minister may make technical standards"; and

(ii) omit the second, third and fourth sub-paragraphs.

(174) In Article 354–

(a) in paragraph 3–

(i) for "EBA shall develop draft implementing technical standards" substitute "The Minister may make technical standards"; and

(ii) omit the second and third sub-paragraphs;

(b) omit paragraph 4; and

(c) in paragraph 6, for "its competent authority" substitute "the GFSC".

(175) In Article 356.2, for "competent authorities" substitute "GFSC".

(176) In Article 358–

(a) in paragraph 3, for "competent authorities" substitute "GFSC"; and

(b) in paragraph 4–

(i) for "EBA shall develop draft regulatory technical standards" substitute "The Minister may make technical standards"; and

(ii) omit the second, third and fourth sub-paragraphs.

(177) In Article 361, for "their competent authorities" substitute "the GFSC".

(178) In Article 363–

(a) in paragraph 1, for "competent authorities" substitute "the GFSC";

(b) in paragraph 2, for "competent authorities" substitute "GFSC";

(c) in paragraph 3–

(i) for "competent authorities" substitute "GFSC"; and

(ii) for "competent authority" substitute "GFSC"; and

(d) in paragraph 4–

(i) for “EBA shall develop draft regulatory technical standards to specify” substitute “The Minister may make technical standards specifying”;

(ii) for “competent authorities” substitute “the GFSC”; and

(iii) omit the second and third sub-paragraphs.

(179) In Article 365.2–

(a) for “competent authorities” substitute “GFSC”; and

(b) omit the final sentence.

(180) In Article 366–

(a) in paragraph 4, for “competent authorities” substitute “GFSC”; and

(b) in paragraph 5–

(i) for “competent authorities” substitute “the GFSC”; and

(ii) for “the competent authorities” substitute “the GFSC”.

(181) In Article 372, omit “EBA shall issue guidelines on the requirements in Articles 373 to 376.”.

(182) In Article 373, for “competent authorities” substitute “GFSC”.

(183) In Article 376.5, for “competent authorities” substitute “GFSC”.

(184) In Article 377–

(a) in paragraph 1, for “Competent authorities” substitute “The GFSC”;

(a) in paragraph b, for “competent authority” substitute “GFSC”; and

(b) in paragraph 5–

(i) in both places it occurs, for “competent authorities” substitute “GFSC”; and

(ii) omit the final sentence.

(185) In Article 380, for “competent authorities” substitute “the GFSC”.

(186) In Article 382–

(a) in paragraph 2, for “competent authority” substitute “GFSC”;

(b) in paragraph 4–

(i) in paragraph (a), for “point (9) of Article 2 of Regulation (EU) No 648/2012” substitute “Article 2(9) of EMIR”;

(ii) for paragraph (b), substitute–

“(b) intragroup transactions as provided for in Article 3 of EMIR unless the GFSC requires intragroup transactions between structurally separated entities to be included in the own funds requirements;”;

(iii) in paragraph (c), for “point (10) of Article 2 of Regulation (EU) No 648/2012” substitute “Article 2(10) of EMIR”;

(iv) in paragraph (d), for “Regulation (EU) No 648/2012” substitute “EMIR”; and

(v) in the second sub-paragraph, for “Regulation (EU) No 648/2012” substitute “EMIR”; and

(c) for paragraph 5, substitute–

“5. The Minister may make technical standards specifying the procedures for excluding transactions with non-financial counterparties established in a third country from the own funds requirement for CVA risk charge.”.

(187) In Article 383–

(a) in paragraph 4–

(i) for “competent authority” substitute “GFSC”;

(ii) for “competent authorities” substitute “GFSC”; and

(iii) for “Competent authorities” substitute “The GFSC”; and

(b) in paragraph 5(c), omit the second and third sentences;

(c) in paragraph 7–

(i) for “EBA shall develop draft regulatory technical standards to specify in greater detail” substitute “The Minister may make technical standards further specifying”; and

(ii) omit the second and third sub-paragraphs.

(188) In Article 384.1, for the definition of EAD_i^{total} substitute–

"EAD_i^{total} = the total counterparty credit risk exposure value of counterparty "i" (summed across its netting sets) including the effect of collateral in accordance with the methods set out in Sections 3 to 6 of Chapter 6 of Title II as applicable to the calculation of the own funds requirements for counterparty credit risk for that counterparty.".

(189) For Article 385 substitute–

"*Article 385*
Alternative to using CVA methods for calculating own funds requirements

As an alternative to Article 384, for instruments referred to in Article 382 and subject to the prior consent of the GFSC, institutions using the Original Exposure Method as laid down in Article 282 may apply a multiplication factor of 10 to the resulting risk-weighted exposure amounts for counterparty credit risk for those exposures instead of calculating the own funds requirements for CVA risk.".

Amendment of Part 4.

8.(1) Omit Article 388.

(2) For Article 390 substitute–

"*Article 390*
Calculation of the exposure value

1. The total exposures to a group of connected clients shall be calculated by adding together the exposures to individual clients in that group.

2. The overall exposures to individual clients shall be calculated by adding the exposures in the trading book and the exposures in the non-trading book.

3. For exposures in the trading book, institutions may:

(a) offset their long positions and short positions in the same financial instruments issued by a given client, with the net position in each of the different instruments being calculated in accordance with the methods laid down in Chapter 2 of Title IV of Part Three;

(b) offset their long positions and short positions in different financial instruments issued by a given client, but only where the financial instrument underlying the short position is junior to the financial instrument underlying the long position or where the underlying instruments are of the same seniority.

For the purposes of points (a) and (b), financial instruments may be allocated into buckets on the basis of different degrees of seniority in order to determine the relative seniority of positions.

4. Institutions shall calculate the exposure values of the derivative contracts listed in Annex II and of credit derivative contracts directly entered into with a client in accordance with one of the methods set out in Sections 3, 4 and 5 of Chapter 6 of Title II of Part Three, as applicable. Exposures resulting from the transactions referred to in Articles 378, 379 and 380 shall be calculated in the manner laid down in those Articles.

When calculating the exposure value for the contracts referred to in the first subparagraph, where those contracts are allocated to the trading book, institutions shall also comply with the principles set out in Article 299.

By way of derogation from the first subparagraph, institutions with permission to use the methods referred to in Section 4 of Chapter 4 of Title II of Part Three and Section 6 of Chapter 6 of Title II of Part Three may use those methods for calculating the exposure value for securities financing transactions.

5. Institutions shall add to the total exposure to a client the exposures arising from derivative contracts listed in Annex II and credit derivative contracts, where the contract was not directly entered into with that client but the underlying debt or equity instrument was issued by that client.

6. Exposures shall not include any of the following:

(a) in the case of foreign exchange transactions, exposures incurred in the ordinary course of settlement during the two business days following payment;

(b) in the case of transactions for the purchase or sale of securities, exposures incurred in the ordinary course of settlement during the five business days following payment or delivery of the securities, whichever is the earlier;

(c) in the case of the provision of money transmission including the execution of payment services, clearing and settlement in any currency and correspondent banking or financial instruments clearing, settlement and custody services to clients, 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 the provision of money transmission including the execution of payment services, clearing and settlement in any currency and correspondent banking, intra-day exposures to institutions providing those services;

(e) exposures deducted from Common Equity Tier 1 items or Additional Tier 1 items in accordance with Articles 36 and 56 or any other deduction from those items that reduces the solvency ratio.

7. To determine the overall exposure to a client or a group of connected clients, in respect of clients to which the institution has exposures through transactions referred to in Article 112(m) and (o) or through other transactions where there is an exposure to underlying assets, an institution shall assess its underlying exposures taking into account the economic substance of the structure of the transaction and the risks inherent in the structure of the transaction itself, in order to determine whether it constitutes an additional exposure.

8. The Minister may make technical standards specifying:

(a) the conditions and methodologies to be used to determine the overall exposure to a client or a group of connected clients for the types of exposures referred to in paragraph 7;

(b) the conditions under which the structure of the transactions referred to in paragraph 7 do not constitute an additional exposure; and

(c) how to determine the exposures arising from derivative contracts listed in Annex II and credit derivative contracts, where the contract was not directly entered into with a client but the underlying debt or equity instrument was issued by that client for their inclusion into the exposures to the client.”.

(3) In Article 391–

(a) in the first sub-paragraph, in both places it occurs, for “the Union” substitute “Gibraltar”; and

(b) for the second sub-paragraph, substitute–

“For the purposes of this Article, the Minister may by regulations make a determination that a third country applies prudential supervisory and regulatory requirements at least equivalent to those applied in Gibraltar.”.

(4) For Article 392 substitute–

“*Article 392*
Definition of a large exposure

An institution’s exposure to a client or a group of connected clients shall be considered a large exposure where the value of the exposure is equal to or exceeds 10 % of its Tier 1 capital.”.

(5) For Article 394 substitute–

"*Article 394*
Reporting requirements

1. Institutions shall report the following information to the GFSC for each large exposure that they hold, including large exposures exempted from the application of Article 395(1):

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

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

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

(d) the exposure value, after taking into account the effect of the credit risk mitigation calculated for the purposes of Article 395(1), where applicable.

Institutions that are subject to Chapter 3 of Title II of Part Three shall report their 20 largest exposures to the GFSC on a consolidated basis, excluding the exposures exempted from the application of Article 395(1).

Institutions shall also report exposures of a value greater than or equal to £260 million but less than 10% of the institution's Tier 1 capital to the GFSC on a consolidated basis.

2. In addition to the information referred to in paragraph 1 of this Article, institutions shall report the following information to the GFSC in relation to their 10 largest exposures to institutions on a consolidated basis, as well as their 10 largest exposures to shadow banking entities which carry out banking activities outside the regulated framework on a consolidated basis, including large exposures exempted from the application of Article 395(1):

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

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

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

(d) the exposure value after taking into account the effect of the credit risk mitigation calculated for the purposes of Article 395(1), where applicable.

3. Institutions shall report the information referred to in paragraphs 1 and 2 to the GFSC on at least a semi-annual basis.

4. The Minister may make technical standards specifying the criteria for the identification of shadow banking entities referred to in paragraph 2.

5. In developing those technical standards, the Minister must take into account international developments and internationally agreed standards on shadow banking and consider whether:

(a) the relation with an individual entity or a group of entities may carry risks to the institution's solvency or liquidity position;

(b) entities that are subject to solvency or liquidity requirements similar to those imposed by this Regulation and the CICR Regulations should be entirely or partially excluded from the obligation to be reported referred to in paragraph 2 on shadow banking entities.”.

(6) In Article 395–

(a) for paragraph 1 substitute–

“1. An institution shall not incur an exposure to a client or group of connected clients the value of which exceeds 25% of its Tier 1 capital, after taking into account the effect of the credit risk mitigation in accordance with Articles 399 to 403. Where that client is an institution or an investment firm, or where a group of connected clients includes one or more institutions or investment firms, that value must not exceed 25% of the institution’s Tier 1 capital or £130 million, whichever is higher, provided that the sum of exposure values, after taking into account the effect of the credit risk mitigation in accordance with Articles 399 to 403, to all connected clients that are not institutions or investment firms, does not exceed 25% of the institution’s Tier 1 capital.

Where the amount of £130 million is higher than 25% of the institution’s eligible capital, the value of the exposure, after taking into account the effect of credit risk mitigation in accordance with Articles 399 to 403, shall not exceed a reasonable limit in terms of the institution’s Tier 1 capital. That limit shall be determined by the institution in accordance with the policies and procedures referred to in regulation 38 of the CICR Regulations, to address and control concentration risk. That limit shall not exceed 100% of the institution’s Tier 1 capital.”;

(b) omit paragraph 2;

(c) for paragraph 5 substitute–

“5. The limits laid down in this Article may be exceeded for the exposures in the institution’s trading book, provided that all the following conditions are met:

(a) the exposure in the non-trading book to the client or group of connected clients in question does not exceed the limit laid down in paragraph 1, this

limit being calculated with reference to Tier 1 capital, so that the excess arises entirely in the trading book;

(b) the institution meets an additional own funds requirement on the part of the exposure in excess of the limit laid down in paragraph 1 which is calculated in accordance with Articles 397 and 398;

(c) where 10 days or less have elapsed since the excess referred to in point (b) occurred, the trading-book exposure to the client or group of connected clients in question does not exceed 500% of the institution's Tier 1 capital;

(d) any excesses that have persisted for more than 10 days do not, in aggregate, exceed 600% of the institution's Tier 1 capital.

Each time the limit has been exceeded, the institution shall report to the GFSC without delay the amount of the excess and the name of the client concerned and, where applicable, the name of the group of connected clients concerned."; and

(d) omit paragraphs 6 to 8.

(7) For Article 396, substitute–

"*Article 396*
Compliance with large exposures requirements

1. If, in an exceptional case, exposures exceed the limit set out in Article 395(1), the institution shall report the value of the exposure without delay to the GFSC which may, where the circumstances warrant it, allow the institution a limited period of time in which to comply with the limit.

Where the amount of £130 million referred to in Article 395(1) is applicable, the GFSC may allow the 100% limit in terms of the institution's Tier 1 capital to be exceeded on a case-by-case basis.

Where, in the exceptional cases referred to in the first and second subparagraph h, a the GFSC allows an institution to exceed the limit set out in Article 395(1) for a period longer than three months, the institution shall present a plan for a timely return to compliance with that limit to the satisfaction of the GFSC and shall carry out that plan within the period agreed with the GFSC."

2. Where compliance by an institution on an individual or sub- consolidated basis with the obligations imposed in this Part is waived under Article 7(1), or the provisions of Article 9 are applied in the case of Gibraltar parent institutions, measures shall be taken to ensure the satisfactory allocation of risks within the group.".

(8) In Article 397, in Column 1 of Table 1, for "eligible capital" substitute "Tier 1 capital".

(9) In Article 398, for "competent authorities" substitute "GFSC".

(10) In Article 399–

(a) for paragraph 1 substitute–

“1. An institution shall use a credit risk mitigation technique in the calculation of an exposure where it has used that technique to calculate capital requirements for credit risk in accordance with Title II of Part Three, provided that the credit risk mitigation technique meets the conditions set out in this Article.

For the purposes of Articles 400 to 403, the term “guarantee” shall include credit derivatives recognised under Chapter 4 of Title II of Part Three other than credit linked notes.”;

(b) for paragraph 3 substitute:

“3. Credit risk mitigation techniques which are available only to institutions using one of the IRB approaches shall not be used to reduce exposure values for large exposure purposes, except for exposures secured by immovable properties in accordance with Article 402.”; and

(c) in paragraph 4, for “their competent authority” substitute “the GFSC”.

(11) In Article 400–

(a) in paragraph 1–

(i) in point (e), omit “of Member States”; and

(ii) for point (j) substitute–

“(j) clearing members’ trade exposures and default fund contributions to qualified central counterparties;”;

(iii) for point (k), substitute–

“(k) exposures to the Gibraltar deposit guarantee scheme arising from the funding of that scheme.”; and

(iv) after point (k), insert–

“(l) clients’ trade exposures referred to in Article 305(2) or (3);

(m) holdings by resolution entities, or by their subsidiaries which are not themselves resolution entities, of own funds instruments and eligible liabilities referred to in regulation 45F(5) of the Recovery and Resolution Regulations that have been issued by any of the following entities:

(i) in respect of resolution entities, other entities belonging to the same resolution group;

(ii) in respect of subsidiaries of a resolution entity that are not themselves resolution entities, the relevant subsidiary's subsidiaries belonging to the same resolution group.";

(b) in paragraph 2–

(i) for "Competent authorities" substitute "The GFSC";

(ii) in point (b), omit "of Member States";

(iii) for point (c) substitute–

"(c) exposures incurred by an institution, including through participations or other kinds of holdings, to its parent undertaking, to other subsidiaries of that parent undertaking, or to its own subsidiaries and qualifying holdings, in so far as those undertakings are covered by the supervision on a consolidated basis to which the institution itself is subject, in accordance with this Regulation, the Financial Services (Financial Conglomerates) Regulations 2020 or with equivalent standards in force in a country; exposures that do not meet those criteria, whether or not exempted from Article 395(1) of this Regulation, shall be treated as exposures to a third party;";

(iv) in point (h), for "competent authority" substitute "GFSC";

(v) in point (i), for "competent authorities'" substitute "GFSC's";

(vi) for point (k) substitute–

"(k) exposures in the form of a collateral or a guarantee for residential loans, provided by an eligible protection provider referred to in Article 201 qualifying for the credit rating which is at least the lower of the following:

(i) credit quality step 2;

(ii) the credit quality step corresponding to the central government foreign currency rating of the jurisdiction where the protection provider's headquarters are located;"; and

(vi) after point (k), insert–

"(l) exposures in the form of a guarantee for officially supported export credits, provided by an export credit agency qualifying for the credit rating which is at least the lower of the following:

(i) credit quality step 2;

(ii) the credit quality step corresponding to the central government foreign currency rating of the jurisdiction where the export credit agency's headquarters are located.";

(c) in paragraph 3–

(i) in the opening words, for "Competent authorities" substitute "The GFSC";

(ii) in paragraph (b), for "Article 81 of Directive 2013/36/EU" substitute ""regulation 38 of the CICR Regulations"; and

(iii) omit the second sub-paragraph; and

(d) after paragraph 3, insert–

"4. The simultaneous application of more than one exemption in paragraphs 1 and 2 to the same exposure is not permitted.".

(12) For Article 401 substitute–

"*Article 401*
Calculating the effect of the use of credit risk mitigation techniques

1. For calculating the value of exposures for the purposes of Article 395(1), an institution may use the fully adjusted exposure value (E*) as calculated under Chapter 4 of Title II of Part Three, taking into account the credit risk mitigation, volatility adjustments and any maturity mismatch referred to in that Chapter.

2. With the exception of institutions using the Financial Collateral Simple Method, for the purposes of the first paragraph, institutions shall use the Financial Collateral Comprehensive Method, regardless of the method used for calculating the own funds requirements for credit risk.

By way of derogation from paragraph 1, institutions with permission to use the methods referred to in Section 4 of Chapter 4 of Title II of Part Three and Section 6 of Chapter 6 of Title II of Part Three, may use those methods for calculating the exposure value of securities financing transactions.

3. In calculating the value of exposures for the purposes of Article 395(1), institutions shall conduct periodic stress tests of their credit-risk concentrations, including in relation to the realisable value of any collateral taken.

The periodic stress tests referred to in the first subparagraph shall address risks arising from potential changes in market conditions that could adversely impact the institutions' adequacy of own funds and risks arising from the realisation of collateral in stressed situations. The stress tests carried out shall be adequate and appropriate for

the assessment of those risks. Institutions shall include the following in their strategies to address concentration risk:

(a) policies and procedures to address risks arising from maturity mismatches between exposures and any credit protection on those exposures;

(b) policies and procedures relating to concentration risk arising from the application of credit risk mitigation techniques, in particular from large indirect credit exposures, for example, exposures to a single issuer of securities taken as collateral.

4. Where an institution reduces an exposure to a client using an eligible credit risk mitigation technique in accordance with Article 399(1), the institution, in the manner set out in Article 403, shall treat the part of the exposure by which the exposure to the client has been reduced as having been incurred for the protection provider rather than for the client.".

(13) In Article 402–

(a) for paragraphs 1 and 2 substitute–

"1. For the calculation of exposure values for the purposes of Article 395, institutions may, except where prohibited by any other enactment, reduce the value of an exposure or any part of an exposure that is fully secured by residential property in accordance with Article 125(1) by the pledged amount of the market value or mortgage lending value of the property concerned, but by not more than 50% of the market value or 60% of the mortgage lending value if rigorous criteria are in force at the time in Gibraltar for the assessment of the mortgage lending value, where all the following conditions are met:

(a) the GFSC has not set a risk weight higher than 35% for exposures or parts of exposures secured by residential property in accordance with Article 124(2);

(b) the exposure or part of the exposure is fully secured by any of the following:

(i) one or more mortgages on residential property; or

(ii) a residential property in a leasing transaction under which the lessor retains full ownership of the residential property and the lessee has not yet exercised his or her option to purchase;

(c) the requirements in Articles 208 and 229(1) are met.

2. For the calculation of exposure values for the purposes of Article 395, an institution may, except where prohibited by any other enactment, reduce the value of an exposure or any part of an exposure that is fully secured by commercial

immovable property in accordance with Article 126(1) by the pledged amount of the market value or mortgage lending value of the property concerned, but not by more than 50 % of the market value or 60 % of the mortgage lending value if rigorous criteria are in force at the time in Gibraltar for the assessment of the mortgage lending value, where all the following conditions are met:

(a) the GFSC has not set a risk weight higher than 50% for exposures or parts of exposures secured by commercial immovable property in accordance with Article 124(2);

(b) the exposure is fully secured by any of the following:

(i) one or more mortgages on offices or other commercial premises; or

(ii) one or more offices or other commercial premises and the exposures related to property leasing transactions;

(c) the requirements in Article 126(2)(a), 208 and 229(1) are met;

(d) the commercial immovable property is fully constructed.”; and

(b) in paragraph 3–

(i) for paragraph (a) substitute–

“(a) the counterparty is an institution or an investment firm;”; and

(ii) for paragraph (e), substitute–

“(e) the institution reports to the GFSC in accordance with Article 394 the total amount of exposures to each other institution or investment firm that are treated in accordance with this paragraph.”.

(14) For Article 403 substitute–

“*Article 403*

Substitution approach

1. Where an exposure to a client is guaranteed by a third party or is secured by collateral issued by a third party, an institution may:

(a) treat the portion of the exposure which is guaranteed as exposure to the guarantor rather than to the client, provided that the unsecured exposure to the guarantor would be assigned a risk weight that is equal to or lower than the risk weight of the unsecured exposure to the client under Chapter 2 of Title II of Part Three;

(b) treat the portion of the exposure collateralised by the market value of recognised collateral as exposure to the third party rather than to the client, provided that the exposure is secured by collateral and provided that the collateralised portion of the exposure would be assigned a risk weight that is equal to or lower than the risk weight of the unsecured exposure to the client under Chapter 2 of Title II of Part Three.

The approach referred to in point (b) shall not be used by an institution where there is a mismatch between the maturity of the exposure and the maturity of the protection.

For the purposes of this Part, an institution may use both the Financial Collateral Comprehensive Method and the treatment set out in point (b) only where it is permitted to use both the Financial Collateral Comprehensive Method and the Financial Collateral Simple Method for the purposes of Article 92.

2. Where an institution applies point (a) of paragraph 1, the institution:

(a) where the guarantee is denominated in a currency different from that in which the exposure is denominated, shall calculate the amount of the exposure that is deemed to be covered in accordance with the provisions on the treatment of currency mismatch for unfunded credit protection set out in Part Three;

(b) shall treat any mismatch between the maturity of the exposure and the maturity of the protection in accordance with the provisions on the treatment of maturity mismatch set out in Chapter 4 of Title II of Part Three;

(c) may recognise partial coverage in accordance with the treatment set out in Chapter 4 of Title II of Part Three.

3. For the purposes of point (b) of paragraph 1, an institution may replace the amount in point (a) of this paragraph with the amount in point (b) of this paragraph, provided that the conditions set out in points (c), (d) and (e) of this paragraph are met:

(a) the total amount of the institution’s exposure to a collateral issuer due to tri-party repurchase agreements facilitated by a tri-party agent;

(b) the full amount of the limits that the institution has instructed the tri-party agent referred to in point (a) to apply to the securities issued by the collateral issuer referred to in that point;

(c) the institution has verified that the tri-party agent has in place appropriate safeguards to prevent breaches of the limits referred to in point (b);

(d) the GFSC has not expressed to the institution any material concerns;

(e) the sum of the amount of the limit referred to in point (b) of this paragraph and any other exposures of the institution to the collateral issuer does not exceed the limit set out in Article 395(1).".

Amendment of Part 6.

9.(1) in Part Six, for the heading of Title I substitute:

"**DEFINITIONS AND LIQUIDITY REQUIREMENTS**";

(2) For Article 411 substitute–

"*Article 411*
Definitions

For the purposes of this Part, the following definitions apply:

(1) "financial customer" means a customer, including a financial customer belonging to a non-financial corporate group, which performs one or more of the activities listed in the Schedule to the CICR Regulations as its main business, or which is one of the following:

(a) a credit institution;

(b) an investment firm;

(c) a securitisation special purpose entity (SSPE);

(d) a collective investment undertaking (CIU);

(e) a non-open ended investment scheme;

(f) an insurance undertaking;

(g) a reinsurance undertaking;

(h) a financial holding company or mixed-financial holding company;

(i) a financial institution;

(j) a pension scheme arrangement as defined in Article 2(10) of EMIR;

(2) "retail deposit" means a liability to a natural person or to a SME, where the SME would qualify for the retail exposure class under the standardised or IRB approaches for credit risk, or a liability to a company which is eligible for the treatment set out in Article 153(4), and where the aggregate deposits by that SME or company on a group basis do not exceed £880,000;

(3) “personal investment company” or “PIC” means an undertaking or a trust, the owner or beneficial owner of which is either a natural person or a group of closely related natural persons which does not carry out any other commercial, industrial or professional activity and which was set up with the sole purpose of managing the wealth of the owner or owners, including ancillary activities such as segregating the owners’ assets from corporate assets, facilitating the transmission of assets within a family or preventing a split of the assets after the death of a member of the family, provided that those ancillary activities are connected to the main purpose of managing the owners’ wealth;

(4) “deposit broker” means a natural person or an undertaking that places deposits from third parties, including retail deposits and corporate deposits but excluding deposits from financial institutions, with credit institutions in exchange of a fee;

(5) “unencumbered assets” (and “unencumbered”) mean assets which are not subject to any legal, contractual, regulatory or other restriction preventing the institution from liquidating, selling, transferring, assigning or, generally, disposing of those assets via an outright sale or a repurchase agreement;

(6) “non-mandatory over-collateralisation” means any amount of assets which the institution is not obliged to attach to a covered bond issuance by virtue of legal or regulatory requirements, contractual commitments or for reasons of market discipline, including in particular where the assets are provided in excess of the minimum legal, statutory or regulatory over-collateralisation requirement applicable to the covered bonds under the law of Gibraltar or a third country;

(7) “asset coverage requirement” means the ratio of assets to liabilities as determined in accordance with the law of Gibraltar or a third country for credit enhancement purposes in relation to covered bonds;

(8) “margin loans” means collateralised loans extended to customers for the purpose of taking leveraged trading positions;

(9) “derivative contracts” means the derivative contracts listed in Annex II and credit derivatives;

(10) “stress” (and “stressed”) mean a sudden or severe deterioration in the solvency or liquidity position of an institution due to changes in market conditions or idiosyncratic factors as a result of which there is a significant risk that the institution becomes unable to meet its commitments as they become due within the next 30 days;

(11) “level 1 assets” means assets of extremely high liquidity and credit quality as referred to in the second subparagraph of Article 416(1);

(12) “level 2 assets” means assets of high liquidity and credit quality as referred to in the second subparagraph of Article 416(1); level 2 assets are further subdivided into level 2A and 2B assets as set out in the Liquidity CDR;

(13) "liquidity buffer" means the amount of level 1 and level 2 assets that an institution holds in accordance with the Liquidity CDR;

(14) "net liquidity outflows" means the amount which results from deducting an institution's liquidity inflows from its liquidity outflows;

(15) "reporting currency" means sterling or the currency in which the institution's annual accounts are prepared;

(16) "factoring" means a contractual agreement between a business (the "assignor") and a financial entity (the "factor") in which the assignor assigns or sells its receivables to the factor in exchange for the factor providing the assignor with one or more of the following services with regard to the receivables assigned:

(a) an advance of a percentage of the amount of the assigned receivables, generally short term, uncommitted and without automatic roll-over;

(b) receivables management, collection and credit protection, whereby, in general, the factor administers the assignor's sales ledger and collects the receivables in the factor's own name; for the purposes of Title IV, factoring shall be treated as trade finance;

(17) "committed credit or liquidity facility" means:

(a) a "committed credit facility" which is a credit facility that is irrevocable or conditionally revocable; or

(b) a "committed liquidity facility" which is a liquidity facility that is irrevocable or conditionally revocable;

(18) "clearing member" means a clearing member as defined in Article 2(14) of EMIR.".

(3) In Article 412–

(a) for paragraph 2 substitute–

"2. Institutions shall not double count liquidity outflows, liquidity inflows and liquid assets. Unless specified otherwise in the Liquidity CDR, where an item can be counted in more than one outflow category, it shall be counted in the outflow category that produces the greatest contractual outflow for that item.";

(b) after paragraph 4, insert–

"4a. the Liquidity CDR shall apply to institutions."; and

(c) omit paragraph 5.

(4) For Articles 413 and 414 substitute–

“*Article 413*
Stable funding requirement

1. Institutions shall ensure that long term assets and off-balance-sheet items are adequately met with a diverse set of funding instruments that are stable under both normal and stressed conditions.

2. The provisions set out in Title III shall apply exclusively for the purpose of specifying reporting obligations set out in Article 415.

3. The provisions set out in Title IV shall apply for the purpose of specifying the stable funding requirement set out in paragraph 1 and reporting obligations for institutions set out in Article 415.

Article 414
Compliance with liquidity requirements

An institution that does not meet, or does not expect to meet, the requirements set out in Article 412 or 413(1), including during times of stress, shall:

(a) immediately notify the GFSC of that fact; and

(b) submit to the GFSC without undue delay a plan for the timely restoration of compliance with the requirements set out in Article 412 or 413(1), as appropriate.

Until compliance has been restored, the institution shall report the items referred to in Title III, in Title IV, in the technical standards referred to in Article 415(3) and in the Liquidity CDR, as appropriate, daily by the end of each business day, unless the GFSC authorises a lower reporting frequency and a longer reporting delay. The GFSC shall only grant such authorisations on the basis of the individual situation of the institution, taking into account the scale and complexity of the institution’s activities. The GFSC shall monitor the implementation of such restoration plan and shall require a more rapid restoration of compliance where appropriate.”.

(5) In Article 415–

(a) for paragraphs 1 to 3 substitute–

“1. Institutions shall report the items referred to in any technical standards made under paragraph 3, in Title IV and in the Liquidity CDR to the GFSC in the reporting currency, regardless of the actual denomination of those items.

The reporting frequency shall be at least monthly for items referred to in the Liquidity CDR and at least quarterly for items referred to in Titles III and IV.

2. An institution shall report separately to the GFSC the items referred to in the technical standards referred to in paragraph 3, in Title III, in Title IV and in the Liquidity CDR, as appropriate, in accordance with the following:

(a) where items are denominated in a currency other than the reporting currency and the institution has aggregate liabilities denominated in such a currency which amount to or exceed 5% of the institution's or the single liquidity sub-group's total liabilities, excluding own funds and off-balance-sheet items, reporting shall be done in the currency of denomination;

(b) where items are denominated in the reporting currency, and the aggregate amount of liabilities in other currencies than the reporting currency amounts to or exceeds 5% of the institution's or the single liquidity subgroup's total liabilities, excluding own funds and off-balance-sheet items, the reporting shall be done in the reporting currency.

3. The Minister may make technical standards specifying:

(a) uniform formats and IT solutions with associated instructions for frequencies and reference and remittance dates; the reporting formats and frequencies shall be proportionate to the nature, scale and complexity of the different activities of the institutions and shall comprise the reporting required in accordance with paragraphs 1 and 2;

(b) additional liquidity monitoring metrics required, to allow the GFSC to obtain a comprehensive view of an institution's liquidity risk profile, proportionate to the nature, scale and complexity of an institution's activities."; and

(b) omit paragraphs 3a to 6.

(6) In Article 416–

(a) in paragraph 1–

(i) in paragraph (a), for "competent authority" substitute "GFSC";

(ii) in paragraph (c)(i)–

(aa) for "central government of a Member State, a region with fiscal autonomy to raise and collect taxes, or" substitute "government of Gibraltar or the central government (or regional government with fiscal autonomy to raise and collect taxes)"; and

(bb) for "that Member State or" substitute "Gibraltar or the";

(iii) in paragraph (c)(iii), omit ", the Commission";

(iv) in paragraph (f), omit "or institutions that are members of the network referred to in Article 113(7), or eligible for the waiver provided in Article 10, to the extent that this funding is not collateralised by liquid assets"; and

(v) omit the second sub-paragraph.

(b) in paragraph 2–

(i) in paragraph (a)(i), for "established by EBA pursuant to the criteria in Article 509 (3), (4) and (5)" substitute "set out in the Liquidity CDR";

(ii) in paragraph (a)(ii), for "bonds as referred to in Article 52(4) of Directive 2009/65/EC" substitute "CRR covered bonds";

(iii) in paragraph (a)(iii), for "a Member State central or regional government" substitute "the government of Gibraltar"; and

(iv) in paragraph (c)(v), for "Annex I to Directive 2013/36/EU" substitute "the Schedule to the CICR Regulations";

(c) for paragraph 3, substitute–

"3. In accordance with paragraph 1, institutions shall report assets that fulfil the following conditions as liquid assets:

(a) the assets are unencumbered or stand available within collateral pools to be used for obtaining additional funding under committed or, where the pool is operated by a central bank, uncommitted but not yet funded credit lines available to the institution;

(b) the assets are not issued by the institution itself, by its parent or subsidiary institutions, or by another subsidiary of its parent institution or parent financial holding company;

(c) the price of the assets is generally agreed upon by market participants and can easily be observed in the market or the price can be determined by a formula that is easy to calculate on the basis of publicly available inputs and that does not depend on strong assumptions, as is typically the case for structured or exotic products;

(d) the assets are listed on a recognised exchange or they are tradable by an outright sale or via a simple repurchase agreement on repurchase markets; those criteria shall be assessed separately for each market.

The conditions referred to in points (c) and (d) of the first subparagraph shall not apply to the assets referred to in points (a), (e) and (f) of paragraph 1.";

(d) omit paragraph 4;

(e) for paragraphs 5 and 6 substitute–

"5. Shares or units in CIUs may be treated as liquid assets, up to an absolute amount of £440 million or the equivalent amount in domestic currency, in the portfolio of liquid assets of each institution, provided that the requirements laid down in Article 132(3) are met and that the CIU only invests in liquid assets as referred to in paragraph 1, apart from derivatives to mitigate interest rate or credit or currency risk.

The use or potential use by a CIU of derivative instruments to hedge risks of permitted investments shall not prevent that CIU from being eligible for the treatment referred to in the first subparagraph. Where the value of the shares or units of the CIU is not regularly marked to market by the third parties referred to in points (a) and (b) of Article 418(4) and where an institution has not developed robust methodologies and processes for such valuation as referred to in Article 418(4), shares or units in that CIU shall not be treated as liquid assets.

6. Where a liquid asset ceases to comply with the requirement for liquid assets as set out in this Article, an institution may nevertheless continue to consider it a liquid asset for an additional period of 30 days. Where a liquid asset in a CIU ceases to be eligible for the treatment set out in paragraph 5, the shares or units in the CIU may nevertheless be considered a liquid asset for an additional period of 30 days, provided that those assets do not exceed 10% of the CIU's overall assets."; and

(f) omit paragraph 7.

(7) In Article 417(b), for "competent authorities" substitute "GFSC".

(8) In Article 418.4–

(a) in the opening words, omit "they can demonstrate to the satisfaction of the competent authority that"; and

(b) in paragraph (b), omit ", provided that the CIU management company meets the criteria set out in Article 132(3)(a)".

(9) In Article 419–

(a) omit paragraph 1;

(b) for paragraph 2 substitute–

"2. Where the justified needs for liquid assets in light of the requirement in Article 412 exceed the availability of those liquid assets in a currency, one or more of the following derogations shall apply:

(a) by way of derogation from Article 417(f), the denomination of the liquid assets may be inconsistent with the distribution by currency of liquidity outflows after the deduction of inflows;

(b) for currencies of third countries, required liquid assets may be substituted by credit lines from the central bank of that third country which are contractually irrevocably committed for the next 30 days and are fairly priced, independent of the amount currently drawn, provided that the competent authorities of that third country do the same and provided that that third country has comparable reporting requirements in place;

(c) where there is a deficit of level 1 assets, additional level 2A assets may be held by the institution, subject to higher haircuts, and any cap applicable to those assets in accordance with the Liquidity CDR may be amended."; and

(c) for paragraphs 4 and 5, substitute–

"4. The Minister may make technical standards–

(a) listing the currencies which meet the conditions set out in this Article; and

(b) specifying the derogations referred to in paragraph 2, including the conditions of their application.".

(10) In Article 420–

(a) omit paragraph 1;

(b) in paragraph 2–

(i) for the second sub-paragraph, substitute–

"For this assessment, institutions shall take particular account of material reputational damage that could result from not providing liquidity support to such products or services. Institutions shall report at least once a year to the GFSC those products and services for which the likelihood and potential volume of the liquidity outflows referred to in the first subparagraph are material and institutions shall assign appropriate outflows."; and

(ii) omit the third sub-paragraph

(11) In Article 421–

(a) in paragraph 1, for "a Deposit Guarantee Scheme in accordance with Directive 94/19/EC" substitute "the Gibraltar deposit guarantee scheme"; and

(b) omit paragraph 3.

(12) In Article 422–

(a) in paragraph 2(d), for "the central government, a public sector entity of the Member State in which the credit institution has been authorised or has established a branch, or" substitute "the government of Gibraltar, a Gibraltar public sector entity or".

(b) in paragraph 3–

(i) omit paragraph (b); and

(ii) for "a Deposit Guarantee Scheme in accordance with Directive 94/19/EC" substitute "the Gibraltar deposit guarantee scheme";

(c) for paragraph 4 substitute–

"4. Clearing, custody, cash management or other comparable services referred to in points (a) and (d) of paragraph 3 shall only cover those services to the extent that those services are rendered in the context of an established relationship on which the depositor has substantial dependence. Those services shall not merely consist of correspondent banking or prime brokerage services, and institutions shall have evidence that the client is unable to withdraw amounts legally due over a 30-day time horizon without compromising its operational functioning.";

(d) in paragraph 5, for "a Deposit Guarantee Scheme in accordance with Directive 94/19/EC" substitute "the Gibraltar deposit guarantee scheme";

(e) for paragraph 8 substitute–

"8. The GFSC may grant the permission to apply a lower outflow percentage to the liabilities referred to in paragraph 7 on a case-by-case basis, provided that all the following conditions are met:

(a) the counterparty is any of the following:

(i) a parent or subsidiary institution of the institution, or a parent or subsidiary investment firm of the institution, or another subsidiary of the same parent institution or parent investment firm;

(ii) linked to the institution by a common management relationship; or

(iii) the central institution or a member of a network compliant with point (d) of Article 400(2)(d);

(b) a corresponding symmetric or more conservative inflow is applied by the counterparty by way of derogation from Article 425; and

(c) the institution and the counterparty are established in Gibraltar.”; and

(f) omit paragraphs 9 and 10.

(13) In Article 423, for paragraphs 2 and 3 substitute–

“2. An institution shall notify the GFSC of all contracts entered into of which the contractual conditions lead to liquidity outflows or additional collateral needs, within 30 days after a material deterioration of the institution’s credit quality. Where those contracts are material in relation to the potential liquidity outflows of the institution, the institution shall add an appropriate additional outflow for those contracts, which shall correspond to the additional collateral needs resulting from a material deterioration in its credit quality, such as a downgrade in its external credit assessment. The institution shall regularly review the extent of that material deterioration in light of what is relevant under the contracts it has entered into, and shall notify the result of its review to the GFSC.

3. The institution shall add an additional outflow which shall correspond to the collateral needs that would result from the impact of an adverse market scenario on its derivatives transactions if material.”.

(14) In Article 424–

(a) for paragraph 4 substitute:

“4. The committed amount of a liquidity facility that has been provided to an SSPE for the purpose of enabling that SSPE to purchase assets, other than securities, from clients that are not financial customers shall be multiplied by 10 %, provided that the committed amount exceeds the amount of assets currently purchased from clients and that the maximum amount that can be drawn is contractually limited to the amount of assets currently purchased.”; and

(b) in paragraph 6–

(i) for “at least one Member State's central or regional government” substitute “the government of Gibraltar”; and

(ii) omit “Union and/or that Member State's central or regional”.

(15) In Article 425–

(a) in paragraph 1–

(i) omit “or (7)”;

(ii) for “bonds as referred to in Article 52(4) of Directive 2009/65/EC” substitute “CRR covered bonds”;

(iii) for “competent authority responsible for supervision on an individual basis” substitute “GFSC”; and

(iv) for “relationship within the meaning of Article 12(1) of Directive 83/349/EEC” substitute “common management relationship”;

(b) in paragraph 2, for point (c) substitute–

“(c) loans with an undefined contractual end date shall be taken into account with a 20% inflow, provided that the contract allows the institution to withdraw and request payment within 30 days;”;

(c) in paragraph 4–

(i) in the opening words for “competent authorities” substitute “the GFSC”;

(ii) in paragraph (b)–

(aa) for “a parent” substitute “a Gibraltar parent”;

(bb) “relationship within the meaning of Article 12(1) of Directive 83/349/EEC” substitute “common management relationship”; and

(cc) omit “or a member of the same institutional protection scheme referred to in Article 113(7) of this Regulation or the central institution or a member of a network that is subject to the waiver referred to in Article 10 of this Regulation”; and

(iii) in paragraph (d), for “the same Member State” substitute “Gibraltar”; and

(d) omit paragraphs 5 and 6;

(16) Omit Article 426–

(17) In Article 427.1–

(a) for “competent authorities” substitute “GFSC”;

(b) in paragraph (b)(iv), for “a deposit guarantee scheme in accordance with Directive 94/19/EC” substitute “the Gibraltar deposit guarantee scheme”;

(c) omit paragraph (b)(v); and

(d) in paragraph (b)(x), for “as referred to in Article 52(4) of Directive 2009/65/EC” substitute “CRR covered bonds”.

(18) In Article 428.1–

(a) for “competent authorities” substitute “the GFSC”;

(b) in paragraph (g)(ii, for “EUR 1 million” substitute “£880,000”; and

(c) in paragraph (h)(iii), for “bonds as referred to in Article 52(4) of Directive 2009/65/EC” substitute “CRR covered bonds”.

(19) After Article 428, insert–

“TITLE IV
THE NET STABLE FUNDING RATIO

CHAPTER 1
The net stable funding ratio

Article 428a
Application on a consolidated basis

Where the net stable funding ratio set out in this Title applies on a consolidated basis in accordance with Article 11(4), the following provisions shall apply:

(a) the assets and off-balance-sheet items of a subsidiary having its head office in a third country which are subject to required stable funding factors under the net stable funding requirement set out in the law of that third country that are higher than those specified in Chapter 4 shall be subject to consolidation in accordance with the higher factors specified in the law of that third country;

(b) the liabilities and own funds of a subsidiary having its head office in a third country which are subject to available stable funding factors under the net stable funding requirement set out in the law of that third country that are lower than those specified in Chapter 3 shall be subject to consolidation in accordance with the lower factors specified in the law of that third country;

(c) third-country assets which meet the requirements laid down in the Liquidity CDR and which are held by a subsidiary having its head office in a third country shall not be recognised as liquid assets for consolidation purposes where they do not qualify as liquid assets under the law of that third country which sets out the liquidity coverage requirement.

Article 428b
The net stable funding ratio

1. The net stable funding requirement laid down in Article 413(1) shall be equal to the ratio of the institution's available stable funding as referred to in Chapter 3 to the institution's required stable funding as referred to in Chapter 4, and shall be expressed

as a percentage. Institutions shall calculate their net stable funding ratio in accordance with the following formula:

$$\frac{\text{Available stable funding}}{\text{Required stable funding}} = \text{Net stable funding ratio } (\%)$$

2. Institutions shall maintain a net stable funding ratio of at least 100%, calculated in the reporting currency for all their transactions, irrespective of their actual currency denomination.

3. Where, at any time, the net stable funding ratio of an institution has fallen below 100%, or can be reasonably expected to fall below 100%, the requirement laid down in Article 414 shall apply. The institution shall aim to restore its net stable funding ratio to the level referred to in paragraph 2 of this Article.

4. Institutions shall calculate and monitor their net stable funding ratio in the reporting currency for all their transactions, irrespective of their actual currency denomination, and separately for their transactions denominated in each of the currencies that is subject to separate reporting in accordance with Article 415(2).

5. Institutions shall ensure that the distribution of their funding profile by currency denomination is generally consistent with the distribution of their assets by currency.

CHAPTER 2
General rules for the calculation of the net stable funding ratio

Article 428c
Calculation of the net stable funding ratio

1. Unless otherwise specified in this Title, institutions shall take into account assets, liabilities and off-balance-sheet items on a gross basis.

2. For the purpose of calculating their net stable funding ratio, institutions shall apply the appropriate stable funding factors set out in Chapters 3 and 4 to the accounting value of their assets, liabilities and off-balance-sheet items, unless otherwise specified in this Title.

3. Institutions shall not double count required stable funding and available stable funding.

Unless otherwise specified in this Title, where an item can be allocated to more than one required stable funding category, it shall be allocated to the required stable funding category that produces the greatest contractual required stable funding for that item.

Article 428d
Derivative contracts

1. Institutions shall apply this Article to calculate the amount of required stable funding for derivative contracts as referred to in Chapters 3 and 4.

2. Without prejudice to Article 428ah(2), institutions shall take into account the fair value of derivative positions on a net basis where those positions are included in the same netting set that fulfils the requirements set out in Article 429c(1). Where that is not the case, institutions shall take into account the fair value of derivative positions on a gross basis and shall treat those derivative positions as belonging to their own netting set for the purposes of Chapter 4.

2A. For the purposes of paragraph 2, institutions may take into account the effects of contracts for novation and other netting agreements in accordance with Article 295. Institutions shall not take into account cross-product netting, but may net within the product category as referred to in Article 272.25(c) and credit derivatives where they are subject to a contractual cross-product netting agreement as referred to in Article 295(c).

3. For the purposes of this Title, the "fair value of a netting set" means the sum of the fair values of all the transactions included in a netting set.

4. Without prejudice to Article 428ah(2), all derivative contracts listed in points 2(a) to (e) of Annex II that involve a full exchange of principal amounts on the same date shall be calculated on a net basis across currencies, including for the purpose of reporting in a currency that is subject to separate reporting in accordance with Article 415(2), even where those transactions are not included in the same netting set that fulfils the requirements set out in Article 429c(1).

5. Cash received as collateral to mitigate the exposure of a derivative position shall be treated as such and shall not be treated as deposits to which Chapter 3 applies.

Article 428da
Derivative Client Clearing

1. This Article applies to initial margin, variation margin and derivatives assets and liabilities that are directly linked to derivative client clearing activities with a QCCP where the institution acts as clearing member, provided that:

(a) initial margin shall include:

(i) all amounts posted to the QCCP; and

(ii) amounts in excess of the amount posted to a QCCP only to the extent that such amounts are segregated from the assets of the institution and, as a result of that segregation, are not available to the institution freely to dispose of or exchange; and

(b) the institution does not provide to its clients guarantees of the performance of the QCCP and, as a result, does not incur any funding risk.

2. Notwithstanding any other provision of this Part, where this Article applies institutions may exclude all amounts included in paragraph 1 from the calculation of the amount of required stable funding and available stable funding in accordance with Chapters 3 to 8 of Title IV. If all amounts are not excluded the institution shall calculate the amount of required stable funding and available stable funding in accordance with Title IV.

3. Where providing derivative client clearing services in its capacity as a clearing member of a QCCP the institution receives initial margin collateral from clients that is not included in paragraph 1(a):

(a) collateral assets accounted for on the balance sheet of the institution shall be subject to a required stable funding factor in accordance with Chapter 4 or Chapter 7 of Title IV; and

(b) associated liabilities shall be subject to an available stable funding factor in accordance with Chapter 3 or Chapter 6 of Title IV.

Article 428e

Netting of secured lending transactions and capital market-driven transactions

Assets and liabilities resulting from securities financing transactions with a single counterparty shall be calculated on a net basis, provided that those assets and liabilities comply with the netting conditions set out in Article 429b(4).

Article 428f

Interdependent assets and liabilities

1. Subject to the prior approval of the GFSC, an institution may treat an asset and a liability as interdependent where all the following conditions are met:

(a) the institution acts solely as a pass-through unit to channel the funding from the liability into the corresponding interdependent asset;

(b) the individual interdependent assets and liabilities are clearly identifiable and have the same principal amount;

(c) the asset and interdependent liability have matched maturities;

(d) the interdependent liability has been requested pursuant to a legal, regulatory or contractual commitment and is not used to fund other assets;

(e) the principal payment flows from the asset are not used for other purposes than repaying the interdependent liability;

(f) the counterparties for each pair of interdependent assets and liabilities are not the same.

2. This paragraph applies to an institution's unencumbered physical stock of precious metals and customer deposit accounts in precious metals where all the following conditions are met:

(a) unencumbered physical stock of each precious metal is used to cover customer deposit accounts in the same precious metal;

(b) the institution is not exposed to liquidity or market risk resulting from either the sale of precious metals by the customer or the physical settlement of customer transactions in precious metals; and

(c) the precious metals assets and liabilities are on the balance sheet of the institution.

3. For the purpose of paragraph 2:

(a) precious metals means gold, silver, platinum or palladium;

(b) the interdependent asset and liability treatment shall only be available to the extent that the institution's unencumbered physical stock of each precious metal is matched by customer deposits of the same precious metal. Any excess physical stock or customer deposits in a precious metal shall not be treated as an interdependent asset or liability for the purpose of paragraph 1;

(c) an institution’s precious metal accounts at any other institution shall not be considered a part of the institution’s physical stock of precious metals.

Article 428h
Preferential treatment within a group

By way of derogation from Chapters 3 and 4, the GFSC may authorise institutions on a case-by-case basis to apply a higher available stable funding factor or a lower required stable funding factor to assets, liabilities and committed credit or liquidity facilities, provided that all the following conditions are met:

(a) the counterparty is one of the following:

(i) the parent or a subsidiary of the institution;

(ii) another subsidiary of the same parent;

(iii) an undertaking that is related to the institution by a common management relationship;

(b) there are reasons to expect that the liability or committed credit or liquidity facility received by the institution constitutes a more stable source of funding, or that the asset or committed credit or liquidity facility granted by the institution requires less stable funding over the one-year horizon of the net stable funding ratio than the same liability, asset or committed credit or liquidity facility received or granted by other counterparties;

(c) the counterparty applies a required stable funding factor that is equal to or higher than the higher available stable funding factor or applies an available stable funding factor that is equal to or lower than the lower required stable funding factor;

(d) the institution and the counterparty are established in Gibraltar.

CHAPTER 3
Available stable funding

Section 1
General provisions

Article 428i
Calculation of the amount of available stable funding

Unless otherwise specified in this Chapter, the amount of available stable funding shall be calculated by multiplying the accounting value of various categories or types of liabilities and own funds by the available stable funding factors to be applied under Section 2. The total amount of available stable funding shall be the sum of the weighted amounts of liabilities and own funds.

Bonds and other debt securities that are issued by the institution, sold exclusively in the retail market, and held in a retail account, may be treated as belonging to the appropriate retail deposit category. Limitations shall be in place, such that those instruments cannot be bought and held by parties other than retail customers.

Article 428j
Residual maturity of a liability or of own funds

1. Unless otherwise specified in this Chapter, institutions shall take into account the residual contractual maturity of their liabilities and own funds to determine the available stable funding factors to be applied under Section 2.

2. Institutions shall take into account existing options in determining the residual maturity of a liability or of own funds. They shall do so on the assumption that the counterparty will redeem call options at the earliest possible date. For options exercisable at the discretion of the institution, the institution and the GFSC shall take into account reputational factors that may limit an institution's ability not to exercise

the option, in particular market expectations that institutions should redeem certain liabilities before their maturity.

3. Institutions shall treat deposits with fixed notice periods in accordance with their notice period, and shall treat term deposits in accordance with their residual maturity. By way of derogation from paragraph 2 of this Article, institutions shall not take into account options for early withdrawals where the depositor has to pay a material penalty for early withdrawals which occur in less than one year, such penalty being laid down in the Liquidity CDR, to determine the residual maturity of term retail deposits.

4. In order to determine the available stable funding factors to be applied under Section 2, institutions shall treat any portion of liabilities having a residual maturity of one year or more that matures in less than six months and any portion of such liabilities that matures between six months and less than one year as having a residual maturity of less than six months and between six months and less than one year, respectively.

Section 2
Available stable funding factors

Article 428k
0% available stable funding factor

1. Unless otherwise specified in Articles 428l to 428o, all liabilities without a stated maturity, including short positions and open maturity positions, shall be subject to a 0% available stable funding factor, with the exception of the following:

(a) deferred tax liabilities, which shall be treated in accordance with the nearest possible date on which such liabilities could be realised;

(b) minority interests, which shall be treated in accordance with the term of the instrument.

2. Deferred tax liabilities and minority interests as referred to in paragraph 1 shall be subject to one of the following factors:

(a) 0%, where the effective residual maturity of the deferred tax liability or minority interest is less than six months;

(b) 50%, where the effective residual maturity of the deferred tax liability or minority interest is a minimum of six months but less than one year;

(c) 100%, where the effective residual maturity of the deferred tax liability or minority interest is one year or more.

3. The following liabilities and capital items or instruments shall be subject to a 0% available stable funding factor:

(a) trade date payables arising from purchases of financial instruments, of foreign currencies and of commodities, that are expected to settle within the standard settlement cycle or period that is customary for the relevant exchange or type of transactions, or that have failed to settle but are nonetheless expected to settle;

(b) liabilities that are categorised as being interdependent with assets in accordance with Article 428f;

(c) liabilities with a residual maturity of less than six months provided by:

(i) the central bank;

(ii) the central bank of a third country;

(iii) financial customers;

(d) any other liabilities and capital items or instruments not referred to in Articles 428l to 428o.

4. Institutions shall apply a 0% available stable funding factor to the absolute value of the difference, if negative, between the sum of fair values across all netting sets with positive fair value and the sum of fair values across all netting sets with negative fair value calculated in accordance with Article 428d.

The following rules shall apply to the calculation referred to in the first subparagraph:

(a) variation margin received by institutions from their counterparties shall be deducted from the fair value of a netting set with positive fair value where the collateral received as variation margin qualifies as a level 1 asset under the Liquidity CDR, excluding extremely high quality covered bonds specified in that Regulation, and where institutions are legally entitled and operationally able to reuse that collateral;

(b) all variation margin posted by institutions with their counterparties shall be deducted from the fair value of a netting set with negative fair value.

Article 428l
50% available stable funding factor

The following liabilities and capital items or instruments shall be subject to a 50% available stable funding factor:

(a) deposits received that fulfil the criteria for operational deposits set out in the Liquidity CDR;

(b) liabilities with a residual maturity of less than one year provided by:

(i) the government of Gibraltar or the central government of a third country;

(ii) regional governments or local authorities of a third country;

(iii) public sector entities in Gibraltar or a third country;

(iv) multilateral development banks referred to in Article 117(2) and international organisations referred to in Article 118;

(v) non-financial corporate customers;

(vi) credit unions authorised by the GFSC, personal investment companies and clients that are deposit brokers to the extent that those liabilities do not fall under point (a);

(c) liabilities with a residual contractual maturity of a minimum of six months but less than one year that are provided by:

(i) the central bank;

(ii) the central bank of a third country;

(iii) financial customers;

(d) any other liabilities and capital items or instruments with a residual maturity of a minimum of six months but less than one year not referred to in Articles 428m, 428n and 428o.

Article 428m
90% available stable funding factor

Sight retail deposits, retail deposits with a fixed notice period of less than one year and term retail deposits having a residual maturity of less than one year that fulfil the relevant criteria for other retail deposits set out in the Liquidity CDR shall be subject to a 90% available stable funding factor.

Article 428n
95% available stable funding factor

Sight retail deposits, retail deposits with a fixed notice period of less than one year and term retail deposits having a residual maturity of less than one year that fulfil the relevant criteria for stable retail deposits set out in the Liquidity CDR shall be subject to a 95% available stable funding factor.

Article 428o
100% available stable funding factor

The following liabilities and capital items and instruments shall be subject to a 100% available stable funding factor:

(a) the Common Equity Tier 1 items of the institution before the adjustments required pursuant to Articles 32 to 35, the deductions pursuant to Article 36 and the application of the exemptions and alternatives laid down in Articles 48, 49 and 79;

(b) the Additional Tier 1 items of the institution before the deduction of the items referred to in Article 56 and before Article 79 has been applied thereto, excluding any instruments with explicit or embedded options that, if exercised, would reduce the effective residual maturity to less than one year;

(c) the Tier 2 items of the institution before the deductions referred to in Article 66 and before the application of Article 79, having a residual maturity of one year or more, excluding any instruments with explicit or embedded options that, if exercised, would reduce the effective residual maturity to less than one year;

(d) any other capital instruments of the institution with a residual maturity of one year or more, excluding any instruments with explicit or embedded options that, if exercised, would reduce the effective residual maturity to less than one year;

(e) any other secured and unsecured borrowings and liabilities with a residual maturity of one year or more, including term deposits, unless otherwise specified in Articles 428k to 428n.

CHAPTER 4
Required stable funding

Section 1
General provisions

Article 428p
Calculation of the amount of required stable funding

1. Unless otherwise specified in this Chapter, the amount of required stable funding shall be calculated by multiplying the accounting value of various categories or types of assets and off-balance-sheet items by the required stable funding factors to be applied in accordance with Section 2. The total amount of required stable funding shall be the sum of the weighted amounts of assets and off-balance-sheet items.

2. Assets which institutions have borrowed or otherwise acquired in securities financing transactions shall be subject to the required stable funding factors to be applied under Section 2 where those assets are accounted for on the balance sheet of the institution or where the institution is exposed to all or substantially all of the economic risk and reward in respect of those assets. Otherwise, such assets shall be excluded from the calculation of the amount of required stable funding.

3. Assets that institutions have lent or otherwise disposed of in securities financing transactions which the institution keeps on balance sheet or in respect of which the institution retains exposure to all or substantially all of the economic risk and reward, shall be considered as encumbered assets for the purposes of this Chapter and shall be subject to the required stable funding factors to be applied under Section 2, even where the assets do not remain on the balance sheet of the institution. Otherwise, such assets shall be excluded from the calculation of the amount of required stable funding.

4. Assets that are encumbered for a residual maturity of six months or longer shall be assigned either the required stable funding factor that would be applied under Section 2 to those assets if they were held unencumbered or the required stable funding factor that is otherwise applicable to those encumbered assets, whichever factor is higher. The same shall apply where the residual maturity of the encumbered assets is shorter than the residual maturity of the transaction that is the source of encumbrance.

Assets that have less than six months remaining in the encumbrance period shall be subject to the required stable funding factors to be applied under Section 2 to the same assets if they were held unencumbered.

5. Where an institution reuses or repledges an asset that was borrowed, including in securities financing transactions, and that asset is accounted for off-balance-sheet, the transaction in relation to which that asset has been borrowed shall be treated as encumbered, provided that the transaction cannot mature without the institution returning the asset borrowed.

6. The following assets shall be considered to be unencumbered:

(a) assets included in a pool which are available for immediate use as collateral to obtain additional funding under committed or, where the pool is operated by a central bank, uncommitted but not yet funded, credit lines that are available to the institution; those assets shall include assets placed by a credit institution with a central institution in a cooperative network or institutional protection scheme; institutions shall assume that assets in the pool are encumbered in order of increasing liquidity on the basis of the liquidity classification under the Liquidity CDR, starting with assets ineligible for the liquidity buffer;

(b) assets that the institution has received as collateral for credit risk mitigation purposes in secured lending, secured funding or collateral exchange transactions and that the institution may dispose of;

(c) assets attached as non-mandatory over-collateralisation to a covered bond issuance.

7. In order to avoid any double counting, institutions shall exclude assets that are associated with collateral that is recognised as variation margin posted in accordance with point (b) of Article 428k(4) and 428ah(2), recognised as initial margin posted, or recognised as a contribution to the default fund of a CCP in accordance with points (a) and (b) of Article 428ag from other parts of calculation of the amount of required stable funding in accordance with this Chapter. This paragraph does not apply to collateral assets associated with excess variation margin posted and not already recognised in Article 428k(4)(b) or Article 428ah(2), which institutions shall take into account in other parts of the calculation of the amount of required stable funding in accordance with this Chapter.

8. Institutions shall include foreign currencies and commodities for which a purchase order has been executed in the calculation of the amount of required stable funding financial instruments. They shall exclude financial instruments, foreign currencies and commodities for which a sale order has been executed from the calculation of the amount of required stable funding, provided that those transactions are not reflected as derivatives or secured funding transactions on the institutions' balance sheet and that those transactions are to be reflected on the institutions' balance sheet when settled.

9. Institutions shall apply appropriate stable funding factors to off-balance-sheet exposures that are not referred to in this Chapter to ensure that they hold an appropriate amount of available stable funding for the portion of those exposures that are expected to require funding over the one-year horizon of the net stable funding ratio. When considering those factors, institutions shall, in particular, take into account the material reputational damage to the institution that could result from not providing that funding.

Article 428q
Residual maturity of an asset

1. Unless otherwise specified in this Chapter, institutions shall take into account the residual contractual maturity of their assets and off-balance-sheet transactions when determining the required stable funding factors to be applied to their assets and off-balance-sheet items under Section 2.

2. Institutions shall treat assets that have been segregated in accordance with Article 11(3) of EMIR in accordance with the underlying exposure of those assets. Institutions shall, however, subject those assets to higher required stable funding factors, depending on the term of encumbrance to be determined by the competent authorities, who shall consider whether the institution is able to freely dispose of or exchange such assets and shall consider the term of the liabilities to the institutions' customers to whom that segregation requirement relates.

3. When calculating the residual maturity of an asset, institutions shall take options into account, based on the assumption that the issuer or counterparty will exercise any option to extend the maturity of an asset. For options that are exercisable at the

discretion of the institution, the institution shall take into account reputational factors that may limit the institution's ability not to exercise the option, in particular markets' and clients' expectations that the institution should extend the maturity of certain assets at their maturity date.

4. In order to determine the required stable funding factors to be applied in accordance with Section 2, for amortising loans with a residual contractual maturity of one year or more, any portion that matures in less than six months and any portion that matures between six months and less than one year shall be treated as having a residual maturity of less than six months and between six months and less than one year, respectively.

Section 2
Required stable funding factors

Article 428r
0% required stable funding factor

1. The following assets shall be subject to a 0% required stable funding factor:

(a) unencumbered assets that are eligible as level 1 high quality liquid assets under the Liquidity CDR, excluding extremely high quality covered bonds specified in that Regulation, regardless of whether they comply with the operational requirements as set out in that Regulation;

(b) unencumbered shares or units in CIUs that are eligible for a 0% haircut for the calculation of the liquidity coverage ratio under the Liquidity CDR, regardless of whether they comply with the operational requirements and with the requirements on the composition of the liquidity buffer set out in that Regulation;

(c) all reserves held by the institution in the central bank or the central bank of a third country, including required reserves and excess reserves;

(d) all claims on the central bank or the central bank of a third country that have a residual maturity of less than six months;

(e) trade date receivables arising from sales of financial instruments, foreign currencies or commodities that are expected to settle within the standard settlement cycle or period that is customary for the relevant exchange or type of transaction, or that have failed to settle but are nonetheless expected to settle;

(f) assets that are categorised as being interdependent with liabilities in accordance with Article 428f;

(g) monies due from securities financing transactions with financial customers, where those transactions have a residual maturity of less than six months, where those monies due are collateralised by assets that qualify as level 1

assets under the Liquidity CDR, excluding extremely high quality covered bonds specified therein, and where the institution would be legally entitled and operationally able to reuse those assets for the duration of the transaction.

Institutions shall take the monies due referred to in point (g) of the first subparagraph of this paragraph into account on a net basis where Article 428e applies.

2. By way of derogation from paragraph 1(c), institutions shall apply a higher required stable funding factor to required reserves which shall be:

(a) the required stable funding factor for required reserves that is prescribed by the law of the third country in which the relevant central bank is located; or

(b) (b) if there is no law of that third country prescribing the required stable funding for required reserves, an appropriate required stable funding factor, taking into account, in particular, the extent to which reserve requirements exist over a one-year horizon and therefore require associated stable funding.

Article 428ra
2.5% required stable funding factor

Trade finance off-balance sheet related products as referred to in Annex I of the CRR with a residual maturity of less than one year shall be subject to a 2.5% required stable funding factor.

Article 428s
5% required stable funding factor

1. The following assets and off-balance-sheet items shall be subject to a 5% required stable funding factor:

(a) unencumbered shares or units in CIUs that are eligible for a 5% haircut for the calculation of the liquidity coverage ratio in accordance with the Liquidity CDR, regardless of whether they comply with the operational requirements and with the requirements on the composition of the liquidity buffer as set out in that Regulation;

(b) monies due from securities financing transactions with financial customers, where those transactions have a residual maturity of less than six months, other than those referred to in Article 428r(1)(g);

(c) the undrawn portion of committed credit and liquidity facilities under the Liquidity CDR;

(d) trade finance off-balance-sheet related products as referred to in Annex I with a residual maturity of less than six months.

Institutions shall take the monies due referred to in point (b) of the first subparagraph into account on a net basis where Article 428e applies.

2. For all netting sets of derivative contracts, institutions shall apply a 5% required stable funding factor to the absolute fair value of those netting sets of derivative contracts, gross of any collateral posted, where those netting sets have a negative fair value. For the purposes of this paragraph, institutions shall determine the fair value as gross of any collateral posted or settlement payments and receipts related to market valuation changes of such contracts.

Article 428t

7% required stable funding factor

Unencumbered assets that are eligible as level 1 extremely high quality covered bonds under the Liquidity CDR shall be subject to a 7% required stable funding factor, regardless of whether they comply with the operational requirements and with the requirements on the composition of the liquidity buffer as set out in that Regulation.

Article 428v

10% required stable funding factor

Monies due from transactions with financial customers that have a residual maturity of less than six months other than those referred to in Articles 428r(1)(g) and 428s(1)(b) shall be subject to a 10% required stable funding factor.

Article 428w

12% required stable funding factor

Unencumbered shares or units in CIUs that are eligible for a 12% haircut for the calculation of the liquidity coverage ratio in accordance with the Liquidity CDR shall be subject to a 12% required stable funding factor, regardless of whether they comply with the operational requirements and with the requirements on the composition of the liquidity buffer as set out in that Regulation.

Article 428x

15% required stable funding factor

Unencumbered assets that are eligible as level 2A assets under the Liquidity CDR shall be subject to a 15% required stable funding factor, regardless of whether they comply with the operational requirements and with the requirements on the composition of the liquidity buffer as set out in that Regulation.

Article 428y
20% required stable funding factor

Unencumbered shares or units in CIUs that are eligible for a 20% haircut for the calculation of the liquidity coverage ratio in accordance with the Liquidity CDR shall be subject to a 20% required stable funding factor, regardless of whether they comply with the operational requirements and with the requirements on the composition of the liquidity buffer as set out in that Regulation.

Article 428z
25% required stable funding factor

Unencumbered level 2B securitisations under the Liquidity CDR shall be subject to a 25% required stable funding factor, regardless of whether they comply with the operational requirements and with the requirements on the composition of the liquidity buffer as set out in that Regulation.

Article 428aa
30% required stable funding factor

The following assets shall be subject to a 30% required stable funding factor:

(a) unencumbered high quality covered bonds under the Liquidity CDR, regardless of whether they comply with the operational requirements and with the requirements on the composition of the liquidity buffer as set out in that Regulation;

(b) unencumbered shares or units in CIUs that are eligible for a 30% haircut for the calculation of the liquidity coverage ratio in accordance with the Liquidity CDR, regardless of whether they comply with the operational requirements and with the requirements on the composition of the liquidity buffer as set out in that Regulation;

(c) trade finance on-balance sheet related products with non-financial customers with a residual maturity of less than six months.

Article 428ab
35% required stable funding factor

The following assets shall be subject to a 35% required stable funding factor:

(a) unencumbered level 2B securitisations under the Liquidity CDR, regardless of whether they comply with the operational requirements and with the requirements on the composition of the liquidity buffer as set out in that Regulation;

(b) unencumbered shares or units in CIUs that are eligible for a 35% haircut for the calculation of the liquidity coverage ratio under the Liquidity CDR,

regardless of whether they comply with the operational requirements and with the requirements on the composition of the liquidity buffer as set out in that Regulation.

Article 428ac
40% required stable funding factor

Unencumbered shares or units in CIUs that are eligible for a 40% haircut for the calculation of the liquidity coverage ratio under the Liquidity CDR shall be subject to a 40% required stable funding factor, regardless of whether they comply with the operational requirements and with the requirements on the composition of the liquidity buffer as set out in that Regulation.

Article 428ad
50% required stable funding factor

The following assets shall be subject to a 50% required stable funding factor:

(a) unencumbered assets that are eligible as level 2B assets under the Liquidity CDR, excluding level 2B securitisations and high quality covered bonds pursuant to that Regulation, regardless of whether they comply with the operational requirements and with the requirements on the composition of the liquidity buffer as set out in that Regulation;

(b) deposits held by the institution in another financial institution that fulfil the criteria for operational deposits as set out in the Liquidity CDR;

(c) monies due from transactions with a residual maturity of less than one year with:

(i) the government of Gibraltar or the central government of a third country;

(ii) regional governments or local authorities in a third country;

(iii) public sector entities in Gibraltar or a third country;

(iv) multilateral development banks referred to in Article 117(2) and international organisations referred to in Article 118;

(v) non-financial corporates, retail customers and SMEs;

(vi) credit unions authorised by the GFSC, personal investment companies and clients that are deposit brokers to the extent that those assets do not fall under point (b);

(d) monies due from transactions with a residual maturity of at least six months but less than one year with:

(i) the central bank or the central bank of a third country;

(ii) financial customers;

(e) trade finance on-balance-sheet related products with a residual maturity of at least six months but less than one year;

(f) assets encumbered for a residual maturity of at least six months but less than one year, except where those assets would be assigned a higher required stable funding factor in accordance with Articles 428ae to 428ah if they were held unencumbered, in which case the higher required stable funding factor that would apply to those assets if they were held unencumbered shall apply;

(g) any other assets with a residual maturity of less than one year, unless otherwise specified in Articles 428r to 428ac.

Article 428ae
55% required stable funding factor

Unencumbered shares or units in CIUs that are eligible for a 55% haircut for the calculation of the liquidity coverage ratio in accordance with the Liquidity CDR shall be subject to a 55% required stable funding factor, regardless of whether they comply with the operational requirements and with the requirements on the composition of the liquidity buffer as set out in that Regulation.

Article 428af
65% required stable funding factor

1. The following assets shall be subject to a 65% required stable funding factor:

(a) unencumbered loans secured by mortgages on residential property or unencumbered residential loans fully guaranteed by an eligible protection provider as referred to in Article 129(1)(e) with a residual maturity of one year or more, provided that those loans are assigned a risk weight of 35% or less in accordance with Chapter 2 of Title II of Part Three;

(b) unencumbered loans with a residual maturity of one year or more, excluding loans to financial customers and loans referred to in Articles 428r to 428ad, provided that those loans are assigned a risk weight of 35% or less in accordance with Chapter 2 of Title II of Part Three.

2. Institutions shall apply a 65% required stable funding factor to the most senior tranche or, if the institution has retained all tranches, all tranches of unencumbered securitisations:

(a) with a residual maturity of one year or more;

(b) where the underlying exposures were originated by:

(i) the institution;

(ii) a subsidiary of the institution; or

(iii) a third party provided the exposures were purchased by any of the entities in paragraph (2)(b)(i) to (ii) prior to the securitisation; and

(c) whose underlying exposures would be subject to paragraph 1(a) of this Article had the underlying exposures not been securitised.

Article 428ag
85% required stable funding factor

The following assets and off-balance-sheet items shall be subject to an 85% required stable funding factor:

(a) any assets and off-balance-sheet items, including cash, posted as initial margin for derivative contracts, unless those assets would be assigned a higher required stable funding factor in accordance with Article 428ah if held unencumbered, in which case the higher required stable funding factor that would apply to those assets if they were held unencumbered shall apply;

(b) any assets and off-balance-sheet items, including cash, posted as contribution to the default fund of a CCP, unless those would be assigned a higher required stable funding factor in accordance with Article 428ah if held unencumbered, in which case the higher required stable funding factor to be applied to the unencumbered asset shall apply;

(c) unencumbered loans with a residual maturity of one year or more, excluding loans to financial customers and loans referred to in Articles 428r to 428af, which are not past due for more than 90 days and which are assigned a risk weight of more than 35% in accordance with Chapter 2 of Title II of Part Three;

(d) trade finance on-balance-sheet related products, with a residual maturity of one year or more;

(e) unencumbered securities with a residual maturity of one year or more that are not in default in accordance with Article 178 and that are not eligible as liquid assets under the Liquidity CDR;

(f) unencumbered exchange-traded equities that are not eligible as level 2B assets under the Liquidity CDR;

(g) physically traded commodities, including gold but excluding commodity derivatives;

(h) assets encumbered for a residual maturity of one year or more in a cover pool funded by CRR covered bonds or covered bonds which meet the eligibility requirements for the treatment as set out in Article 129(4) or (5) of this Regulation.

Article 428ah

100% required stable funding factor

1. The following assets shall be subject to a 100% required stable funding factor:

(a) unless otherwise specified in this Chapter, any assets encumbered for a residual maturity of one year or more;

(b) any assets other than those referred to in Articles 428r to 428ag, including loans to financial customers having a residual contractual maturity of one year or more, non-performing exposures, items deducted from own funds, fixed assets, non-exchange-traded equities, retained interest, insurance assets, defaulted securities.

2. Institutions shall apply a 100% required stable funding factor to the difference, if positive, between the sum of fair values across all netting sets with positive fair value and the sum of fair values across all netting sets with negative fair value calculated in accordance with Article 428d.

The following rules shall apply to the calculation referred to in the first subparagraph:

(a) variation margin received by institutions from their counterparties shall be deducted from the fair value of a netting set with positive fair value where the collateral received as variation margin qualifies as a level 1 asset under the Liquidity CDR, excluding extremely high quality covered bonds specified in that Regulation, and where institutions are legally entitled and operationally able to reuse that collateral;

(b) all variation margin posted by institutions with their counterparties shall be deducted from the fair value of a netting set with negative fair value.

CHAPTER 5

Derogation for small and non-complex institutions

Article 428ai

Derogation for small and non-complex institutions

By way of derogation from Chapters 3 and 4, small and non-complex institutions may choose, with the prior permission of GFSC, to calculate the ratio between an

institution's available stable funding as referred to in Chapter 6, and the institution's required stable funding as referred to in Chapter 7, expressed as a percentage.

The GFSC may require a small and non-complex institution to comply with the net stable funding requirement based on an institution's available stable funding as referred to in Chapter 3 and the required stable funding as referred to in Chapter 4 where it considers that the simplified methodology is not adequate to capture the funding risks of that institution.

CHAPTER 6
Available stable funding for the simplified calculation of the net stable funding ratio

Section 1
General provisions

Article 428aj
Simplified calculation of the amount of available stable funding

1. Unless otherwise specified in this Chapter, the amount of available stable funding shall be calculated by multiplying the accounting value of various categories or types of liabilities and own funds by the available stable funding factors to be applied under Section 2. The total amount of available stable funding shall be the sum of the weighted amounts of liabilities and own funds.

2. Bonds and other debt securities that are issued by the institution, sold exclusively in the retail market, and held in a retail account, may be treated as belonging to the appropriate retail deposit category. Limitations shall be in place, such that those instruments cannot be bought and held by parties other than retail customers.

Article 428ak
Residual maturity of a liability or own funds

1. Unless otherwise specified in this Chapter, institutions shall take into account the residual contractual maturity of their liabilities and own funds to determine the available stable funding factors to be applied under Section 2.

2. Institutions shall take into account existing options in determining the residual maturity of a liability or of own funds. They shall do so on the assumption that the counterparty will redeem call options at the earliest possible date. For options exercisable at the discretion of the institution, the institution and the GFSC shall take into account reputational factors that may limit an institution's ability not to exercise the option, in particular market expectations that institutions should redeem certain liabilities before their maturity.

3. Institutions shall treat deposits with fixed notice periods in accordance with their notice period, and shall treat term deposits in accordance with their residual maturity. By way of derogation from paragraph 2, institutions shall not take into account options

for early withdrawals where the depositor has to pay a material penalty for early withdrawals which occur in less than one year, such penalty being laid down in the Liquidity CDR, to determine the residual maturity of term retail deposits.

4. In order to determine the available stable funding factors to be applied under Section 2, for liabilities with a residual contractual maturity of one year or more, any portion that matures in less than six months and any portion that matures between six months and less than one year, shall be treated as having a residual maturity of less than six months and between six months and less than one year, respectively.

Section 2
Available stable funding factors

Article 428al
0% available stable funding factor

1. Unless otherwise specified in this Section, all liabilities without a stated maturity, including short positions and open maturity positions, shall be subject to a 0% available stable funding factor, with the exception of the following:

(a) deferred tax liabilities, which shall be treated in accordance with the nearest possible date on which such liabilities could be realised;

(b) minority interests, which shall be treated in accordance with the term of the instrument concerned.

2. Deferred tax liabilities and minority interests as referred to in paragraph 1 shall be subject to one of the following factors:

(a) 0%, where the effective residual maturity of the deferred tax liability or minority interest is less than one year;

(b) 100%, where the effective residual maturity of the deferred tax liability or minority interest is one year or more.

3. The following liabilities and capital items or instruments shall be subject to a 0% available stable funding factor:

(a) trade date payables arising from purchases of financial instruments, of foreign currencies and of commodities, that are expected to settle within the standard settlement cycle or period that is customary for the relevant exchange or type of transaction, or that have failed to settle but are nonetheless expected to settle;

(b) liabilities that are categorised as being interdependent with assets in accordance with Article 428f;

(c) liabilities with a residual maturity of less than one year provided by:

(i) the central bank or the central bank of a third country;

(ii) financial customers;

(d) any other liabilities and capital items or instruments not referred to in this Article and Articles 428am to 428ap.

4. Institutions shall apply a 0% available stable funding factor to the absolute value of the difference, if negative, between the sum of fair values across all netting sets with positive fair value and the sum of fair values across all netting sets with negative fair value calculated in accordance with Article 428d.

The following rules shall apply to the calculation referred to in the first subparagraph:

(a) variation margin received by institutions from their counterparties shall be deducted from the fair value of a netting set with positive fair value where the collateral received as variation margin qualifies as a level 1 asset under the Liquidity CDR, excluding extremely high quality covered bonds specified in that Regulation, and where institutions are legally entitled and operationally able to reuse that collateral;

(b) all variation margin posted by institutions with their counterparties shall be deducted from the fair value of a netting set with negative fair value.

Article 428am
50% available stable funding factor

The following liabilities and capital items or instruments shall be subject to a 50% available stable funding factor:

(a) deposits received that fulfil the criteria for operational deposits set out in the Liquidity CDR;

(b) liabilities with a residual maturity of less than one year provided by:

(i) the government of Gibraltar or the central government of a third country;

(ii) regional governments or local authorities in a third country;

(iii) public sector entities in Gibraltar or a third country;

(iv) multilateral development banks referred to in Article 117(2) and international organisations referred to in Article 118;

(v) non-financial corporate customers;

(vi) credit unions authorised by the GFSC, personal investment companies and clients that are deposit brokers, with the exception of deposits received, that fulfil the criteria for operational deposits as set out in the Liquidity CDR.

Article 428an
90% available stable funding factor

Sight retail deposits, retail deposits with a fixed notice period of less than one year and term retail deposits having a residual maturity of less than one year that fulfil the relevant criteria for other retail deposits set out in the Liquidity CDR shall be subject to a 90% available stable funding factor.

Article 428ao
95% available stable funding factor

Sight retail deposits, retail deposits with a fixed notice period of less than one year and term retail deposits having a residual maturity of less than one year that fulfil the relevant criteria for stable retail deposits set out in the Liquidity CDR shall be subject to a 95% available stable funding factor.

Article 428ap
100% available stable funding factor

The following liabilities and capital items and instruments shall be subject to a 100% available stable funding factor:

(a) the Common Equity Tier 1 items of the institution before the adjustments required pursuant to Articles 32 to 35, the deductions pursuant to Article 36 and the application of the exemptions and alternatives laid down in Articles 48, 49 and 79;

(b) the Additional Tier 1 items of the institution before the deduction of the items referred to in Article 56 and before Article 79 has been applied, excluding any instruments with explicit or embedded options that, if exercised, would reduce the effective residual maturity to less than one year;

(c) the Tier 2 items of the institution before the deductions referred to in Article 66 and before the application of Article 79, having a residual maturity of one year or more, excluding any instruments with explicit or embedded options that, if exercised, would reduce the effective residual maturity to less than one year;

(d) any other capital instruments of the institution with a residual maturity of one year or more, excluding any instruments with explicit or embedded options that, if exercised, would reduce the effective residual maturity to less than one year;

(e) any other secured and unsecured borrowings and liabilities with a residual maturity of one year or more, including term deposits, unless otherwise specified in Articles 428al to 428ao.

CHAPTER 7
Required stable funding for the simplified calculation of the net stable funding ratio

Section 1
General provisions

Article 428aq
Simplified calculation of the amount of required stable funding

1. Unless otherwise specified in this Chapter, for small and non-complex institutions the amount of required stable funding shall be calculated by multiplying the accounting value of various categories or types of assets and off-balance-sheet items by the required stable funding factors to be applied in accordance with Section 2. The total amount of required stable funding shall be the sum of the weighted amounts of assets and off-balance-sheet items.

2. Assets that institutions have borrowed or otherwise acquired in securities financing transactions shall be subject to the required stable funding factors to be applied under Section 2 where those assets are accounted for on the balance sheet of the institution or where the institution is exposed to all or substantially all of the economic risk and reward in respect of those assets. Otherwise, such assets shall be excluded from the calculation of the amount of required stable funding.

3. Assets that institutions have lent or otherwise disposed of in securities financing transactions which the institution keeps on balance sheet or in respect of which the institution retains exposure to all or substantially all of the economic risk and reward, shall be considered as encumbered assets for the purposes of this Chapter and shall be subject to required stable funding factors to be applied under Section 2. Otherwise, such assets shall be excluded from the calculation of the amount of required stable funding.

4. Assets that are encumbered for a residual maturity of six months or longer shall be assigned either the required stable funding factor that would be applied under Section 2 to those assets if they were held unencumbered or the required stable funding factor that is otherwise applicable to those encumbered assets, whichever factor is higher. The same shall apply where the residual maturity of the encumbered assets is shorter than the residual maturity of the transaction that is the source of encumbrance.

Assets that have less than six months remaining in the encumbrance period shall be subject to the required stable funding factors to be applied under Section 2 to the same assets if they were held unencumbered.

5. Where an institution reuses or repledges an asset that was borrowed, including in securities financing transactions, and that is accounted for off-balance-sheet, the transaction through which that asset has been borrowed shall be treated as encumbered to the extent that the transaction cannot mature without the institution returning the asset borrowed.

6. The following assets shall be considered to be unencumbered:

(a) assets included in a pool which are available for immediate use as collateral to obtain additional funding under committed or, where the pool is operated by a central bank, uncommitted but not yet funded credit lines available to the institution;

(b) assets that the institution has received as collateral for credit risk mitigation purposes in secured lending, secured funding or collateral exchange transactions and that the institution may dispose of;

(c) assets attached as non-mandatory over-collateralisation to a covered bond issuance.

For the purposes of point (a) of the first subparagraph, institutions shall assume that assets in the pool are encumbered in order of increasing liquidity on the basis of the liquidity classification set out in the Liquidity CDR, starting with assets ineligible for the liquidity buffer.

7. Institutions shall exclude assets associated with collateral recognised as variation margin posted in accordance with Articles 428k(4)(b) and 428ah(2) or as initial margin posted or as contribution to the default fund of a CCP in accordance with points (a) and (b) of Article 428ag from other parts of calculation of the amount of required stable funding in accordance with this Chapter in order to avoid any double counting.

8. Institutions shall include in the calculation of the amount of required stable funding financial instruments, foreign currencies and commodities for which a purchase order has been executed. They shall exclude from the calculation of the amount of required stable funding financial instruments, foreign currencies and commodities for which a sale order has been executed, provided that those transactions are not reflected as derivatives or secured funding transactions on the institutions' balance sheet and that those transactions are to be reflected on the institutions' balance sheet when settled.

9. The GFSC may determine the required stable funding factors to be applied to off-balance-sheet exposures that are not referred to in this Chapter to ensure that institutions hold an appropriate amount of available stable funding for the portion of those exposures that are expected to require funding over the one-year horizon of the net stable funding ratio. To determine those factors, The GFSC shall, in particular, take into account the material reputational damage to the institution that could result from not providing that funding.

Article 428ar
Residual maturity of an asset

1. Unless otherwise specified in this Chapter, institutions shall take into account the residual contractual maturity of their assets and off-balance-sheet transactions when determining the required stable funding factors to be applied to their assets and off-balance-sheet items under Section 2.

2. Institutions shall treat assets that have been segregated in accordance with Article 11(3) of EMIR in accordance with the underlying exposure of those assets. Institutions shall, however, subject those assets to higher required stable funding factors, depending on the term of encumbrance to be determined by the GFSC, who shall consider whether the institution is able to freely dispose of or exchange such assets and shall consider the term of the liabilities to the institutions' customers to whom that segregation requirement relates.

3. When calculating the residual maturity of an asset, institutions shall take options into account, based on the assumption that the issuer or counterparty will exercise any option to extend the maturity of an asset. For options that are exercisable at the discretion of the institution, the institution and competent authorities shall take into account reputational factors that may limit the institution's ability not to exercise the option, in particular markets' and clients' expectations that the institution should extend the maturity of certain assets at their maturity date.

4. In order to determine the required stable funding factors to be applied in accordance with Section 2, for amortising loans with a residual contractual maturity of one year or more, the portions that mature in less than six months and between six months and less than one year shall be treated as having a residual maturity of less than six months and between six months and less than one year respectively.

Section 2
Required stable funding factors

Article 428as
0% required stable funding factor

1. The following assets shall be subject to a 0% required stable funding factor:

(a) unencumbered assets that are eligible as level 1 high quality liquid assets under the Liquidity CDR, excluding extremely high quality covered bonds specified in that Regulation, regardless of whether they comply with the operational requirements as set out in that Regulation;

(b) all reserves held by the institution in the central bank or the central bank of a third country, including required reserves and excess reserves;

(c) all claims on the central bank or the central bank of a third country that have a residual maturity of less than six months;

(d) assets that are categorised as being interdependent with liabilities in accordance with Article 428f.

2. By way of derogation from paragraph 1(b), institutions shall apply a higher required stable funding factor to required reserves which shall be:

(a) the required stable funding factor for required reserves that is prescribed by the law of the third country in which the relevant central bank is located; or

(b) if there is no law of that third country prescribing the required stable funding for required reserves, an appropriate required stable funding factor, taking into account, in particular, the extent to which reserve requirements exist over a one-year horizon and therefore require associated stable funding.

Article 428at
5% required stable funding factor

1. The undrawn portion of committed credit and liquidity facilities specified in the Liquidity CDR shall be subject to a 5% required stable funding factor.

2. For all netting sets of derivative contracts, institutions shall apply a 5% required stable funding factor to the absolute fair value of those netting sets of derivative contracts, gross of any collateral posted, where those netting sets have a negative fair value. For the purposes of this paragraph, institutions shall determine the fair value as gross of any collateral posted or settlement payments and receipts related to market valuation changes of such contracts.

3. Trade finance off-balance sheet related products as referred to in Annex I with a residual maturity of one year or more shall be subject to a 5% required stable funding factor.

Article 428au
10% required stable funding factor

Unencumbered assets that are eligible as level 1 extremely high quality covered bonds under the Liquidity CDR, shall be subject to a 10% required stable funding factor, regardless of whether they comply with the operational requirements and with the requirements on the composition of the liquidity buffer as set out in that Regulation;

Article 428av
20% required stable funding factor

Unencumbered assets that are eligible as level 2A assets under the Liquidity CDR, and unencumbered shares or units in CIUs pursuant to that Regulation shall be subject to a 20% required stable funding factor, regardless of whether they comply with the

operational requirements and with the requirements on the composition of the liquidity buffer as set out in that Regulation.

Article 428aw
50% required stable funding factor

The following assets shall be subject to a 50% required stable funding factor:

(a) secured and unsecured loans with a residual maturity of less than one year and provided that they are encumbered less than one year;

(b) any other assets with a residual maturity of less than one year, unless otherwise specified in Articles 428as to 428av;

(c) assets encumbered for a residual maturity of at least six months but less than one year, except where those assets would be assigned a higher required stable funding factor in accordance with Articles 428ax, 428ay and 428az if they were held unencumbered, in which case the higher required stable funding factor that would apply to those assets if they were held unencumbered shall apply.

Article 428ax
55% required stable funding factor

Assets that are eligible as level 2B assets under the Liquidity CDR, and shares or units in CIUs under that Regulation shall be subject to a 55% required stable funding factor, regardless of whether they comply with the operational requirements and with the requirements on the composition of the liquidity buffer as set out in that Regulation, provided that they are encumbered less than one year.

Article 428axa
65% required stable funding factor

1. Unencumbered loans secured by mortgages on residential property with a residual maturity of one year or more, provided that those loans are assigned a risk weight of 35% or less in accordance with Chapter 2 of Title II of Part Three, shall be subject to a 65% required stable funding factor.

2. Institutions shall apply a 65% required stable funding factor to the most senior tranche or, if the institution has retained all tranches, all tranches of unencumbered securitisations:

(a) with a residual maturity of one year or more;

(b) where the underlying exposures were originated by:

(i) the institution;

(ii) a subsidiary of the institution; or

(iii) a third party provided the exposures were purchased by any of the entities in paragraph (2)(b)(i) to (ii) prior to the securitisation; and

(c) whose underlying exposures would be subject to paragraph 1 of this Article had the underlying exposures not been securitised.

Article 428ay

85% required stable funding factor

The following assets and off-balance-sheet items shall be subject to a 85% required stable funding factor:

(a) any assets and off-balance-sheet items, including cash, posted as initial margin for derivative contracts or posted as contribution to the default fund of a CCP, unless those assets would be assigned a higher required stable funding factor in accordance with Article 428az if held unencumbered, in which case the higher required stable funding factor that would apply to those assets if they were held unencumbered shall apply;

(b) unencumbered loans with a residual maturity of one year or more, excluding loans to financial customers, which are not past due for more than 90 days;

(c) trade finance on-balance-sheet related products, with a residual maturity of one year or more;

(d) unencumbered securities with a residual maturity of one year or more that are not in default in accordance with Article 178 and that are not eligible as liquid assets under the Liquidity CDR;

(e) unencumbered exchange-traded equities that are not eligible as level 2B assets under Article 428ax;

(f) physically traded commodities, including gold but excluding commodity derivatives unless otherwise specified in Article 428f;

(g) unencumbered loans secured by mortgages on residential property with a residual maturity of one year or more, provided that those loans are assigned a risk weight of more than 35% in accordance with Chapter 2 of Title II of Part Three.

Article 428az
100% required stable funding factor

1. The following assets shall be subject to a 100% required stable funding factor:

(a) any assets encumbered for a residual maturity of one year or more;

(b) any assets other than those referred to in Articles 428as to 428ay, including loans to financial customers having a residual contractual maturity of one year or more, non-performing exposures, items deducted from own funds, fixed assets, non-exchange traded equities, retained interest, insurance assets, defaulted securities.

2. Institutions shall apply a 100% required stable funding factor to the difference, if positive, between the sum of fair values across all netting sets with positive fair value and the sum of fair values across all netting sets with negative fair value calculated in accordance with Article 428d.

The following rules shall apply to the calculation referred to in the first subparagraph:

(a) variation margin received by institutions from their counterparties shall be deducted from the fair value of a netting set with positive fair value where the collateral received as variation margin qualifies as a level 1 asset under the Liquidity CDR, excluding extremely high quality covered bonds specified in that Regulation, and where institutions are legally entitled and operationally able to reuse that collateral;

(b) all variation margin posted by institutions with their counterparties shall be deducted from the fair value of a netting set with negative fair value.”.

Amendment of Part 7.

10. For Part Seven, substitute–

“PART SEVEN
LEVERAGE

Article 429
Calculation of the leverage ratio

1. Institutions shall calculate their leverage ratio in accordance with the methodology set out in paragraphs 2, 3 and 4.

2. The leverage ratio shall be calculated as an institution's capital measure divided by that institution's total exposure measure and shall be expressed as a percentage.

Institutions shall calculate the leverage ratio at the reporting reference date.

3. For the purposes of paragraph 2, the capital measure shall be the Tier 1 capital.

4. For the purposes of paragraph 2, the total exposure measure shall be the sum of the exposure values of:

(a) assets, excluding derivative contracts listed in Annex II, credit derivatives and the positions referred to in Article 429e, calculated in accordance with Article 429b(1);

(b) derivative contracts listed in Annex II and credit derivatives, including those contracts and credit derivatives that are off-balance-sheet, calculated in accordance with Articles 429c and 429d;

(c) add-ons for counterparty credit risk of securities financing transactions, including those that are off-balance-sheet, calculated in accordance with Article 429e;

(d) off-balance-sheet items, excluding derivative contracts listed in Annex II, credit derivatives, securities financing transactions and positions referred to in Articles 429d and 429g, calculated in accordance with Article 429f;

(e) regular-way purchases or sales awaiting settlement, calculated in accordance with Article 429g.

Institutions shall treat long settlement transactions in accordance with points (a) to (d) of the first subparagraph, as applicable.

Institutions may reduce the exposure values referred to in points (a) and (d) of the first subparagraph by the corresponding amount of general credit risk adjustments to on- and off-balance-sheet items, respectively, subject to a floor of 0 where the credit risk adjustments have reduced the Tier 1 capital.

5. By way of derogation from paragraph 4(d), the following provisions shall apply:

(a) a derivative instrument that is considered an off-balance-sheet item in accordance with paragraph 4(d) but is treated as a derivative in accordance with the applicable accounting framework, shall be subject to the treatment set out in that point;

(b) where a client of an institution acting as a clearing member enters directly into a derivative transaction with a CCP and the institution guarantees the performance of its client's trade exposures to the CCP arising from that transaction, the institution shall calculate its exposure resulting from the guarantee in accordance with paragraph 4(b), as if that institution had entered directly into the transaction with the client, including with regard to the receipt or provision of cash variation margin.

The treatment set out in point (b) of the first subparagraph shall also apply to an institution acting as a higher-level client that guarantees the performance of its client's trade exposures.

For the purposes of point (b) of the first subparagraph and of the second subparagraph of this paragraph, institutions may consider an affiliated entity as a client only where that entity is outside the regulatory scope of consolidation at the level at which the requirement set out in Article 92(3)(d) is applied.

6. For the purposes of paragraph 4(e) and Article 429g, “regular-way purchase or sale” means a purchase or a sale of a security under contracts for which the terms require delivery of the security within the period established generally by law or convention in the marketplace concerned.

7. Unless otherwise expressly provided for in this Part, institutions shall calculate the total exposure measure in accordance with the following principles:

(a) physical or financial collateral, guarantees or credit risk mitigation purchased shall not be used to reduce the total exposure measure;

(b) assets shall not be netted with liabilities.

8. By way of derogation from paragraph 7(b), institutions may reduce the exposure value of a pre-financing loan or an intermediate loan by the positive balance on the savings account of the debtor to which the loan was granted and only include the resulting amount in the total exposure measure, provided that all the following conditions are met:

(a) the granting of the loan is conditional upon the opening of the savings account at the institution granting the loan and both the loan and the savings account are regulated by the same sectoral law;

(b) the balance on the savings account cannot be withdrawn, in part or in full, by the debtor for the entire duration of the loan;

(c) the institution can unconditionally and irrevocably use the balance on the savings account to settle any claim originating under the loan agreement in cases regulated by the sectoral law referred to in point (a), including the case of non-payment by or the insolvency of the debtor.

A “pre-financing loan” or “intermediate loan” means a loan that is granted to the borrower for a limited period of time in order to bridge the borrower's financing gaps until the final loan is granted in accordance with the criteria laid down in the sectoral law regulating such transactions.

Article 429a

Exposures excluded from the total exposure measure

1. By way of derogation from Article 429(4), an institution may exclude any of the following exposures from its total exposure measure:

(a) the amounts deducted from Common Equity Tier 1 items in accordance with Article 36(1)(d);

(b) the assets deducted in the calculation of the capital measure referred to in Article 429(3);

(c) exposures that are assigned a risk weight of 0% in accordance with Article 113(6) or (7);

(d) where the institution is a public development credit institution, the exposures arising from assets that constitute claims on the government or public sector entities in Gibraltar in relation to public sector investments and promotional loans;

(e) where the institution is not a public development credit institution, the parts of exposures arising from passing-through promotional loans to other credit institutions;

(f) the guaranteed parts of exposures arising from export credits that meet both of the following conditions:

(i) the guarantee is provided by an eligible provider of unfunded credit protection in accordance with Articles 201 and 202, including by export credit agencies or by central governments;

(ii) a 0% risk weight applies to the guaranteed part of the exposure in accordance with Article 114(2) or (4) or Article 116(4);

(g) where the institution is a clearing member of a QCCP, the trade exposures of that institution, provided that they are cleared with that QCCP and meet the conditions set out in Article 306(1)(c);

(h) where the institution is a higher-level client within a multi-level client structure, the trade exposures to the clearing member or to an entity that serves as a higher-level client to that institution, provided that the conditions set out in Article 305(2) are met and provided that the institution is not obligated to reimburse its client for any losses suffered in the event of default of either the clearing member or the QCCP;

(i) fiduciary assets which meet all the following conditions:

(i) they are recognised on the institution's balance sheet by generally accepted accounting principles;

(ii) they meet the criteria for non-recognition set out in International Financial Reporting Standard (IFRS) 9, as applied in accordance with the IAS Regulation;

(iii) they meet the criteria for non-consolidation set out in IFRS 10, as applied in accordance with the IAS Regulation, where applicable;

(j) exposures that meet all the following conditions:

(i) they are exposures to a public sector entity;

(ii) they are treated in accordance with Article 116(4);

(iii) they arise from deposits that the institution is legally obliged to transfer to the public sector entity referred to in point (i) for the purpose of funding general interest investments;

(k) the excess collateral deposited at tri-party agents that has not been lent out;

(l) where under the applicable accounting framework an institution recognises the variation margin paid in cash to its counterparty as a receivable asset, the receivable asset, provided that the conditions set out in points (a) to (e) of Article 429c(3) are met;

(m) the securitised exposures from traditional securitisations that meet the conditions for significant risk transfer set out in Article 244(2);

(n) the following exposures to the institution's central bank entered into after the exemption took effect and subject to the conditions set out in paragraphs 5 and 6:

(i) coins and banknotes constituting legal currency in the jurisdiction of the central bank;

(ii) assets representing claims on the central bank, including reserves held at the central bank;

(o) where the institution is authorised in accordance with Articles 16 and 54(2)(a) of the CSD Regulation, the institution's exposures due to banking-type ancillary services listed in point (a) of Section C of the Annex to that Regulation which are directly related to the core or ancillary services listed in Sections A and B of that Annex;

(p) where the institution is designated in accordance with Article 54(2)(b) of the CSD Regulation, the institution's exposures due to banking-type

ancillary services listed in point (a) of Section C of the Annex to that Regulation which are directly related to the core or ancillary services of a central securities depository, authorised in accordance with Article 16 of that Regulation, listed in Sections A and B of that Annex.

For the purposes of point (m) of the first subparagraph, institutions shall include any retained exposure in the total exposure measure.

2. For the purposes of paragraph 1(d) and (e), "public development credit institution" means a credit institution that meets all the following conditions:

(a) it has been established by the government;

(b) its activity is limited to advancing specified objectives of financial, social or economic public policy in accordance with the laws and provisions governing that institution, including articles of association, on a non-competitive basis;

(c) its goal is not to maximise profit or market share;

(d) the government has an obligation to protect the credit institution's viability or directly or indirectly guarantees at least 90 % of the credit institution's own funds requirements, funding requirements or promotional loans granted;

(e) it does not take covered deposits (within the meaning of section 196(1) of the Act) that may be classified as fixed term or savings deposits from consumers (within the meaning of the Financial Services (Consumer Credit) Act 2011).

For the purposes of point (b), public policy objectives may include the provision of financing for promotional or development purposes to specified economic sectors or geographical areas of Gibraltar.

For the purposes of points (d) and (e), the GFSC may, upon request of an institution, treat an organisationally, structurally and financially independent and autonomous unit of that institution as a public development credit institution if the unit fulfils all the conditions listed in the first subparagraph and that such treatment does not affect the effectiveness of the supervision of that institution. The GFSC shall review such a decision annually.

3. For the purposes of paragraphs 1(d) and (e) and 2(d), "promotional loan" means a loan granted by a public development credit institution or an entity set up by the government, directly or through an intermediate credit institution on a non-competitive, not-for-profit basis, in order to promote the public policy objectives of the government.

4. Institutions shall not exclude the trade exposures referred to paragraph 1(g) and (h) where the condition set out in the third subparagraph of Article 429(5) is not met.

5. Institutions may exclude the exposures listed in paragraph 1(n) where both of the following conditions are met:

(a) the GFSC has determined and publicly declared that exceptional circumstances exist that warrant the exclusion in order to facilitate the implementation of monetary policies;

(b) the exemption is granted for a limited period of time not exceeding one year.

6. The exposures to be excluded under paragraph 1(n) shall meet both of the following conditions:

(a) they are denominated in the same currency as the deposits taken by the institution;

(b) their average maturity does not significantly exceed the average maturity of the deposits taken by the institution.

7. By way of derogation from point (d) of Article 92(1), where an institution excludes the exposures referred to in paragraph 1(n), it shall at all times satisfy the following adjusted leverage ratio requirement for the duration of the exclusion:

$$aLR = 3\,\% \cdot \frac{EM_{LR}}{EM_{LR} - CB}$$

where:

aLR = the adjusted leverage ratio;

EM_{LR} = the institution's total exposure measure as defined in Article 429(4), including the exposures excluded in accordance with paragraph 1(n) of this Article; and

CB = the amount of exposures excluded in accordance with paragraph 1(n) of this Article.

Article 429b

Calculation of the exposure value of assets

1. Institutions shall calculate the exposure value of assets, excluding derivative contracts listed in Annex II, credit derivatives and the positions referred to in Article 429e in accordance with the following principles:

(a) the exposure values of assets means an exposure value as referred to in the first sentence of Article 111(1);

(b) securities financing transactions shall not be netted.

2. A cash pooling arrangement offered by an institution does not violate the condition set out in Article 429(7)(b) only where the arrangement meets both of the following conditions:

(a) the institution offering the cash pooling arrangement transfers the credit and debit balances of several individual accounts of entities of a group included in the arrangement ('original accounts') into a separate, single account and thereby sets the balances of the original accounts to zero;

(b) the institution carries out the actions referred to in point (a) of this subparagraph on a daily basis.

For the purposes of this paragraph and paragraph 3, cash pooling arrangement means an arrangement whereby the credit or debit balances of several individual accounts are combined for the purposes of cash or liquidity management.

3. By way of derogation from paragraph 2, a cash pooling arrangement that does not meet the condition set out in point (b) of that paragraph, but meets the condition set out in point (a) of that paragraph, does not violate the condition set out in Article 429(7)(b), provided that the arrangement meets all the following conditions:

(a) the institution has a legally enforceable right to set off the balances of the original accounts through the transfer into a single account at any point in time;

(b) there are no maturity mismatches between the balances of the original accounts;

(c) the institution charges or pays interest based on the combined balance of the original accounts;

(d) the GFSC considers that the frequency by which the balances of all original accounts are transferred is adequate for the purpose of including only the combined balance of the cash pooling arrangement in the total exposure measure.

4. By way of derogation from paragraph 1(b), institutions may calculate the exposure value of cash receivable and cash payable under securities financing transactions with the same counterparty on a net basis only where all the following conditions are met:

(a) the transactions have the same explicit final settlement date;

(b) the right to set off the amount owed to the counterparty with the amount owed by the counterparty is legally enforceable in the normal course of business and in the event of default, insolvency and bankruptcy;

(c) the counterparties intend to settle on a net basis or to settle simultaneously, or the transactions are subject to a settlement mechanism that results in the functional equivalent of net settlement.

5. For the purposes of paragraph 4(c), institutions may consider that a settlement mechanism results in the functional equivalent of net settlement only where, on the settlement date, the net result of the cash flows of the transactions under that mechanism is equal to the single net amount under net settlement and all the following conditions are met:

(a) the transactions are settled through the same settlement system or settlement systems using a common settlement infrastructure;

(b) the settlement arrangements are supported by cash or intraday credit facilities intended to ensure that the settlement of the transactions will occur by the end of the business day;

(c) any issues arising from the securities legs of the securities financing transactions do not interfere with the completion of the net settlement of the cash receivables and payables.

The condition set out in point (c) of the first subparagraph is met only where the failure of any securities financing transaction in the settlement mechanism may delay settlement of only the matching cash leg or may create an obligation to the settlement mechanism, supported by an associated credit facility.

Where there is a failure of the securities leg of a securities financing transaction in the settlement mechanism at the end of the window for settlement in the settlement mechanism, institutions shall split out this transaction and its matching cash leg from the netting set and treat them on a gross basis.

Article 429c
Calculation of the exposure value of derivatives

1. Institutions shall calculate the exposure value of derivative contracts listed in Annex II and of credit derivatives, including those that are off-balance-sheet, in accordance with the method set out in Section 3 of Chapter 6 of Title II of Part Three.

When calculating the exposure value, institutions may take into account the effects of contracts for novation and other netting agreements in accordance with Article 295. Institutions shall not take into account cross-product netting, but may net within the product category as referred to in Article 272(25)(c) and credit derivatives where they are subject to a contractual cross-product netting agreement as referred to in Article 295(c).

Institutions shall include in the total exposure measure sold options even where their exposure value can be set to zero in accordance with the treatment laid down in Article 274(5).

2. Where the provision of collateral related to derivative contracts reduces the amount of assets under the applicable accounting framework, institutions shall reverse that reduction.

3. For the purposes of paragraph 1 of this Article, institutions calculating the replacement cost of derivative contracts in accordance with Article 275 may recognise only collateral received in cash from their counterparties as the variation margin referred to in Article 275, where the applicable accounting framework has not already recognised the variation margin as a reduction of the exposure value and where all the following conditions are met:

(a) for trades not cleared through a QCCP, the cash received by the recipient counterparty is not segregated;

(b) the variation margin is calculated and exchanged at least daily based on a mark-to-market valuation of derivatives positions;

(c) the variation margin received is in a currency specified in the derivative contract, governing master netting agreement, credit support annex to the qualifying master netting agreement or as defined by any netting agreement with a QCCP;

(d) the variation margin received is the full amount that would be necessary to extinguish the mark-to-market exposure of the derivative contract subject to the threshold and minimum transfer amounts that are applicable to the counterparty;

(e) the derivative contract and the variation margin between the institution and the counterparty to that contract are covered by a single netting agreement that the institution may treat as risk-reducing in accordance with Article 295.

Where an institution provides cash collateral to a counterparty and that collateral meets the conditions set out in points (a) to (e) of the first subparagraph, the institution shall consider that collateral as the variation margin posted with the counterparty and shall include it in the calculation of the replacement cost.

For the purposes of point (b) of the first subparagraph, an institution shall be considered to have met the condition set out therein where the variation margin is exchanged on the morning of the trading day following the trading day on which the derivative contract was stipulated, provided that the exchange is based on the value of the contract at the end of the trading day on which the contract was stipulated.

For the purposes of point (d) of the first subparagraph, where a margin dispute arises, institutions may recognise the amount of non-disputed collateral that has been exchanged.

4. For the purposes of paragraph 1 of this Article, institutions shall not include collateral received in the calculation of NICA as defined in Article 272(12a), except in the case of derivative contracts with clients where those contracts are cleared by a QCCP.

5. For the purposes of paragraph 1 of this Article, institutions shall set the value of the multiplier used in the calculation of the potential future exposure in accordance with Article 278(1) to one, except in the case of derivative contracts with clients where those contracts are cleared by a QCCP.

6. By way of derogation from paragraph 1 of this Article, institutions may use the method set out in Section 4 or 5 of Chapter 6 of Title II of Part Three to determine the exposure value of derivative contracts listed in points 1 and 2 of Annex II, but only where they also use that method for determining the exposure value of those contracts for the purpose of meeting the own funds requirements set out in Article 92.

Where institutions apply one of the methods referred to in the first subparagraph, they shall not reduce the total exposure measure by the amount of margin they have received.

Article 429d

Additional provisions on the calculation of the exposure value of written credit derivatives

1. For the purposes of this Article, ‘written credit derivative’ means any financial instrument through which an institution effectively provides credit protection including credit default swaps, total return swaps and options where the institution has the obligation to provide credit protection under conditions specified in the options contract.

2. In addition to the calculation laid down in Article 429c, institutions shall include in the calculation of the exposure value of written credit derivatives the effective notional amounts referenced in the written credit derivatives reduced by any negative fair value changes that have been incorporated in Tier 1 capital with respect to those written credit derivatives.

Institutions shall calculate the effective notional amount of written credit derivatives by adjusting the notional amount of those derivatives to reflect the true exposure of the contracts that are leveraged or otherwise enhanced by the structure of the transaction.

3. Institutions may fully or partly reduce the exposure value calculated in accordance with paragraph 2 by the effective notional amount of purchased credit derivatives, provided that all the following conditions are met:

(a) the remaining maturity of the purchased credit derivative is equal to or greater than the remaining maturity of the written credit derivative;

(b) the purchased credit derivative is otherwise subject to the same or more conservative material terms as those in the corresponding written credit derivative;

(c) the purchased credit derivative is not purchased from a counterparty that would expose the institution to Specific Wrong-Way risk, as defined in point (b) of Article 291(1);

(d) where the effective notional amount of the written credit derivative is reduced by any negative change in fair value incorporated in the institution's Tier 1 capital, the effective notional amount of the purchased credit derivative is reduced by any positive fair value change that has been incorporated in Tier 1 capital;

(e) the purchased credit derivative is not included in a transaction that has been cleared by the institution on behalf of a client or that has been cleared by the institution in its role as a higher-level client in a multi-level client structure and for which the effective notional amount referenced by the corresponding written credit derivative is excluded from the total exposure measure in accordance with point (g) or (h) of the first subparagraph of Article 429a(1), as applicable.

For the purpose of calculating the potential future exposure in accordance with Article 429c(1), institutions may exclude from the netting set the portion of a written credit derivative which is not offset in accordance with the first subparagraph of this paragraph and for which the effective notional amount is included in the total exposure measure.

4. For the purposes of point (b) of paragraph 3, ‘material term’ means any characteristic of the credit derivative that is relevant to the valuation thereof, including the level of subordination, the optionality, the credit events, the underlying reference entity or pool of entities, and the underlying reference obligation or pool of obligations, with the exception of the notional amount and the residual maturity of the credit derivative. Two reference names shall be the same only where they refer to the same legal entity.

5. By way of derogation from point (b) of paragraph 3, institutions may use purchased credit derivatives on a pool of reference names to offset written credit derivatives on individual reference names within that pool where the pool of reference entities and the level of subordination in both transactions are the same.

6. Institutions shall not reduce the effective notional amount of written credit derivatives where they buy credit protection through a total return swap and record the net payments received as net income, but do not record any offsetting deterioration in the value of the written credit derivative in Tier 1 capital.

7. In the case of purchased credit derivatives on a pool of reference obligations, institutions may reduce the effective notional amount of written credit derivatives on individual reference obligations by the effective notional amount of purchased credit derivatives in accordance with paragraph 3 only where the protection purchased is economically equivalent to buying protection separately on each of the individual obligations in the pool.

Article 429e

Counterparty credit risk add-on for securities financing transactions

1. In addition to the calculation of the exposure value of securities financing transactions, including those that are off-balance-sheet in accordance with Article 429b(1), institutions shall include in the total exposure measure an add-on for counterparty credit risk calculated in accordance with paragraph 2 or 3, as applicable.

2. Institutions shall calculate the add-on for transactions with a counterparty that are not subject to a master netting agreement that meets the conditions set out in Article 206 on a transaction-by-transaction basis in accordance with the following formula:

$$E_i^* = \max\{0, E_i - C_i\}$$

where:

E_i^* = the add-on;

i = the index that denotes the transaction;

E_i = the fair value of securities or cash lent to the counterparty under transaction i; and

C_i = the fair value of securities or cash received from the counterparty under transaction i.

Institutions may set E_i^* equal to zero where E_i is the cash lent to a counterparty and the associated cash receivable is not eligible for the netting treatment set out in Article 429b(4).

3. Institutions shall calculate the add-on for transactions with a counterparty that are subject to a master netting agreement that meets the conditions set out in Article 206 on an agreement-by-agreement basis in accordance with the following formula:

$$E_i^* = \max\left\{0, \sum_i E_i - \sum_i C_i\right\}$$

where:

E_i^* = the add-on;

i = the index that denotes the netting agreement;

E_i = the fair value of securities or cash lent to the counterparty for the transactions that are subject to master netting agreement i; and

C_i = the fair value of securities or cash received from the counterparty that is subject to master netting agreement i.

4. For the purposes of paragraphs 2 and 3, the term counterparty also includes tri-party agents that receive collateral in deposit and manage the collateral in the case of tri-party transactions.

5. By way of derogation from paragraph 1, institutions may use the method set out in Article 222, subject to a 20% floor for the applicable risk weight, to determine the add-on for securities financing transactions including those that are off-balance-sheet. Institutions may use that method only where they also use it for calculating the exposure value of those transactions for the purpose of meeting the own funds requirements as set out in points (a), (b) and (c) of Article 92(1).

6. Where sale accounting is achieved for a repurchase transaction under the applicable accounting framework, the institution shall reverse all sales-related accounting entries.

7. Where an institution acts as an agent between two parties in a securities financing transaction, including an off-balance-sheet transaction, the following provisions shall apply to the calculation of the institution's total exposure measure:

(a) where the institution provides an indemnity or guarantee to one of the parties in the securities financing transaction and the indemnity or guarantee is limited to any difference between the value of the security or cash the party has lent and the value of collateral the borrower has provided, the institution shall only include the add-on calculated in accordance with paragraph 2 or 3, as applicable, in the total exposure measure;

(b) where the institution does not provide an indemnity or guarantee to any of the involved parties, the transaction shall not be included in the total exposure measure;

(c) where the institution is economically exposed to the underlying security or the cash in the transaction to an amount greater than the exposure covered by the add-on, it shall include in the total exposure measure also the full amount of the security or the cash to which it is exposed;

(d) where the institution acting as agent provides an indemnity or guarantee to both parties involved in a securities financing transaction, the institution

shall calculate its total exposure measure in accordance with points (a), (b) and (c) separately for each party involved in the transaction.

Article 429f

Calculation of the exposure value of off-balance-sheet items

1. Institutions shall calculate, in accordance with Article 111(1), the exposure value of off-balance-sheet items, excluding derivative contracts listed in Annex II, credit derivatives, securities financing transactions and positions referred to in Article 429d.

Where a commitment refers to the extension of another commitment, Article 166(9) shall apply.

2. By way of derogation from paragraph 1, institutions may reduce the credit exposure equivalent amount of an off-balance-sheet item by the corresponding amount of specific credit risk adjustments. The calculation shall be subject to a floor of zero.

3. By way of derogation from paragraph 1 of this Article, institutions shall apply a conversion factor of 10% to low-risk off-balance-sheet items referred to in Article 111(1)(d).

Article 429g

Calculation of the exposure value of regular-way purchases and sales awaiting settlement

1. Institutions shall treat cash related to regular-way sales and securities related to regular-way purchases which remain on the balance sheet until the settlement date as assets in accordance with Article 429(4)(a).

2. Institutions that, in accordance with the applicable accounting framework, apply trade date accounting to regular-way purchases and sales which are awaiting settlement shall reverse out any offsetting between cash receivables for regular-way sales awaiting settlement and cash payables for regular-way purchase awaiting settlement allowed under that framework. After institutions have reversed out the accounting offsetting, they may offset between those cash receivables and cash payables where both the related regular-way sales and purchases are settled on a delivery-versus-payment basis.

3. Institutions that, in accordance with the applicable accounting framework, apply settlement date accounting to regular-way purchases and sales which are awaiting settlement shall include in the total exposure measure the full nominal value of commitments to pay related to regular-way purchases.

Institutions may offset the full nominal value of the commitments to pay related to regular-way purchases by the full nominal value of cash receivables related to regular-way sales awaiting settlement only where both of the following conditions are met:

(a) both the regular-way purchases and sales are settled on a delivery-versus-payment basis;

(b) the financial assets bought and sold that are associated with cash payables and receivables are fair valued through profit and loss and included in the institution's trading book.”.

Amendment of Part 7A.

11. For Part Seven A substitute–

“PART SEVEN A
REPORTING REQUIREMENTS

Article 430
Reporting on prudential requirements and financial information

1. Institutions shall report to the GFSC on:

(a) own funds requirements, including the leverage ratio, as set out in Article 92 and Part Seven;

(b) the requirements laid down in Articles 92a and 92b, for institutions that are subject to those requirements;

(c) large exposures as set out in Article 394;

(d) liquidity requirements as set out in Article 415;

(e) the aggregate data for each national immovable property market as set out in Article 430a(1);

(f) the requirements set out in the CICR Regulations qualified for standardised reporting, except for any additional reporting requirement under regulation 140(1)(j) of those Regulations; and

(g) the level of asset encumbrance, including a breakdown by the type of asset encumbrance, such as repurchase agreements, securities lending, securitised exposures or loans.

Institutions exempted in accordance with Article 6(5) shall not be subject to the reporting requirement on the leverage ratio set out in point (a) of the first subparagraph on an individual basis.

2. In addition to the reporting on the leverage ratio referred to in point (a) of the first subparagraph of paragraph 1 and in order to enable the GFSC to monitor leverage ratio volatility, in particular around reporting reference dates, large institutions shall report specific components of the leverage ratio to their competent authorities based on averages over the reporting period and the data used to calculate those averages.

3. In addition to the reporting on prudential requirements referred to in paragraph 1 Article, institutions shall report financial information to the GFSC where they are one of the following:

(a) an institution that is subject to Article 4 of the IAS Regulation; or

(b) a credit institution that prepares its consolidated accounts in accordance with the international accounting standards pursuant to Article 5(b) of that Regulation.

4. The GFSC may require credit institutions that determine their own funds on a consolidated basis in accordance with international accounting standards pursuant to Article 24(2) to report financial information in accordance with this Article.

5. The reporting on financial information referred to in paragraph 3 shall only comprise information that is needed to provide a comprehensive view of the institution's risk profile and the systemic risks posed by the institution to the financial sector or the real economy.

6. The reporting requirements laid down in this Article shall be applied to institutions in a proportionate manner, having regard to their size, complexity and the nature and level of risk of their activities.

7. The Minister may make technical standards specifying uniform reporting formats and templates for complying with the reporting requirements under this Article, the frequency and dates of reporting, and instructions and methodologies for the use of those formats and templates.

8. The GFSC may waive the requirement to submit any of the data points set out in any reporting templates specified under paragraph 7 where those data points are duplicative. For those purposes, duplicative data points shall refer to any data points which are already available to the GFSC by means other than by collecting those reporting templates, including where those data points can be obtained from data that is already available to the GFSC in different formats or levels of granularity; the GFSC may only grant the waivers referred to in this paragraph if data received, collated or aggregated through such alternative methods are identical to those data points which would otherwise have to be reported in accordance with those reporting templates.

Article 430a
Specific reporting obligations

1. Institutions shall report to the GFSC on an annual basis the following aggregate data for each national immovable property market to which they are exposed:

(a) losses stemming from exposures for which an institution has recognised residential property as collateral, up to the lower of the pledged amount and 80% of the market value or 80% of the mortgage lending value, unless otherwise decided under Article 124(2);

(b) overall losses stemming from exposures for which an institution has recognised residential property as collateral, up to the part of the exposure treated as fully secured by residential property in accordance with Article 124(1);

(c) the exposure value of all outstanding exposures for which an institution has recognised residential property as collateral limited to the part treated as fully secured by residential property in accordance with Article 124(1);

(d) losses stemming from exposures for which an institution has recognised immovable commercial property as collateral, up to the lower of the pledged amount and 50% of the market value or 60% of the mortgage lending value, unless otherwise decided under Article 124(2);

(e) overall losses stemming from exposures for which an institution has recognised immovable commercial property as collateral, up to the part of the exposure treated as fully secured by immovable commercial property in accordance with Article 124(1);

(f) the exposure value of all outstanding exposures for which an institution has recognised immovable commercial property as collateral limited to the part treated as fully secured by immovable commercial property in accordance with Article 124(1).

2. The data referred to in paragraph 1 shall be reported to the GFSC. The data shall be reported separately for the immovable property market within the standards of Gibraltar to which the relevant institution is exposed.

Article 430b

Specific reporting requirements for market risk

1. From the date of application of the regulations referred to in Article 461a, institutions that do not meet the conditions set out in Article 94(1) nor the conditions set out in Article 325a(1) shall report, for all their trading book positions and all their non-trading book positions that are subject to foreign exchange or commodity risks, the results of the calculations based on using the alternative standardised approach set out in Chapter 1a of Title IV of Part Three on the same basis as such institutions report the obligations laid down in points (b)(i) and (c) of Article 92(3).

2. Institutions referred to in paragraph 1 shall report separately the calculations set out in Article 325c(2)(a), (b) and (c) for the portfolio of all trading book positions or non-trading book positions that are subject to foreign exchange and commodity risks.

3. In addition to the requirement set out in paragraph 1, from the end of a three-year-period following the date of entry into force of the latest technical standards referred to in Articles 325bd(7), 325be(3), 325bf(9), 325bg(4), institutions shall report, for those positions assigned to trading desks for which they have been granted permission

by the GFSC to use the alternative internal model approach in accordance with Article 325az(2), the results of the calculations based on using that approach set out in Chapter 1b of Title IV of Part Three on the same basis as such institutions report the obligations laid down in points (b)(i) and (c) of Article 92(3).

4. For the purposes of the reporting requirement in paragraph 3, institutions shall report separately the calculations set out in points (a)(i), (a)(ii), (b)(i) and (b)(ii) of Article 325ba(1) and for the portfolio of all trading book positions or non-trading book positions that are subject to foreign exchange and commodity risks assigned to trading desks for which the institution has been granted permission by the GFSC to use the alternative internal model approach in accordance with Article 325az(2).

5. Institutions may use in combination the approaches referred to in paragraphs 1 and 3 within a group, provided that the calculation under the approach referred to in paragraph 1 does not exceed 90% of the total calculation. Otherwise, the institution shall use the approach referred to in paragraph 1 for all its trading book positions and all its non-trading book positions that are subject to foreign exchange or commodity risk.

6. The Minister may make technical standards specifying the uniform reporting templates for the reporting referred to in this Article, the frequency and dates of reporting, and the instructions and methodology on the use of the templates.”.

Amendment of Part 8.

12. For Part Eight substitute–

“PART EIGHT
DISCLOSURE BY INSTITUTIONS

TITLE I
GENERAL PRINCIPLES

Article 431
Disclosure requirements and policies

1. Institutions shall publicly disclose the information referred to in Titles II and III in accordance with the provisions laid down in this Title, subject to the exceptions referred to in Article 432.

2. Institutions that have been granted permission by the GFSC under Part Three for the instruments and methodologies referred to in Title III of this Part shall publicly disclose the information laid down therein.

3. The management body or senior management shall adopt formal policies to comply with the disclosure requirements laid down in this Part and put in place and maintain internal processes, systems and controls to verify that the institutions' disclosures are appropriate and in compliance with the requirements laid down in this Part. At least

one member of the management body or senior management shall attest in writing that the relevant institution has made the disclosures required under this Part in accordance with the formal policies and internal processes, systems and controls. The written attestation and the key elements of the institution's formal policies to comply with the disclosure requirements shall be included in the institution's disclosures.

Information to be disclosed in accordance with this Part shall be subject to the same level of internal verification as that applicable to the management report included in the institution's financial report.

Institutions shall also have policies in place to verify that their disclosures convey their risk profile comprehensively to market participants. Where institutions find that the disclosures required under this Part do not convey the risk profile comprehensively to market participants, they shall publicly disclose information in addition to the information required to be disclosed under this Part. Nonetheless, institutions shall only be required to disclose information that is material and not proprietary or confidential as referred to in Article 432.

4. All quantitative disclosures shall be accompanied by a qualitative narrative and any other supplementary information that may be necessary in order for the users of that information to understand the quantitative disclosures, noting in particular any significant change in any given disclosure compared to the information contained in the previous disclosures.

5. Institutions shall, if requested, explain their rating decisions to SMEs and other corporate applicants for loans, providing an explanation in writing when asked. The administrative costs of that explanation shall be proportionate to the size of the loan.

Article 432

Non-material, proprietary or confidential information

1. With the exception of the disclosures laid down in Articles 435(2)(c), 437 and 450, institutions may omit one or more of the disclosures listed in Titles II and III where the information provided by those disclosures is not regarded as material.

Information in disclosures shall be regarded as material where its omission or misstatement could change or influence the assessment or decision of a user of that information relying on it for the purpose of making economic decisions.

2. Institutions may also omit one or more items of information referred to in Titles II and III where those items include information that is regarded as proprietary or confidential in accordance with this paragraph, except for the disclosures laid down in Articles 437 and 450.

Information shall be regarded as proprietary to institutions where disclosing it publicly would undermine their competitive position. Proprietary information may include information on products or systems that would render the investments of institutions therein less valuable, if shared with competitors.

Information shall be regarded as confidential where the institutions are obliged by customers or other counterparty relationships to keep that information confidential.

3. In the exceptional cases referred to in paragraph 2, the institution concerned shall state in its disclosures the fact that specific items of information are not being disclosed and the reason for not disclosing those items, and publish more general information about the subject matter of the disclosure requirement, except where that subject matter is, in itself, proprietary or confidential.

Article 433
Frequency and scope of disclosures

Institutions shall publish the disclosures required under Titles II and III in the manner set out in Articles 433a, 433b and 433c.

Annual disclosures shall be published on the same date as the date on which institutions publish their financial statements or as soon as possible thereafter.

Semi-annual and quarterly disclosures shall be published on the same date as the date on which the institutions publish their financial reports for the corresponding period where applicable or as soon as possible thereafter.

Any delay between the date of publication of the disclosures required under this Part and the relevant financial statements shall be reasonable and, in any event, shall not exceed the timeframe set by the GFSC under regulation 142 of the CICR Regulations.

Article 433a
Disclosures by large institutions

1. Large institutions shall disclose the information outlined below with the following frequency:

(a) all the information required under this Part on an annual basis;

(b) on a semi-annual basis the information referred to in:

(i) Article 437(a);

(ii) Article 438(e);

(iii) Article 439(e) to (l);

(iv) Article 440;

(v) Article 442(c), (e), (f) and (g);

(vi) Article 444(e);

(vii) Article 445;

(viii) Article 448(1)(a) and (b);

(ix) Article 449(j) to (l);

(x) Article 451(1)(a) and (b);

(xi) Article 451a(3);

(xii) Article 452(g);

(xiii) Article 453(f) to (j);

(xiv) Article 455(d), (e) and (g);

(c) on a quarterly basis the information referred to in:

(i) Article 438(d) and (h);

(ii) the key metrics referred to in Article 447;

(iii) Article 451a(2).

2. By way of derogation from paragraph 1, large institutions other than G-SIIs that are non-listed institutions shall disclose the information outlined below with the following frequency:

(a) all the information required under this Part on an annual basis;

(b) the key metrics referred to in Article 447 on a semi-annual basis.

3. Large institutions that are subject to Article 92a or 92b shall disclose the information required under Article 437a on a semi-annual basis, except for the key metrics referred to in Article 447(h), which are to be disclosed on a quarterly basis.

Article 433b
Disclosures by small and non-complex institutions

1. Small and non-complex institutions shall disclose the information outlined below with the following frequency:

(a) on an annual basis the information referred to in:

(i) Article 435(1)(a), (e) and (f);

(ii) Article 438(d);

(iii) Article 450(1)(a) to (d), (h), (i) and (j);

(b) on a semi-annual basis the key metrics referred to in Article 447.

2. By way of derogation from paragraph 1 of this Article, small and non-complex institutions that are non-listed institutions shall disclose the key metrics referred to in Article 447 on an annual basis.

Article 433c
Disclosures by other institutions

1. Institutions that are not subject to Article 433a or 433b shall disclose the information outlined below with the following frequency:

(a) all the information required under this Part on an annual basis;

(b) the key metrics referred to in Article 447 on a semi-annual basis.

2. By way of derogation from paragraph 1 of this Article, other institutions that are non-listed institutions shall disclose the following information on an annual basis:

(a) Article 435(1)(a), (e) and (f);

(b) Article 435(2)(a) to (c);

(c) Article 437(a);

(d) Article 438(c) and (d);

(e) the key metrics referred to in Article 447;

(f) Article 450(1)(a) to (d) and (h) to (k).

Article 434
Means of disclosures

1. Institutions shall disclose all the information required under Titles II and III in electronic format and in a single medium or location. The single medium or location shall be a standalone document that provides a readily accessible source of prudential information for users of that information or a distinctive section included in or appended to the institutions' financial statements or financial reports containing the required disclosures and being easily identifiable to those users.

2. Institutions shall make available on their website or, in the absence of a website, in any other appropriate location an archive of the information required to be disclosed in accordance with this Part. That archive shall be kept accessible for a period of time that

shall be no less than the storage period set by law for information included in the institutions' financial reports.

Article 434a
Uniform disclosure formats

The Minister may make technical standards specifying uniform disclosure formats, and associated instructions in accordance with which the disclosures required under Titles II and III shall be made.

Those uniform disclosure formats shall convey sufficiently comprehensive and comparable information for users of that information to assess the risk profiles of institutions and their degree of compliance with the requirements in Parts One to Seven. To facilitate the comparability of information, the technical standards shall seek to maintain consistency of disclosure formats with international standards on disclosures.

Uniform disclosure formats shall be tabular where appropriate.

TITLE II
TECHNICAL CRITERIA ON TRANSPARENCY AND DISCLOSURE

Article 435
Disclosure of risk management objectives and policies

1. Institutions shall disclose their risk management objectives and policies for each separate category of risk, including the risks referred to in this Title. Those disclosures shall include:

(a) the strategies and processes to manage those categories of risks;

(b) the structure and organisation of the relevant risk management function including information on the basis of its authority, its powers and accountability in accordance with the institution's incorporation and governing documents;

(c) the scope and nature of risk reporting and measurement systems;

(d) the policies for hedging and mitigating risk, and the strategies and processes for monitoring the continuing effectiveness of hedges and mitigants;

(e) a declaration approved by the management body on the adequacy of the risk management arrangements of the relevant institution providing assurance that the risk management systems put in place are adequate with regard to the institution's profile and strategy;

(f) a concise risk statement approved by the management body succinctly describing the relevant institution's overall risk profile associated with the business strategy; that statement shall include:

(i) key ratios and figures providing external stakeholders a comprehensive view of the institution's management of risk, including how the risk profile of the institution interacts with the risk tolerance set by the management body;

(ii) information on intragroup transactions and transactions with related parties that may have a material impact of the risk profile of the consolidated group.

2. Institutions shall disclose the following information regarding governance arrangements:

(a) the number of directorships held by members of the management body;

(b) the recruitment policy for the selection of members of the management body and their actual knowledge, skills and expertise;

(c) the policy on diversity with regard to selection of members of the management body, its objectives and any relevant targets set out in that policy, and the extent to which those objectives and targets have been achieved;

(d) whether or not the institution has set up a separate risk committee and the number of times the risk committee has met;

(e) the description of the information flow on risk to the management body.

Article 436
Disclosure of the scope of application

Institutions shall disclose the following information regarding the scope of application of this Regulation as follows:

(a) the name of the institution to which this Regulation applies;

(b) a reconciliation between the consolidated financial statements prepared in accordance with the applicable accounting framework and the consolidated financial statements prepared in accordance with the requirements on regulatory consolidation pursuant to Sections 2 and 3 of Title II of Part One; that reconciliation shall outline the differences between the accounting and regulatory scopes of consolidation and the legal entities included within the regulatory scope of consolidation where it differs from the accounting scope of consolidation; the outline of the legal entities included within the regulatory scope of consolidation shall describe the

method of regulatory consolidation where it is different from the accounting consolidation method, whether those entities are fully or proportionally consolidated and whether the holdings in those legal entities are deducted from own funds;

(c) a breakdown of assets and liabilities of the consolidated financial statements prepared in accordance with the requirements on regulatory consolidation pursuant to Sections 2 and 3 of Title II of Part One, broken down by type of risks as referred to under this Part;

(d) a reconciliation identifying the main sources of differences between the carrying value amounts in the financial statements under the regulatory scope of consolidation as defined in Sections 2 and 3 of Title II of Part One, and the exposure amount used for regulatory purposes; that reconciliation shall be supplemented by qualitative information on those main sources of differences;

(e) for exposures from the trading book and the non-trading book that are adjusted in accordance with Article 34 and Article 105, a breakdown of the amounts of the constituent elements of an institution's prudent valuation adjustment, by type of risks, and the total of constituent elements separately for the trading book and non-trading book positions;

(f) any current or expected material practical or legal impediment to the prompt transfer of own funds or to the repayment of liabilities between the parent undertaking and its subsidiaries;

(g) the aggregate amount by which the actual own funds are less than required in all subsidiaries that are not included in the consolidation, and the name or names of those subsidiaries;

(h) where applicable, the circumstances under which use is made of the derogation referred to in Article 7 or the individual consolidation method laid down in Article 9.

Article 437
Disclosure of own funds

Institutions shall disclose the following information regarding their own funds:

(a) a full reconciliation of Common Equity Tier 1 items, Additional Tier 1 items, Tier 2 items and the filters and deductions applied to own funds of the institution pursuant to Articles 32 to 36, 56, 66 and 79 with the balance sheet in the audited financial statements of the institution;

(b) a description of the main features of the Common Equity Tier 1 and Additional Tier 1 instruments and Tier 2 instruments issued by the institution;

(c) the full terms and conditions of all Common Equity Tier 1, Additional Tier 1 and Tier 2 instruments;

(d) a separate disclosure of the nature and amounts of the following:

(i) each prudential filter applied pursuant to Articles 32 to 35;

(ii) items deducted pursuant to Articles 36, 56 and 66;

(iii) items not deducted pursuant to Articles 47, 48, 56, 66 and 79;

(e) a description of all restrictions applied to the calculation of own funds in accordance with this Regulation and the instruments, prudential filters and deductions to which those restrictions apply;

(f) a comprehensive explanation of the basis on which capital ratios are calculated where those capital ratios are calculated by using elements of own funds determined on a basis other than the basis laid down in this Regulation.

Article 437a
Disclosure of own funds and eligible liabilities

Institutions that are subject to Article 92a or 92b shall disclose the following information regarding their own funds and eligible liabilities:

(a) the composition of their own funds and eligible liabilities, their maturity and their main features;

(b) the ranking of eligible liabilities in the creditor hierarchy;

(c) the total amount of each issuance of eligible liabilities instruments referred to in Article 72b and the amount of those issuances that is included in eligible liabilities items within the limits specified in Article 72b(3) and (4);

(d) the total amount of excluded liabilities referred to in Article 72a(2).

Article 438
Disclosure of own funds requirements and risk-weighted exposure amounts

Institutions shall disclose the following information regarding their compliance with Article 92 of this Regulation and with the requirements of regulations 30 and 140(1)(a) of the CICR Regulations:

(a) a summary of their approach to assessing the adequacy of their internal capital to support current and future activities;

(b) the amount of the additional own funds requirements based on the supervisory review process as referred to in regulation 140(1)(a) of the CICR Regulations and its composition in terms of Common Equity Tier 1, additional Tier 1 and Tier 2 instruments;

(c) upon demand from the GFSC, the result of the institution's internal capital adequacy assessment process;

(d) the total risk-weighted exposure amount and the corresponding total own funds requirement determined in accordance with Article 92, to be broken down by the different risk categories set out in Part Three and, where applicable, an explanation of the effect on the calculation of own funds and risk-weighted exposure amounts that results from applying capital floors and not deducting items from own funds;

(e) the on- and off-balance-sheet exposures, the risk-weighted exposure amounts and associated expected losses for each category of specialised lending referred to in Table 1 of Article 153(5) and the on- and off-balance-sheet exposures and risk-weighted exposure amounts for the categories of equity exposures set out in Article 155(2);

(f) the exposure value and the risk-weighted exposure amount of own funds instruments held in any insurance undertaking, reinsurance undertaking or insurance holding company that the institutions do not deduct from their own funds in accordance with Article 49 when calculating their capital requirements on an individual, sub-consolidated and consolidated basis;

(g) the supplementary own funds requirement and the capital adequacy ratio of the financial conglomerate calculated in accordance with regulation 6 of and Schedule 1 to the Financial Services (Financial Conglomerates) Regulations 2020, where method 1 or 2 set out in that Schedule is applied;

(h) the variations in the risk-weighted exposure amounts of the current disclosure period compared to the immediately preceding disclosure period that result from the use of internal models, including an outline of the key drivers explaining those variations.

Article 439

Disclosure of exposures to counterparty credit risk

Institutions shall disclose the following information regarding their exposure to counterparty credit risk as referred to in Chapter 6 of Title II of Part Three:

(a) a description of the methodology used to assign internal capital and credit limits for counterparty credit exposures, including the methods to assign those limits to exposures to central counterparties;

(b) a description of policies related to guarantees and other credit risk mitigants, such as the policies for securing collateral and establishing credit reserves;

(c) a description of policies with respect to General Wrong-Way risk and Specific Wrong-Way risk as defined in Article 291;

(d) the amount of collateral the institution would have to provide if its credit rating was downgraded;

(e) for derivative transactions, the amount of segregated and unsegregated collateral received and posted per type of collateral; and for securities financing transactions, the total amount of collateral received and posted per type of collateral; provided in each case that:

(i) institutions shall not disclose such amounts unless both the fair value of collateral posted in the form of debt securities and the fair value of collateral received in that form exceed £125 billion; and

(ii) for the purposes of subparagraph (i), institutions shall use the twelve month rolling arithmetic mean of the fair value of collateral received or posted (as the case may be) the form of debt securities, determined using quarterly data calculated in a manner consistent with data reported under Article 430(g) and covering the twelve months immediately preceding the disclosure reference date;

(f) for derivative transactions, the exposure values before and after the effect of the credit risk mitigation as determined under the methods set out in Sections 3 to 6 of Chapter 6 of Title II of Part Three, whichever method is applicable, and the associated risk exposure amounts broken down by applicable method;

(g) for securities financing transactions, the exposure values before and after the effect of the credit risk mitigation as determined under the methods set out in Chapters 4 and 6 of Title II of Part Three, whichever method is used, and the associated risk exposure amounts broken down by applicable method;

(h) the exposure values after credit risk mitigation effects and the associated risk exposures for credit valuation adjustment capital charge, separately for each method as set out in Title VI of Part Three;

(i) the exposure value to central counterparties and the associated risk exposures within the scope of Section 9 of Chapter 6 of Title II of Part Three, separately for qualifying and non-qualifying central counterparties, and broken down by types of exposures;

(j) the notional amounts and fair value of credit derivative transactions; credit derivative transactions shall be broken down by product type; within each product type, credit derivative transactions shall be broken down further by credit protection bought and credit protection sold;

(k) the estimate of alpha where the institution has received the permission of the GFSC to use its own estimate of alpha in accordance with Article 284(9); and

(l) for institutions using the methods set out in Sections 4 to 5 of Chapter 6 of Title II Part Three, the size of their on- and off-balance-sheet derivative business as calculated in accordance with Article 273a(1) or (2), as applicable.

Article 440
Disclosure of countercyclical capital buffers

Institutions shall disclose the following information in relation to their compliance with the requirement for a countercyclical capital buffer as referred to in Chapter 3 of Part 5 of the CICR Regulations:

(a) the geographical distribution of the exposure amounts and risk-weighted exposure amounts of its credit exposures used as a basis for the calculation of their countercyclical capital buffer;

(b) the amount of their institution-specific countercyclical capital buffer.

Article 441
Disclosure of indicators of global systemic importance

G-SIIs shall disclose, on an annual basis, the values of the indicators used for determining their score in accordance with the identification methodology referred to in regulation 85 of the CICR Regulations.

Article 442
Disclosure of exposures to credit risk and dilution risk

Institutions shall disclose the following information regarding their exposures to credit risk and dilution risk:

(a) the scope and definitions that they use for accounting purposes of "past due" and "impaired" and the differences, if any, between the definitions of 'past due' and 'default' for accounting and regulatory purposes;

(b) a description of the approaches and methods adopted for determining specific and general credit risk adjustments;

(c) information on the amount and quality of performing, non-performing and forborne exposures for loans, debt securities and off-balance-sheet exposures, including their related accumulated impairment, provisions and negative fair value changes due to credit risk and amounts of collateral and financial guarantees received;

(d) an ageing analysis of accounting past due exposures;

(e) the gross carrying amounts of both defaulted and non-defaulted exposures, the accumulated specific and general credit risk adjustments, the accumulated write-offs taken against those exposures and the net carrying amounts and their distribution by geographical area and industry type and for loans, debt securities and off-balance-sheet exposures;

(f) any changes in the gross amount of defaulted on- and off-balance-sheet exposures, including, as a minimum, information on the opening and closing balances of those exposures, the gross amount of any of those exposures reverted to non-defaulted status or subject to a write-off;

(g) the breakdown of loans and debt securities by residual maturity.

Article 443
Disclosure of encumbered and unencumbered assets

Institutions shall disclose information concerning their encumbered and unencumbered assets. For those purposes, institutions shall use the carrying amount per exposure class broken down by asset quality and the total amount of the carrying amount that is encumbered and unencumbered. Disclosure of information on encumbered and unencumbered assets shall not reveal emergency liquidity assistance provided by central banks.

Article 444
Disclosure of the use of the Standardised Approach

Institutions calculating their risk-weighted exposure amounts in accordance with Chapter 2 of Title II of Part Three shall disclose the following information for each of the exposure classes set out in Article 112:

(a) the names of the nominated ECAIs and the reasons for any changes in those nominations over the disclosure period;

(b) the exposure classes for which each ECAI is used;

(c) a description of the process used to transfer the issuer and issue credit ratings onto items not included in the trading book;

(d) the association of the external rating of each nominated ECAI with the risk weights that correspond to the credit quality steps as set out in Chapter 2 of

Title II of Part Three, taking into account that it is not necessary to disclose that information where the institutions comply with any standard association published by the GFSC;

(e) the exposure values and the exposure values after credit risk mitigation associated with each credit quality step as set out in Chapter 2 of Title II of Part Three, by exposure class, as well as the exposure values deducted from own funds.

Article 445
Disclosure of exposure to market risk

Institutions calculating their own funds requirements in accordance with Article 92(3)(b) and (c) shall disclose those requirements separately for each risk referred to in those points. In addition, own funds requirements for the specific interest rate risk of securitisation positions shall be disclosed separately.

Article 446
Disclosure of operational risk management

Institutions shall disclose the following information about their operational risk management:

(a) the approaches for the assessment of own funds requirements for operation risk that the institution qualifies for;

(b) where the institution makes use of it, a description of the methodology set out in Article 312(2), which shall include a discussion of the relevant internal and external factors being considered in the institution's advanced measurement approach;

(c) in the case of partial use, the scope and coverage of the different methodologies used.

Article 447
Disclosure of key metrics

Institutions shall disclose the following key metrics in a tabular format:

(a) the composition of their own funds and their own funds requirements as calculated in accordance with Article 92;

(b) the total risk exposure amount as calculated in accordance with Article 92(3);

(c) where applicable, the amount and composition of additional own funds which the institutions are required to hold in accordance with regulation 140(1)(a) of the CICR Regulations;

(d) their combined buffer requirement which the institutions are required to hold in accordance with Chapter 3 of Part 5 of the CICR Regulations;

(e) their leverage ratio and the total exposure measure as calculated in accordance with Article 429;

(f) the following information in relation to their liquidity coverage ratio as calculated in accordance with the Liquidity CDR:

(i) the average or averages, as applicable, of their liquidity coverage ratio based on end-of-the-month observations over the preceding 12 months for each quarter of the relevant disclosure period;

(ii) the average or averages, as applicable, of total liquid assets, after applying the relevant haircuts, included in the liquidity buffer under the Liquidity CDR, based on end-of-the-month observations over the preceding 12 months for each quarter of the relevant disclosure period;

(iii) the averages of their liquidity outflows, inflows and net liquidity outflows as calculated under the Liquidity CDR, based on end-of-the-month observations over the preceding 12 months for each quarter of the relevant disclosure period;

(g) the following information in relation to their net stable funding requirement as calculated in accordance with Title IV of Part Six:

(i) the net stable funding ratio at the end of each quarter of the relevant disclosure period;

(ii) the available stable funding at the end of each quarter of the relevant disclosure period;

(iii) the required stable funding at the end of each quarter of the relevant disclosure period;

(h) their own funds and eligible liabilities ratios and their components, numerator and denominator, as calculated in accordance with Articles 92a and 92b and broken down at the level of each resolution group, where applicable.

Article 448

Disclosure of exposures to interest rate risk on positions not held in the trading book

1. Institutions shall disclose the following quantitative and qualitative information on the risks arising from potential changes in interest rates that affect both the economic

value of equity and the net interest income of their non-trading book activities referred to in regulations 41 and 55(7) of the CICR Regulations:

(a) the changes in the economic value of equity calculated under the six supervisory shock scenarios referred to in regulation 55(7) of the CICR Regulations for the current and previous disclosure periods;

(b) the changes in the net interest income calculated under the two supervisory shock scenarios referred to in regulation 55(7) of the CICR Regulations for the current and previous disclosure periods;

(c) a description of key modelling and parametric assumptions, other than those referred to in regulation 55(13)(b) and (c) of the CICR Regulations points used to calculate changes in the economic value of equity and in the net interest income required under points (a) and (b) of this paragraph;

(d) an explanation of the significance of the risk measures disclosed under points (a) and (b) of this paragraph and of any significant variations of those risk measures since the previous disclosure reference date;

(e) the description of how institutions define, measure, mitigate and control the interest rate risk of their non-trading book activities for the purposes of the competent authorities' review in accordance with regulation 41 of the CICR Regulations, including:

(i) a description of the specific risk measures that the institutions use to evaluate changes in their economic value of equity and in their net interest income;

(ii) a description of the key modelling and parametric assumptions used in the institutions' internal measurement systems that would differ from the common modelling and parametric assumptions referred to in regulation 55(13) of the CICR Regulations for the purpose of calculating changes to the economic value of equity and to the net interest income, including the rationale for those differences;

(iii) a description of the interest rate shock scenarios that institutions use to estimate the interest rate risk;

(iv) the recognition of the effect of hedges against those interest rate risks, including internal hedges that meet the requirements in Article 106(3);

(v) an outline of how often the evaluation of the interest rate risk occurs;

(f) the description of the overall risk management and mitigation strategies for those risks;

(g) average and longest repricing maturity assigned to non-maturity deposits.

2. By way of derogation from paragraph 1, the requirements set out in points (c) and (e)(i) to (e)(iv) of paragraph 1 shall not apply to institutions that use the standardised methodology or the simplified standardised methodology referred to in regulation 41 of the CICR Regulations.

Article 449

Disclosure of exposures to securitisation positions

Institutions calculating risk-weighted exposure amounts in accordance with Chapter 5 of Title II of Part Three or own funds requirements in accordance with Article 337 or 338 shall disclose the following information separately for their trading book and non-trading book activities:

(a) a description of their securitisation and re-securitisation activities, including their risk management and investment objectives in connection with those activities, their role in securitisation and re-securitisation transactions, whether they use the simple, transparent and standardised securitisation (STS) as defined in Article 242(10), and the extent to which they use securitisation transactions to transfer the credit risk of the securitised exposures to third parties with, where applicable, a separate description of their synthetic securitisation risk transfer policy;

(b) the type of risks they are exposed to in their securitisation and re-securitisation activities by level of seniority of the relevant securitisation positions providing a distinction between STS and non-STS positions and:

(i) the risk retained in own-originated transactions;

(ii) the risk incurred in relation to transactions originated by third parties;

(c) their approaches for calculating the risk-weighted exposure amounts that they apply to their securitisation activities, including the types of securitisation positions to which each approach applies and with a distinction between STS and non-STS positions;

(d) a list of SSPEs falling into any of the following categories, with a description of their types of exposures to those SSPEs, including derivative contracts:

(i) SSPEs which acquire exposures originated by the institutions;

(ii) SSPEs sponsored by the institutions;

(iii) SSPEs and other legal entities for which the institutions provide securitisation-related services, such as advisory, asset servicing or management services;

(iv) SSPEs included in the institutions' regulatory scope of consolidation;

(e) a list of any legal entities in relation to which the institutions have disclosed that they have provided support in accordance with Chapter 5 of Title II of Part Three;

(f) a list of legal entities affiliated with the institutions and that invest in securitisations originated by the institutions or in securitisation positions issued by SSPEs sponsored by the institutions;

(g) a summary of their accounting policies for securitisation activity, including where relevant a distinction between securitisation and re-securitisation positions;

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

(i) where applicable, a description of the Internal Assessment Approach as set out in Chapter 5 of Title II of Part Three, including the structure of the internal assessment process and the relation between internal assessment and external ratings of the relevant ECAI disclosed in accordance with point (h), 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;

(j) separately for the trading book and the non-trading book, the carrying amount of securitisation exposures, including information on whether institutions have transferred significant credit risk in accordance with Articles 244 and 245, for which institutions act as originator, sponsor or investor, separately for traditional and synthetic securitisations, and for STS and non-STS transactions and broken down by type of securitisation exposures;

(k) for the non-trading book activities, the following information:

(i) the aggregate amount of securitisation positions where institutions act as originator or sponsor and the associated risk-weighted assets and capital requirements by regulatory approaches, including exposures deducted from own funds or risk weighted at 1,250%, broken down between traditional and synthetic securitisations and between securitisation and re-securitisation exposures, separately

for STS and non-STS positions, and further broken down into a meaningful number of risk-weight or capital requirement bands and by approach used to calculate the capital requirements;

(ii) the aggregate amount of securitisation positions where institutions act as investor and the associated risk-weighted assets and capital requirements by regulatory approaches, including exposures deducted from own funds or risk weighted at 1,250%, broken down between traditional and synthetic securitisations, securitisation and re-securitisation positions, and STS and non-STS positions, and further broken down into a meaningful number of risk weight or capital requirement bands and by approach used to calculate the capital requirements;

(l) for exposures securitised by the institution, the amount of exposures in default and the amount of the specific credit risk adjustments made by the institution during the current period, both broken down by exposure type.

Article 449a
Disclosure of environmental, social and governance risks (ESG risks)

From 1st January 2024, large institutions which have issued securities that are admitted to trading on a regulated market, within the meaning of paragraph 1 of Schedule 2 to the Act, shall disclose information on ESG risks, including physical risks and transition risks.

The information referred to in the first paragraph shall be disclosed on an annual basis for the first year and biannually after that.

Article 450
Disclosure of remuneration policy

1. Institutions shall disclose the following information regarding their remuneration policy and practices for those categories of staff whose professional activities have a material impact on the risk profile of the institutions:

(a) information concerning the decision-making process used for determining the remuneration policy, as well as the number of meetings held by the main body overseeing remuneration during the financial year, including, where 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 about the link between pay of the staff and their 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) the ratios between fixed and variable remuneration set in accordance with regulation 51(8) of the CICR Regulations;

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

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

(g) aggregate quantitative information on remuneration, broken down by business area;

(h) aggregate quantitative information on remuneration, broken down by senior management and members of staff whose professional activities have a material impact on the risk profile of the institutions, indicating the following:

(i) the amounts of remuneration awarded for the financial year, split into fixed remuneration including a description of the fixed components, and variable remuneration, and the number of beneficiaries;

(ii) the amounts and forms of awarded variable remuneration, split into cash, shares, share-linked instruments and other types separately for the part paid upfront and the deferred part;

(iii) the amounts of deferred remuneration awarded for previous performance periods, split into the amount due to vest in the financial year and the amount due to vest in subsequent years;

(iv) the amount of deferred remuneration due to vest in the financial year that is paid out during the financial year, and that is reduced through performance adjustments;

(v) the guaranteed variable remuneration awards during the financial year, and the number of beneficiaries of those awards;

(vi) the severance payments awarded in previous periods, that have been paid out during the financial year;

(vii) the amounts of severance payments awarded during the financial year, split into paid upfront and deferred, the number of beneficiaries of those payments and highest payment that has been awarded to a single person;

(i) the number of individuals that have been remunerated €1 million or more per financial year, with the remuneration between €1 million and €5 million broken down into pay bands of €500,000 and with the remuneration of €5 million and above broken down into pay bands of €1 million;

(j) upon demand from the GFSC, the total remuneration for each member of the management body or senior management;

(k) information on whether the institution benefits from a derogation laid down in regulation 51(18A) of the CICR Regulations.

For the purposes of point (k), institutions that benefit from such a derogation shall indicate whether they benefit from that derogation on the basis of regulation 51(18A)(a) or (b) of the CICR Regulations. They shall also indicate for which of the remuneration principles they apply the derogation(s), the number of staff members that benefit from the derogation(s) and their total remuneration, split into fixed and variable remuneration.

2. For large institutions, the quantitative information on the remuneration of institutions' collective management body referred to in this Article shall also be made available to the public, differentiating between executive and non-executive members.

Institutions shall comply with the requirements set out in this Article in a manner that is appropriate to their size, internal organisation and the nature, scope and complexity of their activities and without prejudice to the data protection legislation.

Article 451
Disclosure of the leverage ratio

1. Institutions that are subject to Part Seven shall disclose the following information regarding their leverage ratio as calculated in accordance with Article 429 and their management of the risk of excessive leverage:

(a) the leverage ratio and how the institutions apply Article 499(2);

(b) a breakdown of the total exposure measure referred to in Article 429(4), as well as a reconciliation of the total exposure measure with the relevant information disclosed in published financial statements;

(c) where applicable, the amount of exposures calculated in accordance with Articles 429(8) and 429a(1) and the adjusted leverage ratio calculated in accordance with Article 429a(7);

(d) a description of the processes used to manage the risk of excessive leverage;

(e) a description of the factors that had an impact on the leverage ratio during the period to which the disclosed leverage ratio refers.

2. Public development credit institutions as defined in Article 429a(2) shall disclose the leverage ratio without the adjustment to the total exposure measure determined in accordance with point (d) of the first subparagraph of Article 429a(1).

3. In addition to points (a) and (b) of paragraph 1 of this Article, large institutions shall disclose the leverage ratio and the breakdown of the total exposure measure referred to in Article 429(4) based on averages calculated in accordance with the implementing act referred to in Article 430(7).

Article 451a
Disclosure of liquidity requirements

1. Institutions that are subject to Part Six shall disclose information on their liquidity coverage ratio, net stable funding ratio and liquidity risk management in accordance with this Article.

2. Institutions shall disclose the following information in relation to their liquidity coverage ratio as calculated in accordance with the Liquidity CDR:

(a) the average or averages, as applicable, of their liquidity coverage ratio based on end-of-the-month observations over the preceding 12 months for each quarter of the relevant disclosure period;

(b) the average or averages, as applicable, of total liquid assets, after applying the relevant haircuts, included in the liquidity buffer under the Liquidity CDR, based on end-of-the-month observations over the preceding 12 months for each quarter of the relevant disclosure period, and a description of the composition of that liquidity buffer;

(c) the averages of their liquidity outflows, inflows and net liquidity outflows as calculated in accordance with the Liquidity CDR, based on end-of-the-month observations over the preceding 12 months for each quarter of the relevant disclosure period and the description of their composition.

3. Institutions shall disclose the following information in relation to their net stable funding ratio as calculated in accordance with Title IV of Part Six:

(a) quarter-end figures of their net stable funding ratio calculated in accordance with Chapter 2 of Title IV of Part Six for each quarter of the relevant disclosure period;

(b) an overview of the amount of available stable funding calculated in accordance with Chapter 3 of Title IV of Part Six;

(c) an overview of the amount of required stable funding calculated in accordance with Chapter 4 of Title IV of Part Six.

4. Institutions shall disclose the arrangements, systems, processes and strategies put in place to identify, measure, manage and monitor their liquidity risk in accordance with regulation 43 of the CICR Regulations.

TITLE III
QUALIFYING REQUIREMENTS FOR THE USE OF PARTICULAR INSTRUMENTS OR METHODOLOGIES

Article 452
Disclosure of the use of the IRB Approach to credit risk

Institutions calculating the risk-weighted exposure amounts under the IRB Approach to credit risk shall disclose the following information:

(a) the GFSC's permission of the approach or approved transition;

(b) for each exposure class referred to in Article 147, the percentage of the total exposure value of each exposure class subject to the Standardised Approach laid down in Chapter 2 of Title II of Part Three or to the IRB Approach laid down in Chapter 3 of Title II of Part Three, as well as the part of each exposure class subject to a roll-out plan; where institutions have received permission to use own LGDs and conversion factors for the calculation of risk-weighted exposure amounts, they shall disclose separately the percentage of the total exposure value of each exposure class subject to that permission;

(c) the control mechanisms for rating systems at the different stages of model development, controls and changes, which shall include information on:

(i) the relationship between the risk management function and the internal audit function;

(ii) the rating system review;

(iii) the procedure to ensure the independence of the function in charge of reviewing the models from the functions responsible for the development of the models;

(iv) the procedure to ensure the accountability of the functions in charge of developing and reviewing the models;

(d) the role of the functions involved in the development, approval and subsequent changes of the credit risk models;

(e) the scope and main content of the reporting related to credit risk models;

(f) a description of the internal ratings process by exposure class, including the number of key models used with respect to each portfolio and a brief discussion of the main differences between the models within the same portfolio, covering:

(i) the definitions, methods and data for estimation and validation of PD, which shall include information on how PDs are estimated for low default portfolios, whether there are regulatory floors and the drivers for differences observed between PD and actual default rates at least for the last three periods;

(ii) where applicable, the definitions, methods and data for estimation and validation of LGD, such as methods to calculate downturn LGD, how LGDs are estimated for low default portfolio and the time lapse between the default event and the closure of the exposure;

(iii) where applicable , the definitions, methods and data for estimation and validation of conversion factors, including assumptions employed in the derivation of those variables;

(g) as applicable, the following information in relation to each exposure class referred to in Article 147:

(i) their gross on-balance-sheet exposure;

(ii) their off-balance-sheet exposure values prior to the relevant conversion factor;

(iii) their exposure after applying the relevant conversion factor and credit risk mitigation;

(iv) any model, parameter or input relevant for the understanding of the risk weighting and the resulting risk exposure amounts disclosed across a sufficient number of obligor grades (including default) to allow for a meaningful differentiation of credit risk ;

(v) separately for those exposure classes in relation to which institutions have received permission to use own LGDs and conversion factors for the calculation of risk-weighted exposure amounts, and for exposures for which the institutions do not use such estimates, the values referred to in points (i) to (iv) subject to that permission;

(h) institutions' estimates of PDs against the actual default rate for each exposure class over a longer period, with separate disclosure of the PD range, the external rating equivalent, the weighted average and arithmetic average PD, the number of obligors at the end of the previous year and of

the year under review, the number of defaulted obligors, including the new defaulted obligors, and the annual average historical default rate.

For the purposes of point (b) of this Article, institutions shall use the exposure value as defined in Article 166.

Article 453
Disclosure of the use of credit risk mitigation techniques

Institutions using credit risk mitigation techniques shall disclose the following information:

(a) the core features of the policies and processes for on- and off-balance-sheet netting and an indication of the extent to which institutions make use of balance sheet netting;

(b) the core features of the policies and processes for eligible collateral evaluation and management;

(c) a description of the main types of collateral taken by the institution to mitigate credit risk;

(d) for guarantees and credit derivatives used as credit protection, the main types of guarantor and credit derivative counterparty and their creditworthiness used for the purpose of reducing capital requirements, excluding those used as part of synthetic securitisation structures;

(e) information about market or credit risk concentrations within the credit risk mitigation taken;

(f) for institutions calculating risk-weighted exposure amounts under the Standardised Approach or the IRB Approach, the total exposure value not covered by any eligible credit protection and the total exposure value covered by eligible credit protection after applying volatility adjustments; the disclosure set out in this point shall be made separately for loans and debt securities and including a breakdown of defaulted exposures;

(g) the corresponding conversion factor and the credit risk mitigation associated with the exposure and the incidence of credit risk mitigation techniques with and without substitution effect;

(h) for institutions calculating risk-weighted exposure amounts under the Standardised Approach, the on- and off-balance sheet exposure value by exposure class before and after the application of conversion factors and any associated credit risk mitigation;

(i) for institutions calculating risk-weighted exposure amounts under the Standardised Approach, the risk-weighted exposure amount and the ratio

between that risk-weighted exposure amount and the exposure value after applying the corresponding conversion factor and the credit risk mitigation associated with the exposure; the disclosure set out in this point shall be made separately for each exposure class;

(j) for institutions calculating risk-weighted exposure amounts under the IRB Approach, the risk-weighted exposure amount before and after recognition of the credit risk mitigation impact of credit derivatives; where institutions have received permission to use own LGDs and conversion factors for the calculation of risk-weighted exposure amounts, they shall make the disclosure set out in this point separately for the exposure classes subject to that permission.

Article 454

Disclosure of the use of the Advanced Measurement Approaches to operational risk

The institutions using the Advanced Measurement Approaches set out in Articles 321 to 324 for the calculation of their own funds requirements for operational risk shall disclose a description of their use of insurance and other risk-transfer mechanisms for the purpose of mitigating that risk.

Article 455

Use of internal market risk models

Institutions calculating their capital requirements in accordance with Article 363 shall disclose the following information:

(a) for each sub-portfolio covered:

(i) the characteristics of the models used;

(ii) where applicable, for the internal models for incremental default and migration risk and for correlation trading, the methodologies used and the risks measured through the use of an internal model including a description of the approach used by the 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 permission by the competent authority;

(c) a description of the extent and methodologies for compliance with the requirements set out in Articles 104 and 105;

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

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

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

(iii) the risk numbers for incremental default and migration risk and for the specific risk of the correlation trading portfolio over the reporting period and at the end of the reporting period;

(e) the elements of the own funds requirement as specified in Article 364;

(f) the weighted average liquidity horizon for each sub-portfolio covered by the internal models for incremental default and migration risk and for correlation trading;

(g) 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.".

Amendment of Part 9.

13.(1) For the heading to Part 9, substitute "REGULATIONS AND PRUDENTIAL MEASURES".

(2) In Article 456–

(a) for the heading, substitute "Regulations";

(b) in paragraph 1–

(i) for "Commission shall be empowered to adopt delegated acts in accordance with Article 462," substitute "Minister may by regulations make further provision";

(ii) omit paragraphs (f) and (g);

(iii) in paragraph (h), for "Regulation (EU) No 648/2012" substitute "EMIR"; and

(iv) after paragraph (j), insert–

"(k) amendments to the disclosure requirements laid down in Titles II and III of Part Eight to take account of developments or amendments of the international standards on disclosure; and

(l) determinations of third country equivalence under Articles 107.4, 114.7, 115.4, 116.5, 132.2, 142.2 and 391."; and

(c) omit paragraph 2.

(3) For Article 457, substitute–

"Article 457

Technical adjustments and corrections

The Minister may by regulations make technical adjustments and corrections to this Regulation, in order to take account of developments in new financial products or activities or to make adjustments taking into account developments after the adoption of this Regulation in other legislation concerning financial services, accounting and accounting standards.".

(4) For Article 458, substitute–

"Article 458

Enhanced prudential requirements

1. The GFSC must notify the Minister if the GFSC–

(a) identifies changes in the intensity of microprudential, macroprudential or systemic risk with the potential to have serious negative consequences for the financial system or economy in Gibraltar; and

(b) considers that those risks would be addressed better by means of stricter measures than those in this Regulation and the CICR Regulations.

2. A notification under paragraph 1 must–

(a) be supported by relevant quantitative or qualitative evidence, including–

(i) the changes identified;

(ii) the reasons why those changes could pose a threat to domestic financial stability; and

(iii) the reasons why the provisions of this Regulation and the CICR Regulations cannot adequately address the risk identified;

(b) be accompanied by draft proposals intended to mitigate the changes in the intensity of risk and concerning–

(i) the level of own funds laid down in Article 92;

(ii) the requirements for large exposures laid down in Article 392 and Article 395 to 403;

(iii) the public disclosure requirements laid down in Articles 431 to 455;

(iv) the level of the capital conservation buffer laid down in regulation 83 of the CICR Regulations;

(v) liquidity requirements laid down in Part Six;

(vi) risk weights for targeting asset bubbles in the residential property and commercial immovable property sector; or

(vii) intra financial sector exposures.

3. The Minister may by regulations impose stricter measures where, in the Minister's opinion–

(a) changes in the intensity of microprudential, macroprudential or systemic risks may have serious negative consequences for the financial system or economy in Gibraltar; and

(b) the measures in this Regulation and the CICR Regulations are not sufficient to address those risks.

4. The Minister may make regulations under paragraph 3 whether or not the GFSC has made a notification under paragraph 1.".

(5) Omit Article 459.

(6) In Article 460–

(a) in paragraph 1–

(i) for "Commission is empowered to supplement this Regulation by adopting delegated acts in accordance with Article 462 to" substitute "Minister may by regulations";

(ii) for "Delegated acts adopted in accordance with this paragraph" substitute "Such regulations";

(ii) for "competent authorities have" substitute "the GFSC has"; and

(iv) for "Commission is empowered to supplement this Regulation by adopting delegated acts specifying" substitute "Minister may by regulations specify";

(b) omit paragraph 2;

(c) in paragraph 3–

(i) for "Commission is empowered to" substitute "Minister may by regulations";

(i) omit "adopting delegated acts in accordance with Article 462";

(iii) for "it" substitute "the Minister"; and

(iv) omit the second sub-paragraph.

(7) Omit Article 461.

(8) In Article 461a–

(a) for "Commission is empowered to adopt delegated acts in accordance with Article 462, to amend this Regulation by making" substitute "Minister may by regulations make"; and

(b) omit the second sub-paragraph.

(9) Omit Articles 462 to 464.

Amendment of Part 10.

14.(1) Omit Article 465.

(2) In Article 466–

(a) for "competent authorities" substitute "the GFSC"; and

(b) for "Regulation (EC) No 1606/2002" substitute "the IAS Regulation".

(3) In Article 468–

(a) in paragraph 3, in both places it occurs, for "competent authority" substitute "GFSC"; and

(b) in paragraph 4, for "in Directive 2013/36/EU" substitute "the CICR Regulations".

(4) Omit Article 469.

(5) In Article 471.1(b), for “competent authorities” substitute “GFSC”.

(6) Omit Articles 472 and 473.

(7) In Article 473a–

(a) in paragraph 1–

(i) in the three places it occurs, for “Regulation (EC) No 1606/2002” substitute “the IAS Regulation”;

(ii) for “Directive 86/635/EEC” substitute “the Financial Services (Credit Institutions) (Accounts) Regulations 2021”;

(b) in paragraph 6, in both places it occurs, for “their competent authority” substitute “the GFSC”;

(c) in paragraph 7, for “laid down in this Regulation and in Directive 2013/36/EU” substitute “imposed by or under this Regulation or the Financial Services (Credit Institutions) (Accounts) Regulations 2021”;

(d) in paragraph 7a, for “laid down in this Regulation and in Directive 2013/36/EU” substitute “imposed by or under this Regulation or the Financial Services (Credit Institutions) (Accounts) Regulations 2021”;

(e) in paragraph 8, for “competent authorities” substitute “GFSC”;

(f) in paragraph 9–

(i) in the six places in occurs, for “competent authority” substitute “GFSC”; and

(ii) omit the final sub-paragraph; and

(g) omit paragraph 10.

(8) Omit Articles 474 to 477.

(9) In Article 478.3, for “Competent authorities” substitute “The GFSC”.

(10) Omit Articles 479 to 481.

(11) In Article 482, for “Regulation (EU) No 648/2012” substitute “EMIR”.

(12) Omit Article 483.

(13) In Article 484–

(a) in paragraph 3, omit “within the meaning of Article 22 of Directive 86/635/EEC,”; and

(b) after paragraph 3, insert–

“3A. For the purposes of paragraph 3, “capital” means all amounts, regardless of their actual designations, which, in accordance with the legal structure of the institution concerned, are regarded under the applicable law of Gibraltar or a third country as equity capital subscribed by the shareholders or other proprietors.

(14) In Article 485.2, for “22 of Directive 86/635/EEC” substitute “484.3A”.

(15) In Article 486.6, for “Competent authorities” substitute “The GFSC”.

(16) In Article 493–

(a) in paragraph 1–

(i) for “26 June 2021” substitute “31st December 2021”; and

(ii) for “points 5, 6, 7, 9, 10and 11 of Section C of Annex I to Directive 2004/39/EC” substitute “paragraphs 46(5), (6), (7), (9), (10) and (11) of Schedule 2 to the Act”;

(b) in paragraph 3–

(i) for the first sub-paragraph substitute–

“3. By way of derogation from Article 400(2) and (3), the Minister may by regulations, for a transitional period ending on 31st December 2021, fully or partially exempt the following exposures from the application of Article 395.1–;”;

(ii) in paragraph (b), omit “of Member States”;

(iii) in paragraph (c), for “Directive 2002/87/EC” substitute “the Financial Services (Financial Conglomerates) Regulations 2020”; and

(iv) in paragraph (i), for “competent authorities’” substitute “GFSC’s”;

(d) in paragraph 4, for “competent authorities” substitute “the GFSC”; and

(e) in paragraph 5–

(i) in paragraphs (a) to (c), in each place it occurs, for “central governments, central banks, or public sector entities of Member States” substitute “the government or public sector entities of Gibraltar”;

(ii) in points (d) and (e), in both places it occurs, omit “of Member States”.

(17) After Article 494, insert–

“*Article 494a*

Grandparenting of issuances through special purpose entities

1. By way of derogation from Article 52, capital instruments not issued directly by an institution shall qualify as Additional Tier 1 instruments until 31st December 2021 only where all the following conditions are met:

(a) the conditions set out in Article 52(1), except for the condition requiring that the instruments are directly issued by the institution;

(b) the instruments are issued through an entity within the consolidation pursuant to Chapter 2 of Title II of Part One;

(c) the proceeds are immediately available to the institution without limitation and in a form that satisfies the conditions set out in this paragraph.

2. By way of derogation from Article 63, capital instruments not issued directly by an institution shall qualify as Tier 2 instruments until 31st December 2021 only where all the following conditions are met:

(a) the conditions set out in Article 63(1), except for the condition requiring that the instruments are directly issued by the institution;

(b) the instruments are issued through an entity within the consolidation pursuant to Chapter 2 of Title II of Part One;

(c) the proceeds are immediately available to the institution without limitation and in a form that satisfies the conditions set out in this paragraph.

Article 494b

Grandparenting of own funds instruments and eligible liabilities instruments

1. By way of derogation from Articles 51 and 52, instruments issued before 27th June 2019 shall qualify as Additional Tier 1 instruments at the latest until 28th June 2025, where they meet the conditions set out in Articles 51 and 52, except for the conditions Article 52(1)(p), (q) and (r).

2. By way of derogation from Articles 62 and 63, instruments issued before 27th June 2019 shall qualify as Tier 2 instruments at the latest until 28th June 2025, where they meet the conditions set out in Articles 62 and 63, except for the conditions in Article 63(n), (o) and (p). 3.By way of derogation from Article 72a(1)(a), liabilities issued prior to 27th June 2019 shall qualify as eligible liabilities items where they meet the

conditions set out in Article 72b, except for the conditions in Article 72b(2)(b)(ii) and (f) to (m).”.

(18) Omit Articles 495 to 497.

(19) For Article 498, substitute–

“Until 1st January 2022 the provisions on own funds requirements as set out in this Regulation shall not apply to investment firms the main business of which consists exclusively of the provision of investment services or activities in relation to the financial instruments set out in paragraphs 46(5) to (7) and (9) to (11) of Schedule 2 to the Act and to which Directive 2004/39/EC did not apply on 31st December 2006.”.

(20) In Article 499, omit paragraph 3.

(21) In Article 500–

(a) in paragraph 1(b), for “competent authority” substitute “GFSC”; and

(b) in paragraph 2), for “competent authority” substitute “GFSC”.

(22) Omit Articles 500a to 500d.

(23) For Article 501.2(b), substitute–

“(b) an SME is defined in accordance with Commission Recommendation 2003/361/EC; but–

(i) in Article 2 of the Annex to that Recommendation, only the annual turnover shall be taken into account;

(ii) Article 3.5 of that Annex shall apply as if for “by national or Community rules” there were substituted “under the law of Gibraltar”; and

(iii) Article 5(b) of that Annex shall apply as if for “national law” there were substituted “ the law of the Gibraltar”;”.

(24) Omit Articles 501a to 520.

Amendment of Part 11.

15.(1) In Article 521.2, omit paragraph (c) and the final sub-paragraph.

After Article 521, insert–

"*Article 522*
Saving for pre-exit decisions

1. A decision which was made under this Regulation as it applied before IP completion day by–

(a) a body other than the GFSC; or

(a) another body acting jointly with the GFSC,

is to continue to have effect, with any necessary modifications, on and after IP completion day.

2. After IP completion day, a decision to which paragraph 1 applies is to be treated as if it were made by the GFSC.

3. The GFSC may review, vary, modify or revoke a decision to which paragraph 1 applies and shall have the same powers in respect of that decision on and after IP completion day as if it were a decision which the GFSC could have made before IP completion day.".

Amendment of Annex I.

16. In Annex I–

(a) for point 1(d), substitute–

"(d) endorsements on bills not bearing the name of another institution or investment firm;";

(b) for point 1(j), substitute–

"(j) asset sale and repurchase agreements–

(i) including agreements where the transferee is merely entitled to return the assets at the purchase price or for a different amount agreed in advance on a date specified or to be specified, the transaction in question shall be deemed to be a sale with an option to purchase; and

(ii) excluding agreements where the transferor is not entitled to show in his balance sheets the assets transferred;";

(c) in point 2(b)(iv), for "EBA" substitute "the GFSC";

(d) in point 3(b)(ii), for "EBA" substitute "the GFSC"; and

(e) in point 4(c), for "EBA" substitute "the GFSC".

Amendment of Annex II.

17. In Annex II–

(a) in paragraph 1, for point (e) substitute–

"(e) interest-rate options;";

(b) in paragraph 2, for point (d) substitute–

"(d) currency options;"; and

(c) for paragraph 3 substitute–

"3. Contracts of a nature similar to those in points 1(a) to (e) and 2(a) to (d) of this Annex concerning other reference items or indices. This includes as a minimum all instruments specified in paragraphs 46(4) to (7) and (9) to (11) of Schedule 2 to the Act not otherwise included in point 1 or 2 of this Annex.".

Amendment of Annex III.

18. In Annex III–

(a) for point 3(b), substitute–

"(b) they are not an obligation of an institution or investment firm or any of its affiliated entities.";

(b) for point 5(b), substitute–

"(b) they are not an obligation of an institution or investment firm or any of its affiliated entities.";

(c) in point 6–

(i) for paragraph (a), substitute–

"(a) they do not represent a claim on an SSPE, an institution or investment firm or any of its affiliated entities;"

(ii) in paragraph (c), for "bonds as referred to in Article 52(4) of Directive 2009/65/EC" substitute "CRR covered bonds";

(d) for point 7, substitute–

"7. Transferable securities other than those referred to in points 3 to 6 that qualify for a 50% or better risk weight under Chapter 2 of Title II of Part

Three or are internally rated as having an equivalent credit quality, and do not represent a claim on an SSPE, an institution or investment firm or any of its affiliated entities."; and

(e) for point 11, substitute–

"11. Exchange traded, centrally cleared common equity shares that are a constituent of a major stock index, denominated in sterling and not issued by an institution or investment firm or any of its affiliates.".

PART 2
AMENDMENT OF THE LIQUIDITY CDR.

Amendment of the Liquidity CDR.

19.(1) The Liquidity CDR is amended in accordance with this Part.

(2) In this Part, the "Liquidity CDR" means Commission Delegated Regulation (EU) 2015/61 of 10 October 2014 to supplement Regulation (EU) No 575/2013 of the European Parliament and the Council with regard to liquidity coverage requirement for Credit Institutions, as that Regulation had effect immediately before IP completion day.

Amendments to Title 1.

20.(1) In Article 1, after "Regulation (EU) No 575/2013", insert ("the CRR")".

(2) In Article 2–

(a) in paragraph 1, omit "supervised under Directive 2013/36/EU of the European Parliament and of the Council".

(b) for paragraph 2 substitute–

"2 Credit institutions shall comply with this Regulation on an individual basis in accordance with Article 6(4) of the CRR. The GFSC may waive in full or in part the application of this Regulation on an individual basis in relation to a credit institution in accordance with Article 8 of the CRR if the conditions in that Article are met.";

(c) in paragraph 3–

(i) for "EU parent institution" substitute "Gibraltar parent institution";

(ii) for "an EU parent financial holding company" substitute "a Gibraltar parent financial holding company";

(iii) for "an EU parent mixed financial holding company" substitute "a Gibraltar parent mixed financial holding company";

(iv) in the opening words, for "Regulation (EU) No 575/2013" substitute "the CRR"; and

(v) in sub-paragraph (d)–

(aa) in the first place it occurs, for "Regulation (EU) No 575/2013" substitute "the CRR"; and

(bb) omit the second sentence.

(3) In Article 3–

(a) in point (1), for "the second subparagraph of Article 416(1) of Regulation (EU) No 575/2013" substitute "Article 10";

(b) in point (2), for "as referred to in the second subparagraph of Article 416(1) of Regulation (EU) No 575/2013. level 2 assets are further subdivided into level 2A and 2B assets in accordance with Chapter 2 of Title II of this Regulation" substitute ", and which are further subdivided into level 2A and 2B assets in accordance with Articles 11 and 12";

(c) in point (4), for "Regulation (EU) No 575/2013" substitute "the CRR";

(d) in point (5), for "a Member State" substitute "Gibraltar"; and

(e) after point (12), insert–

"(13) "central bank" means the Ministry of Finance, the European Central Bank or the central bank of a third country;

(14) "CICR Regulations" means the Financial Services (Credit Institutions and Capital Requirements) Regulations 2020;

(15) "common management relationship" has the meaning given in Article 4.1(38a) of the CRR;

(16) "CRR" has the meaning given in Article 1;

(17) "CRR covered bonds" has the meaning given in Article 4.1(128a) of the CRR;

(18) "GFSC" means the Gibraltar Financial Services Commission within the meaning of section 21(1) of the Financial Services Act 2019;

(19) "Minister" means the Minister with responsibility for financial services;

(20) "Securitisation Regulation" has the meaning given in the CICR Regulations."..

(4) In Article 4–

(a) in paragraph 1, for “Regulation (EU) No 575/2013” substitute “the CRR”; and

(b) paragraph 4–

(i) for “Regulation (EU) No 575/2013” substitute “the CRR”;

(ii) for “competent authority” substitute “GFSC”; and

(iii) for “Commission Implementing Regulation (EU) No 680/2014” substitute “Article 414 of the CRR”.

(c) paragraph 5, for “Regulation (EU) No 575/2013” substitute “the CRR”.

Amendments to Title 2.

21.(1) In Article 7–

(a) in paragraph 2(a), omit “This point shall include assets placed by a credit institution with the central institution in a cooperative network or institutional protection scheme.”;

(b) in paragraph 4(g), for “listed in Annex I to Directive 2013/36/EU” substitute “in the Schedule to the CICR Regulations”;

(c) in paragraph 6, for “a Member State” substitute “Gibraltar”; and

(d) omit paragraph 7d.

(2) In Article 8–

(a) in paragraph 1–

(i) for “Competent authorities” substitute “The GFSC”;

(ii) for “the Member State” substitute “Gibraltar”; and

(iii) for “central or regional governments, local authorities or public sector entities of the credit institution's home Member State” substitute “the government or a public sector entity in Gibraltar”;

(b) in paragraph 3–

(i) in the opening words, for “competent authority” substitute “GFSC”; and

(ii) in sub-paragraph (c), for “competent authority” substitute “GFSC”;

(c) in paragraph 4, in the second sub-paragraph, omit “or to the deposits and other liquidity funding in cooperatives networks and institutional protection schemes referred to in Article 16”;

(d) in paragraph 6–

(i) in both places it occurs, for “competent authorities” substitute “the GFSC”;

(ii) for “Regulation (EU) No 575/2013” substitute “the CRR”;

(iii) for “Article 105 of Directive 2013/36/EU” substitute “regulation 141 of the CICR Regulations”;

(3) In Article 10.1–

(a) in point (b)(i), omit “European Central Bank (ECB) or a Member State's”;

(b) in point (b)(ii)–

(i) after “central banks of third countries” insert “or the European Central Bank”;

(ii) after “or its central government” insert “(if applicable)”; and

(iii) for “Regulation (EU) No 575/2013” substitute “the CRR”;

(c) in point (b)(iii), in both places it occurs, omit “Member State or”;

(d) in point (c)(i), for “central government of a Member State” substitute “government of Gibraltar”;

(e) in point (c)(ii) and (iv), in each place it occurs, for “Regulation (EU) No 575/2013” substitute “the CRR”;

(f) omit point (c)(iii)

(g) in point (c)(v), for “central government of a Member State or to one of the regional governments or local authorities referred to in point (iii) in accordance with paragraph 4 of Article 116 of Regulation (EU) No 575/2013” substitute “government of Gibraltar in accordance with Article 116.4 of the CRR”;

(h) in point (d)(i), for “Regulation (EU) No 575/2013” substitute “the CRR”;

(i) in point (e)(i)–

(i) for “central government of a Member State or the regional government or local authority in a Member State, the government or local authority” substitute “government of Gibraltar, which” and

(ii) omit "and any exposure to that regional government or local authority, as applicable, is treated as an exposure to the central government of the Member State in accordance with Article 115(2) of Regulation (EU) No 575/2013";

(j) in point (e)(ii)–

(i) for "the public policy objectives of the Union or of the central or regional government or local authority in a Member State" substitute " the public policy objectives of the government of Gibraltar";

(ii) for "central or regional government or local authority and that any exposure to that regional government or local authority, as applicable, is treated as an exposure to the central government of the Member State in accordance with Article 115(2) of Regulation (EU) No 575/2013" substitute "government of Gibraltar";

(k) in point (f)(i)–

(i) for "bonds as referred to in Article 52(4) of Directive 2009/65/EC" substitute "CRR covered bonds"; and

(ii) for "Regulation (EU) No 575/2013" substitute "the CRR";

(l) in point (f)(ii)–

(i) for "competent authority" substitute "GFSC"; and

(ii) in both places it occurs, for "Regulation (EU) No 575/2013" substitute "the CRR";

(m) in point (f)(iii), for "Regulation (EU) No 575/2013" substitute "the CRR";

(n) in point (f)(iv), for "EUR 500 million" substitute "£440 million";

(o) in point (f)(v), for "Regulation (EU) No 575/2013" substitute "the CRR"; and

(p) in point (g), for "Regulation (EU) No 575/2013" substitute "the CRR".

(4) In Article 11.1–

(a) in point (a)–

(i) for "regional governments, local authorities or public sector entities in a Member State" substitute "the government of, or a public sector entity in, Gibraltar"; and

(ii) for “Regulation (EU) No 575/2013” substitute “the CRR”;

(b) in point (b), for “Regulation (EU) No 575/2013” substitute “the CRR”;

(c) in point (c)(i)–

(i) for “bonds as referred to in Article 52(4) of Directive 2009/65/EC” substitute “CRR covered bonds”; and

(ii) for “Regulation (EU) No 575/2013” substitute “the CRR”;

(d) in point (c)(ii)–

(i) in both places it occurs, for “Regulation (EU) No 575/2013” substitute “the CRR”; and

(ii) for “competent authority” substitute “GFSC”;

(e) in point (c)(iii), for “Regulation (EU) No 575/2013” substitute “the CRR”;

(f) in point (c)(iv), for “EUR 250 million” substitute “£220 million”;

(g) in point (c)(v), for “Regulation (EU) No 575/2013” substitute “the CRR”;

(h) in point (d)(ii), for “the Union” substitute “Gibraltar”;

(i) in point (d)(iii), in both places it occurs, for “Regulation (EU) No 575/2013” substitute “the CRR”;

(j) in point (d)(iv)–

(i) for “competent authority” substitute “GFSC”; and

(ii) in both places it occurs, for “Regulation (EU) No 575/2013” substitute “the CRR”;

(k) in point (d)(v), for “Regulation (EU) No 575/2013” substitute “the CRR”;

(l) in point (d)(vi), for “Regulation (EU) No 575/2013” substitute “the CRR”;

(m) in point (d)(vii) for “EUR 500 million” substitute “£440 million”;

(n) in point (e)(i), for “Regulation (EU) No 575/2013” substitute “the CRR”; and

(o) in point (e)(ii) for “EUR 250 million” substitute “£220 million”.

(5) In Article 12–

(a) in paragraph 1–

(i) in point (b)(i), for “Regulation (EU) No 575/2013” substitute “the CRR”;

(ii) in point (b)(ii), for “EUR 250 million” substitute “£220 million”;

(iii) in point (c), for paragraphs (i) to (iii) substitute–

“(i) the shares form part of the Financial Times Stock Exchange 100 (FTSE 100) in the United Kingdom or a major stock index of a third country composed of leading companies in the relevant jurisdiction;

(ii) the shares are denominated in the domestic currency of the institution’s home jurisdiction or in the currency of the jurisdiction where the institution’s liquidity risk is taken; and

(iii) the shares have a proven record as a reliable source of liquidity in the markets (through repo or outright sale) even during stressed market conditions, being:

(aa) a maximum decline of price over a 30-day period not exceeding 40%; or
(bb) an increase in haircut over a 30-day period not exceeding 40 percentage points,

during a relevant period of significant liquidity stress;”;

(iv) in point (c)(ii), for “the currency of the credit institution's home Member State” substitute “sterling”;

(v) in point (d), omit “of a Member State”;

(vi) in point (e)(i)–

(aa) for “bonds as referred to in Article 52(4) of Directive 2009/65/EC” substitute “CRR covered bonds”; and

(bb) for “Regulation (EU) No 575/2013” substitute “the CRR”;

(vii) in point (e)(ii), for “Regulation (EU) No 575/2013” substitute “the CRR”;

(viii) in point (e)(iii), for “Regulation (EU) No 575/2013” substitute “the CRR”;

(ix) in point (e)(iv), for “EUR 250 million” substitute “£220 million”;

(x) in point (e)(v), for "points (a), (d)(i) and (e) of Article 129(1) of Regulation (EU) No 575/2013" substitute "Article 129(1)(a) and (d)(i) of the CRR";

(xi) in point (e)(vi), for "Regulation (EU) No 575/2013" substitute "the CRR"; and

(xii) in point (f), for "Regulation (EU) No 575/2013" substitute "the CRR"; and

(b) in paragraph 3, in both places it occurs, for "competent authority" substitute "GFSC".

(6) In Article 13–

(a) in paragraph 1, for "Regulation (EU) 2017/2402 of the European Parliament and of the Council" substitute "the Securitisation Regulation";

(b) in paragraph 2–

(i) in point (a), for "Regulation (EU) No 575/2013" substitute "the CRR";

(ii) in point (b), for "Regulation (EU) No 575/2013" substitute "the CRR";

(iii) omit points (c) to (f);

(iv) in the opening words of point (g), omit "and residential loans referred to in point (ii)"

(v) in point (g)(i)–

(aa) for "Regulation (EU) No 575/2013" substitute "the CRR";

(bb) for "Member State" substitute "jurisdiction";

(cc) omit ", and that Member State has notified this law to the Commission and EBA";

(vi) omit point (g)(ii);

(vii) in point (g)(iii)–

(aa) for "a Member State" substitute "Gibraltar; and

(bb) for "Regulation (EU) No 575/2013" substitute "the CRR";

(viii) for point (g)(iv), substitute–

““(iv)” auto loans and leases to borrowers or lessees established or resident in Gibraltar. For these purposes, auto loans and leases shall include loans or leases for the financing of motor vehicles or trailers, agricultural or forestry tractors, two-wheel motorcycles or powered tricycles or tracked vehicles. Such loans or leases may include ancillary insurance and service products or additional vehicle parts, and in the case of leases, the residual value of leased vehicles. All loans and leases in the pool shall be secured with a first-ranking charge or security over the vehicle or an appropriate guarantee in favour of the SSPE, such as a retention of title provision;”;

(ix) in point (h), for “Regulation (EU) No 575/2013” substitute “the CRR”; and

(x) in point (k), for “Regulation (EU) No 575/2013” substitute “the CRR”;

(c) in paragraph 11, for “EUR 100 million” substitute “£88 million”; and

(d) in paragraph 13, for “Regulation (EU) No 575/2013” substitute “the CRR”.

(7) In Article 15–

(a) in paragraph 1–

(i) for “EUR 500 million” substitute “£440 million”; and

(ii) for “Regulation (EU) No 575/2013” substitute “the CRR”; and

(b) in paragraph 4, for “Regulation (EU) No 575/2013” substitute “the CRR”.

(8) Omit Article 16.

(9) In Article 17–

(a) in paragraph 4–

(i) for “competent authority” substitute “GFSC”;

(ii) after “swap transactions” insert “with the central bank”; and

(iii) omit “, provided that all of the following conditions are met:” and points (a) to (c); and

(b) omit paragraph 5.

(10) In Article 19–

(a) in paragraph 1(b), for "the central bank in a Member State or third country" substitute "the central bank, the European Central Bank or the central banks of third countries";

(b) in paragraph 3, for "by the implementing regulation to be adopted by the Commission in accordance with Article 419(4) of Regulation (EU) No 575/2013" substitute "in accordance with Commission Implementing Regulation (EU) 2015/2344 or any subsequent technical standards made by the Minister under Article 419.4 of the CRR"; and

(c) in paragraph 4, for "by the delegated act to be adopted by the Commission in accordance with Article 419(5) of Regulation (EU) No 575/2013" substitute "in accordance with Commission Delegated Regulation (EU) 2016/709, or any subsequent technical standards made by the Minister under Article 419.4 of the CRR".

Amendments to Title 3.

22.(1) In Article 21.1, for "Regulation (EU) No 575/2013" substitute "the CRR".

(2) In Article 23–

(a) in paragraph 1g, for "Regulation (EU) No 575/2013" substitute "the CRR";

(b) in paragraph 2–

(i) in the three places it occurs, for "competent authorities" substitute "GFSC"; and

(ii) for "Regulation (EU) No 575/2013" substitute "the CRR"; and

(c) omit paragraph 3.

(3) In Article 24–

(a) in paragraph 1, for "a deposit guarantee scheme in accordance with Directive 94/19/EC of the European Parliament and of the Council or Directive 2014/49/EU" substitute "the Gibraltar deposit guarantee scheme"; and

(b) omit paragraphs 4 to 6.

(4) In Article 25–

(a) in paragraph 2a, for "EUR 500 000" substitute "£440,000";

(b) in paragraph 2e–

(i) for “the Union” substitute “Gibraltar”; and

(ii) for “the euro or the domestic currency of a Member State” substitute “sterling”; and

(c) in paragraph 3, for “competent authorities” substitute “the GFSC”.

(5) In Article 26–

(a) for “competent authority” substitute “GFSC”;

(b) for “central government of a Member State” substitute “government of Gibraltar”; and

(c) omit the second sub-paragraph.

(6) In Article 27–

(a) omit paragraph 1(b);

(b) in paragraph 2, for “a deposit guarantee scheme in accordance with Directive 94/19/EC or Directive 2014/49/EU” substitute “the Gibraltar deposit guarantee scheme”; and

(c) omit paragraph 3.

(7) In Article 28–

(a) in paragraph 1–

(i) for “credit unions authorised by a competent authority” substitute “authorised credit unions”; and

(ii) for “a deposit guarantee scheme in accordance with Directive 94/19/EC or Directive 2014/49/EU” substitute “the Gibraltar deposit guarantee scheme”;

(b) in paragraph 3

(i) in the opening words, for Regulation (EU) No 575/2013” substitute “the CRR”; and

(ii) in the second sub-paragraph–

(aa) for “of the Member State or” substitute “or the central bank”; and

(bb) for “that Member State or” substitute “Gibraltar or that”;

(c) in paragraph 4, in the second sub-paragraph–

(i) for “of the Member State or” substitute “or the central bank”; and

(ii) for “that Member State or” substitute “Gibraltar or that”;

(d) for paragraph 8, substitute–

“8. For the purposes of this Article, “domestic central bank” means the central bank or the central bank of the third country in which the credit institution is incorporated.”; and

(e) in paragraph 9–

(i) in point (a), for “central government, a public sector entity, a regional government or a local authority of the credit institution's home Member State” substitute “the government of, or a public sector entity in, Gibraltar”;

(ii) in point (b)–

(aa) at the beginning insert “the government of, or a public sector entity in, Gibraltar or”; and

(bb) omit “of the Member State or”; and

(iii) in the second sub-paragraph, for “Regulation (EU) No 575/2013” substitute “the CRR”.

(8) In Article 29–

(a) in the heading, omit “or an institutional protection scheme”;

(b) in paragraph 1–

(i) in the opening words, for “competent authorities” substitute “the GFSC”;

(ii) in point (b), for “relationship within the meaning of Article 12(1) of Directive 83/349/EEC(12) or a member of the same institutional protection scheme referred to in Article 113(7) of Regulation (EU) No 575/2013 or the central institution or an affiliate of a network or cooperative group as referred to in Article 10 of that Regulation” substitute “common management relationship”; and

(iii) in point (d), for “the same Member State” substitute “Gibraltar”; and

(c) omit paragraph 2.

(9) In Article 30–

(a) in paragraph 1, in both places it occurs, for “Regulation (EU) No 575/2013” substitute “the CRR”;

(b) in paragraph 2–

(i) in the four places it occurs, for “competent authority” substitute “GFSC”; and

(ii) for “Regulation (EU) No 575/2013” substitute “the CRR”;

(c) in paragraph 3, after “Commission Delegated Regulation (EU) 2017/208” insert “or any subsequent technical standards made by the Minister under Article 423.3 of the CRR”; and

(d) in paragraph 4, for “Regulation (EU) No 575/2013” substitute “the CRR”;

(10) In Article 31–

(a) omit paragraph 7;

(b) in paragraph 8c, for “1 to 7” substitute “1 to 6”; and

(c) in paragraph 9–

(i) in the first sub-paragraph, for “central or regional government of at least one Member State” substitute “government of Gibraltar”; and

(ii) in the third sub-paragraph, for “public policy objectives of the Union or of that Member State's central or regional government” substitute “the public policy objectives of the government of Gibraltar”.

(11) In Article 32–

(a) in paragraph 2b, for “Regulation (EU) No 575/2013” substitute “the CRR”;

(b) in paragraph 3–

(i) in point (a), for “central or regional government of at least one Member State” substitute “government of Gibraltar”;

(ii) point (b), in the opening words, for “Regulation (EU) No 575/2013” substitute “the CRR”;

(iii) in point (d), omit “, with the exception of deposits at the central institution referred to in Article 27(3),”;

(c) in paragraph 4, for “Regulation (EU) No 575/2013” substitute “the CRR”; and

(d) in paragraph 5, for “Regulation (EU) No 575/2013” substitute “the CRR”.

(12) In Article 33–

(a) in paragraph 2–

(i) in the opening words, for “competent authority” substitute “GFSC”;

(ii) in sub-paragraph (a), for “relationship within the meaning of Article 12(1) of Directive 83/349/EEC” substitute “common management relationship”; and

(iii) in paragraph 2(b), for “or (7) of Regulation (EU) No 575/2013” substitute “of the CRR”;

(c) in paragraph 3, for “competent authority” substitute “GFSC”;

(d) in paragraph 4–

(i) in the opening words, for “competent authority” substitute “GFSC”; and

(ii) in point (b), for “as defined in Directive 2008/48/EC of the European Parliament and of the Council” substitute “within the meaning of the Financial Services (Consumer Credit) Act 2011”;

(e) in paragraph 5, omit the second sub-paragraph; and

(f) in paragraph 6, for “competent authority” substitute “GFSC”.

(13) In Article 34–

(a) in the heading, omit “or an institutional protection scheme”;

(b) in paragraph 1–

(i) in the opening words, for “competent authorities” substitute “the GFSC”;

(ii) in point (b)–

(aa) for “relationship within the meaning of Article 12(1) of Directive 83/349/EEC” substitute “common management relationship”; and

(bb) omit “or a member of the same institutional protection scheme referred to in Article 113(7) of Regulation (EU) No575/2013 or the central

institution or an affiliate of a network or cooperative group as referred to in Article 10 of Regulation (EU) No 575/2013";

(iii) in point (d), for "the same Member State" substitute "Gibraltar"; and

(c) omit paragraphs 2 and 3.

Amendments to Title 4.

23.(1) In Article 35–

(a) in the heading, for "Grandfathering of Member State" substitute "Transitional provision: Government";

(b) in paragraph 1, for "the central government of a Member State" substitute "the government of Gibraltar";

(c) omit paragraph 2; and

(d) in paragraph 3, for "paragraphs 1 and 2" substitute "paragraph 1".

(2) Omit Article 36.

(3) Omit Article 38.

(4) After Article 39, omit "This Regulation shall be binding in its entirety and directly applicable in all Member States.".

PART 3
CONSEQUENTIAL AMENDMENTS

Amendment of the Financial Services Act 2019.

24. In section 626A of the Financial Services Act 2019–

(a) in subsection (1), after "section 11 of the European Union (Withdrawal) Act 2019" insert "or section 4 of the European Union Laws (Voluntary Implementation) Act 2019"; and

(b) in subsection (3)(b)(ii), for "retained EU" substitute "domestic".

Dated: 23rd December 2021.

A J ISOLA
Minister with responsibility for financial services

EXPLANATORY MEMORANDUM

These Regulations amend the Capital Requirements Regulation (Regulation (EU) No 575/2013) and the Liquidity CDR (Commission Delegated Regulation (EU) 2015/61) as they form part of domestic law. The Regulations give effect with appropriate modifications to provisions of the EU capital requirements regime which were amended before, but came into operation after, withdrawal from the European Union.