Finansinspektionen's Regulatory Code

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Regulations amending Finansinspektionen's regulations and general guidelines (FFFS 2007:1) regarding capital adequacy and large exposures;

decided on 13 June 2011.

Finansinspektionen prescribes[1] pursuant to section 32, points 6, 8, 10, 11, 28–38, 46, 49 and 50 and section 34 of the Capital Adequacy and Large Exposures Ordinance (2006:1533) in respect of Finansinspektionen's regulations (FFFS 2007:1) regarding capital adequacy and large exposures

in part that Chapter 19, section 5, Chapter 22, section 3, Chapter 47, section 6 and Chapter 50, section 3 shall be repealed,
in part that current Chapter 35, section 11 shall be designated Chapter 34, section 4 and have the following wording,
in part that the headings immediately preceding Chapter 35, sections 7 and 8 shall be repealed,
in part that Chapter 2, section 1, Chapter 4, section 1, Chapter 7, section 27, Chapter 19, sections 1–3, Chapter 20, section 1, Chapter 22, section 2, Chapter 34, sections 1 and 3, Chapter 35, sections 1, 2, 5, 6 and 14–16, Chapter 47, sections 1–3 and 5 and Chapter 48, section 1 shall have the following wording,
in part that 26 new sections, Chapter 4, section 1a, Chapter 13, section 8a, Chapter 19, sections 3a, 4a and 4b, Chapter 20, sections 1a–1g, Chapter 34, section 5, Chapter 35, sections 4a– 4c and 5a, Chapter 47, sections 4a and 4b and Chapter 48, sections 1a–1g, shall be inserted into the regulations with the following wording,
in part that new headings shall be inserted immediately preceding Chapter 13, section 8a, Chapter 19, sections 1, 3 and 4a, Chapter 35, sections 4a and 5a and Chapter 47, sections 1, 3 and 4a.

Chapter 2

Section 1 The terms and designations used in these regulations and general guidelines have the same meaning as those in the Capital Adequacy and Large Exposures Act (2006:1371) and the Capital Adequacy and Large Exposures Ordinance (2006:1533), unless otherwise specified. In addition, the following terms and expressions shall be defined as:

[1] Cf. Directive 2009/111/EC of the European Parliament and of the Council of 16 September 2009 amending Directives 2006/48/EC, 2006/49/EC and 2007/64/EC as regards banks affiliated to central institutions, certain own funds items, large exposures, supervisory arrangements and crisis management (EUT L 302, 17.11.2009 pp. 97–119, Celex 32009L0111) and Commission Directive 2009/83/EC of 27 July 2009 amending certain Annexes to Directive 2006/48/EC of the European Parliament and of the Council as regards technical provisions concerning risk management (EUT L 196 , 28.07.2009 pp. 14–21, Celex 32009L0083).

Payment leg: the payment leg in a transaction with a derivative contract that entails an exchange of a financial instrument for payment, excepting options or other similar instruments. Transactions in which the exchange consists of payment against payment shall be considered to have two payment legs. A payment leg consists of the agreed gross payments, including the transaction's notional amount.

Clearing organisation: a company that has permission to operate clearing activities pursuant to Chapter 8 of the Securities and Clearing Operations Act (1992:543) and a foreign clearing organisation that has authorisation to conduct corresponding operations.

One-sided credit valuation adjustment: a credit valuation adjustment that only reflects the market value of the counterparty's credit risk for the institution.

Exposure amount: the value of an exposure in accordance with either Chapter 15 or Chapter 40 depending on whether the standardised approach or IRB approach is used. The exposure amount for large exposures is determined in accordance with Chapters 34–35.

Distribution of exposures: the forecast probability distribution of net market values generated when forecast net negative market values are set equal to zero in the distribution of market values.

Financial group: in addition to that set out in Chapter 9, section 1 of the Capital Adequacy Act, this also includes that set out in Chapter 9, section 2, first paragraph, points 1-2a of the same Act.

Collective Investment Undertaking (CIU): an investment fund pursuant to the Swedish Investment Funds Act (2004:46) or a foreign equivalent.

Loss given default (LGD): the portion of the exposure amount the institution loses in the event of default. LGD is expressed as a percentage.

Group of associated clients: the concept referred to in Chapter 7, section 4 of the Capital Adequacy Act.

Capital Adequacy Ordinance: Capital Adequacy and Large Exposures Ordinance (2006:1533).

Capital Adequacy Act: Capital Adequacy and Large Exposures for Credit Institutions and Investment Firms Act (2006:1371).

Capital market-driven transaction: a contract that confers upon the institution the right to regularly receive margin for any net claim of the contract.

K_{irb}: 8 per cent of the risk-weighted exposure amounts that would have been calculated for the securitised exposures in accordance with sub-part L1 had they not been securitised plus the expected losses associated with these exposures.

K_{irbr}: the ratio between K_{irb} and the sum of the exposure amounts of the exposures that have been securitised. K_{irbr} is expressed in decimals.

Conversion factor: the portion of an off-balance sheet commitment drawn in the event of a future default. The conversion factor is expressed as a percentage.

Cash assimilated instrument: certificate of deposit issued by the institution with a maximum original maturity of one year.

Short position: a position which decreases in value when the value of the instrument or underlying asset increases. A short position also means a position that confers upon or may confer upon an institution the right or obligation to deliver an asset.

Bought put options and sold call options are considered a short position.

Credit enhancement: a contractual arrangement whereby the credit quality of a position in a securitisation is improved in relation to what it would be if the enhancement were not provided. This includes the enhancement provided by more junior tranches in the securitisation and other types of credit protection.

Credit quality step: the steps in the scales Finansinspektionen uses, in accordance with Chapter 4, section 13 of the Capital Adequacy Act, to assign the credit assessment from eligible credit assessment institutions into classes that correspond to the credit quality. There are different scales, depending on where the credit assessments are used.

Credit valuation adjustment: an adjustment to the mid-market valuation of a portfolio of transactions with a counterparty. This adjustment reflects the market value of the current credit risk and it may reflect the market value of the counterparty's credit risk or the market value of the credit risk of both the institution and the counterparty.

Liquidity facility: a securitisation position arising from a contractual agreement to provide funding to ensure timeliness of cash flows to investors.

Long position: a position which increases in value when the value of the instrument or underlying asset is increases. A long position also means a position that confers upon or may confer upon an institution the right or obligation to acquire an asset. Bought call options and sold put options are considered a long position.

Margin agreement: an agreement between two parties under which one party shall provide collateral to the second party when the exposure of the second party to the first party exceeds a level specified in the agreement, and vice versa.

Margin agreement's threshold value: the highest allowable value of an exposure before one party, in accordance with the margin agreement, has the right to call for the other party to provide collateral.

Margin lending: a transaction on the capital market in which an institution grants credit in connection with the purchase or sale of securities and where the counterparty provides collateral for this credit.

Margin period of risk: the period of time from the last exchange of collateral covering a netting set of transactions with a defaulting counterparty until that counterparty is closed out and the resulting market risk is re-hedged.

Market risk: interest rate, share price, commodities price and foreign exchange rate risks.

Distribution of market values: the forecast probability distribution of the net market values of transactions within a netting set for some future date (forecasting horizon).

Peak exposure: a high percentile of the distribution of exposures at any time before the maturity date of the longest transaction in a netting set.

Mezzanine securitisation position (mezzanine tranche):
a position in a securitisation assigned a risk weight lower than 1,250 per cent and that concurrently is less senior than the most senior position in the securitisation, and is even less senior than each position in the securitisation that fulfils the requirements for
1. credit quality step 1 with the standardised approach in accordance with sub-part G2, or
2. credit quality step 1 or 2 with the IRB approach in accordance with sub-part L2.

Counterparty risk: the risk that the counterparty to a transaction will default before the final settlement of the transaction's cash flows.

Netting set: a group of transactions with a counterparty subject to a bilateral netting agreement that fulfils the requirements set out in Chapter 26 or Chapter 56. For all other transactions, each transaction shall constitute a netting set.

Securitisation position: an exposure to a securitisation.

Asset-backed commercial paper programme (ABCP programme): a securitisation scheme in which the securities issued mainly comprise commercial paper with an original maturity of one year or less.

Regulated market:
1. in Sweden: a stock exchange or authorised market place pursuant to the Securities Exchange and Clearing Operations Act (1992:543), or
2. in another country: a stock exchange or other similar market place which is under the supervision of a regulatory authority or other competent body, and with respect to regulation and function substantially corresponds to what applies for a firm as set out under point 1.

Probability of Default (PD): the probability that a counterparty or exposure will default over a one-year period. PD is expressed as a percentage.

Servicer: a firm, other than the institution, which manages a pool of purchased receivables on a day-to-day basis on behalf of a third party.

Securitisation special purpose entity: a corporation or other legal entity created to carry out one or several securitisations. The special purpose entity may not be an institution or carry on activities other than those required to accomplish this special task. Its structure shall be designed to isolate its obligations from those of the originating institution. Holders of beneficial interests in the special purpose entity shall have the right to pledge or exchange those interests without restriction.

Specific wrong-way risk: the risk that arises when a positive correlation exists between the size of exposure towards a particular counterparty and the probability of this counterparty defaulting. An institution is exposed to a specific wrong-way risk if the future exposure to a particular counterparty is expected to be large during periods when the counterparty’s probability of default is also high.

Clean-up call option: a call option held by the originator that gives the right to repurchase or extinguish remaining securitisation positions before all of the

underlying exposures have been repaid when the amount of outstanding exposures or the remaining positions fall below a specified level.

Synthetic securitisation: a securitisation where tranching is achieved using credit derivatives or guarantees, at the same time that the underlying exposures remain on the balance sheet of the originator.

Traditional securitisation: a securitisation involving the economic transfer of the exposures being securitised to a securitisation special purpose entity which issues securities. This shall be accomplished by transferring ownership of the securitised exposures from the originator or through sub-participation. The issued securities shall not entail any payment obligations for the originator.

Tranche: a contractually established segment of the credit risk associated with an exposure or pool of exposures, where a position in the segment entails a risk of credit loss greater than or less than a position of the same amount in any other such segment without taking account of credit protection provided by third parties directly to the holders of positions in the segment or in other segments.

Dilution risk: the risk that the amount of an acquired receivable is reduced through credits, cash or other form to the obligor.

Reversed repurchase agreement: an agreement related to the purchase of a security in which the buyer undertakes to sell back the paper within a certain period at an agreed price.

Repurchase agreement: an agreement related to the sale of a security in which the seller undertakes to repurchase the paper within a certain period at an agreed price.

Excess spread: Interest rates, credit charges and other fees received in respect of the securitised exposures net of financing costs and other expenses.

Chapter 4

Section 1 An institution and a financial group shall report the calculation of own funds, capital requirements and large exposures using the form in Appendix 2, which is available on Finansinspektionen's website. An institution which is covered by group reporting for a financial group and is not a responsible institution in accordance with Chapter 9, section 3 of the Capital Adequacy Act shall only report the information in sections A, B, P and Q1–Q4.

An investment firm which in accordance with Chapter 3, section 6, first paragraph, point 2 of the Securities Market Act (2007:528) compared to Chapter 3, section 7, second paragraph of the same Act shall have own funds corresponding to at least EUR 730,000, and report the ratio of own funds for capital adequacy purposes and the total capital requirement (capital adequacy ratio) in accordance with the form in *Appendix 6*, which is available on Finansinspektionen's website.

Section 1a In section Q1, all exposures exceeding 10 per cent of own funds prior to taking into account credit risk deductions and exceptions when determining large exposures shall be reported. Exposures that shall not be included in the calculation of an institution's large exposures pursuant to Chapter 7, section 6, points 1–4 and 6 of the Capital Adequacy Act do not need to be reported.

An institution and a financial group which have authorisation to use an internal ratings-based approach in accordance with sub-part L1 or have total assets exceeding SEK 5 billion shall report in section Q2 their 20 largest exposures and in

section Q3 their 15 largest exposures to corporates after taking into account exposures that shall not be included when determining large exposures. An institution and a financial group with total assets less than SEK 5 billion shall only provide this information in the reporting as of 31 December. The balance sheet total shall be determined on an annual basis on 30 September. The reporting requirement applies for the subsequent calendar year even if the balance sheet total falls below this amount for any period of time.

Chapter 7

Section 27 Finansinspektionen may, after the submission of an application, allow a paid-up guarantee fund to be included as original own funds if the terms for the fund correspond to the terms set out in sections 15, 16, 16b, 16c and 17–26 for Tier I capital contributions.

Chapter 13

Securitisations

Section 8a The provisions contained in Chapter 20, section 1, second paragraph and points 1a–1g and Chapter 48, section 1, second paragraph and points 1a–1g, respectively, shall also apply to exposures to a securitisation in the trading book.

Chapter 19

Traditional securitisation

Section 1 In a traditional securitisation, the originator may exclude the securitised exposures when calculating risk-weighted exposure amounts under the standardised approach for credit risk in sub-part G1 if
1. a significant portion of the credit risk originating from the securitised exposures has been transferred to a third party pursuant to section 4a or 4b, or
2. the originator applies a risk weight of 1,250 per cent to all positions it holds in the securitisation or deducts them from own funds pursuant to Chapter 3, section 7 of the Capital Adequacy Act.

In addition, the following conditions shall be met for the exposures to be exempt:
1. The economic substance of the transaction shall be reflected in the securitisation documentation.
2. The securitised exposures are put beyond the reach of the originator and its creditors, e.g. in the originator's bankruptcy or receivership. This shall be supported by a legal opinion from an external legal adviser highly experienced in this field.
3. The issued securities may not entail any payment obligation for the originator.
4. The transferee shall be a securitisation special purpose entity.
5. The originator may not maintain effective or indirect control over the transferred exposures. An originator shall be considered to have maintained effective control if it has the right to repurchase from the transferee the previously transferred exposures in order to realise the gains or if it is obligated to re-assume transferred risk. The originator's retention of servicing rights or obligations in respect of the exposures shall not of itself constitute indirect control of the exposures.
6. The agreement may not contain any clauses that

a) other than in the case of early amortisation provisions, require positions in the securitisation to be improved by the originator, or
b) increase the yield payable to holders of positions in the securitisation in response to a deterioration in the credit quality of the underlying pool.

When there is a clean-up call option, the following conditions shall also be met:
1. The clean-up call option is exercisable at the discretion of the originator.
2. The clean-up call option may only be exercised when 10 per cent or less of the original value of the exposures securitised remains unamortized.
3. The clean-up call option may not be structured to avoid allocating losses to credit enhancement positions or other positions held by investors or in any other way be structured to provide credit enhancement.

Section 2 If the originator applies section 1, first paragraph, point 1, risk-weighted exposure amounts shall be calculated in accordance with Chapters 20–22 for any own securitisation positions.

If the originator, pursuant to section 1, may not refrain from calculating risk-weighted exposure amounts for the securitised exposures in accordance with the standardised approach for credit risk in sub-part G1, the risk-weighted amount does not need to be calculated for any own positions in the securitisation.

Synthetic securitisation

Section 3 In a synthetic securitisation, the originator may exclude the securitised exposures when calculating risk-weighted exposure amounts under the standardised approach for credit risk in sub-part G1 and apply the credit protection rules in sub-part G3 if
1. a significant portion of the credit risk originating from the securitised exposures has been transferred to a third party via paid or unpaid credit protection pursuant to section 4a or 4b, or
2. the originator applies a risk weight of 1,250 per cent to all positions it holds in the securitisation or deducts them from own funds pursuant to Chapter 3, section 7 of the Capital Adequacy Act.

In addition, the following conditions shall be met for the exposures to be excluded:
1. The economic substance of the transaction shall be reflected in the securitisation documentation.
2. The credit protection through which the credit risk is transferred shall meet the requirements set out in the credit protection rules in sub-part G3. In this regard, special purpose entities shall not be accepted as issuers of guarantees or unfunded credit derivatives.
3. The instruments used to transfer credit risk may not contain provisions or conditions that
a) stipulate significant thresholds for when credit protection cannot be triggered if a credit event occurs,
b) allow for the termination of the protection due to deterioration of the credit quality of the underlying exposures,
c) other than in the case of early amortisation provisions, require positions in the securitisation to be improved by the originator, or
d) increase the originator’s cost of credit protection or the yield payable to holders of securitisation positions if the credit quality of the underlying pool deteriorates.
4. A legal opinion is obtained from an external legal counsel with considerable experience in the field confirming the enforceability of the credit protection in all relevant jurisdictions.

Section 3a If the originator applies section 3, first paragraph, point 1, risk-weighted exposure amounts shall be calculated in accordance with Chapters 20–22 for any own securitisation positions.

If the originator, pursuant to section 3, may not refrain from calculating risk-weighted exposure amounts for the securitised exposures in accordance with the standardised approach for credit risk in sub-part G1, the risk-weighted exposure amount does not need to be calculated for any own positions in the securitisation.

Regulations covering all types of securitisations

Section 4a A significant portion of the credit risk shall be considered to be transferred to a third party if
1. the total risk-weighted exposure amount for the mezzanine securitisation positions in the securitisation held by the originator does not exceed 50 per cent of the risk-weighted exposure amount for the total mezzanine securitisation positions in the securitisation, or
2. a) there are no mezzanine securitisation positions in the securitisation,
b) the securitisation positions that shall be deducted from the own funds or assigned a risk weight of 1,250 per cent with a significant margin exceed a reasonable estimation of the expected loss on the securitised exposures, and
c) the originator holds at the most 20 per cent of the exposure amount for the securitisation positions that shall be deducted from the own funds or assigned a risk weight of 1,250 per cent.

Even if the conditions in the first paragraph are met, Finansinspektionen can decide in respect of an individual securitisation that the originator may not refrain from including the securitised exposures in its calculation of risk-weighted exposure amounts. Finansinspektionen can make such a decision if the decrease to the risk-weighted exposure amounts that is achieved through the securitisation cannot be justified by a proportionate transfer of credit risk.

Section 4b Finansinspektionen may, after the submission of an application, grant that a significant portion of the credit risk is considered to be transferred to a third party and that the originator may thereby refrain from including the securitised exposures in its calculation of risk-weighted exposure amounts if the originator can show that
1. it applies guidelines and processes that ensure that the decrease to the capital requirements the originator can achieve through the securitisation is justified by a transfer of credit risk to a third party and that this transfer is in proportion to the decrease in the capital requirements, and
2. the transfer of credit risk to a third party is taken into account in the originator's internal risk management and capital allocation.

A decision pursuant to the first paragraph can cover one or more securitisations.

Chapter 20

Section 1 A risk weighted exposure amount shall be calculated for each securitisation position by multiplying the exposure amount in accordance with section 6 by the risk weight that applies for the position.

Where Finansinspektionen decides that increased risk weight shall apply pursuant to Chapter 7a, section 7 of the Capital Adequacy Act, the increased risk weight shall be a proportionate extra risk weight of at least 250 per cent of the risk weight that applies to the relevant securitisation positions in accordance with sub-part G2. Finansinspektionen takes into account the number of breaches and the exceptions set out in Chapter 20, section 1c when determining the extra risk weight. Decisions on extra risk weights can at the most result in a risk weight of 1,250 per cent.

Section 1a The originator, sponsor or the original lender has maintained an economic interest in a securitisation if any of them has kept at least 5 per cent net of
1. the nominal value of each tranche sold or transferred to the investors,
2. the originator's share of the nominal value of the securitised exposures in a securitisation of revolving exposures,
3. the nominal value of the securitised exposures by keeping randomly selected exposures that would have otherwise been included in the securitisation in question, provided that the original number of potential securitised exposures is not less than 100, or
4. the nominal value of the securitised exposures by keeping the first loss tranche and, if necessary, even other tranches that have a risk profile that is the same or higher than the tranches sold or transferred to the investors, provided that the tranches that are kept do not have a shorter maturity than those sold or transferred.

The economic interest is measured on the date of the securitisation. The method chosen to calculate the economic interest may only be modified during the term of the securitisation if exceptional circumstances exist and the investors are informed.

Where there are multiple originators or original lenders in a securitisation, each actor shall fulfil the requirement set out in Chapter 7a, section 1 of the Capital Adequacy Act in proportion to their share of the securitised exposures.

For a re-securitisation, the requirement set out in Chapter 7a, section 1 of the Capital Adequacy Act applies independently to both the securitisation and re-securitisation.

Section 1b An economic interest has not been maintained pursuant to section 1a if the maintained position at any time during the term of the securitisation is sold or covered by credit protection, short positions or other insurances.

Section 1c The requirement in Chapter 7a, section 1 of the Capital Adequacy Act regarding maintaining an economic interest does not apply to
1. securitised exposures that are exposures to, or guaranteed by,
a) a central government or central bank,
b) a local authority, a comparable entity or a public body within the EEA,
c) an institute whose exposures are assigned a risk weight of 50 per cent or lower under the standardised approach for credit risk, or
d) a multilateral development bank,

2. transactions that are based on a clear, transparent and publicly available index where the underlying reference assets are identical to either assets in an index with high turnover or transferable securities other than securitisation positions, or
3. syndicated loans, purchased receivables (but not ABCP programmes) or credit swaps where these instruments are not used to package or hedge a securitisation covered by Chapter 7a, section 1 of the Capital Adequacy Act.

Section 1d A credit institution shall analyse and document information about the following prior to investing in a securitisation:
1. Information indicating that an economic interest of at least 5 per cent net was maintained pursuant to Chapter 7a, section 1 of the Capital Adequacy Act.
2. The risk characteristics of an individual securitisation position.
3. The risk characteristics of the securitisation position's underlying exposures.
4. The originator's or the sponsor's reputation and loss history in previous securitisations of the same exposure type.
5. Statements and information provided by the originator or a sponsor, or their agent or advisor, regarding their investigation into the securitised exposures and, where applicable, the quality of the collateral for the securitised exposures.
6. Where applicable, the valuation methods used for the securitised exposures' collateral and the policy guidelines adopted by the originator or a sponsor to guarantee that the valuation is conducted by an independent party.
7. All structural characteristics of the securitisation that can have a significant impact on the development of the credit institution's exposure in the securitisation.

The credit institution shall immediately conduct a new analysis if a significant event occurs that can have an impact on the securitisation position.

The analysis and information pursuant to this provision shall be documented and be able to be reported to Finansinspektionen.

Section 1e A credit institution shall regularly conduct its own stress tests of its securitisation positions. Financial models developed by an external credit assessment institution or another external party may be used if the credit institution can show that prior to the investment it carefully validated relevant assumptions in the models and it understands the method, assumptions and results.

Section 1f In order to regularly monitor the securitisation positions' underlying exposures, the credit institution, as a minimum and where appropriate, shall follow up
1. the type of exposure,
2. the share of loans unpaid 30, 60 and 90 days after the due date,
3. the share of defaults,
4. the share of prepaid loans,
5. loans terminated for early repayment,
6. the type of collateral and, in cases where the collateral consists of real estate, the type of real estate and occupancy,
7. the allocation of credit assessments or other measures of creditworthiness for the underlying exposures,
8. industry and geographic distribution, and
9. the distribution of loan-to-value ratios into intervals that facilitate appropriate sensitivity analyses.

Where the underlying exposures consist of securitisation positions, the credit institution shall also apply the first paragraph to the exposures comprising the underlying securitisations.

The credit institution shall follow up at least once a year. In conjunction with a significant event that can affect the risk of the securitisation position, a follow-up shall be conducted immediately.

Section 1g Sponsors and credit institutions that are originators shall provide information that enables credit institutions investing in a securitisation to meet the requirements set out in sections 1d–1f.

Chapter 22

Section 2 Liquidity facilities which fulfil the conditions set out in Chapter 21, section 7, second paragraph shall be assigned a conversion factor of 50 %.

Chapter 34

Section 1 An institution shall apply Chapters 34 and 35 when determining its large exposures. Provisions regarding large exposures are also set out in Chapter 7 of the Capital Adequacy Act and section 16 of the Capital Adequacy Ordinance.

Section 3 When an exposure to a client is protected by a third party via a recognisable guarantee or a recognisable credit derivative, with the exception of a credit-linked note, or when there exists eligible financial collateral issued by a third party, the institution may
a) treat the guaranteed portion of the exposure as if it applies to the guarantor instead of the client if the non-guaranteed exposure to the guarantor would be assigned the same or a lower risk weight according to the standardised approach for credit risk than the risk weight for non-guaranteed exposure to the client, and
b) treat the portion of the exposure for which financial collateral has been pledged as if it applies to the third party instead of the client if the unsecured portion of the exposure would be assigned the same or lower risk weight under the standardised approach for credit risk than the risk weight for the unsecured exposure to the client.

A prerequisite for being able to consider an exposure to a client as protected by a third party in accordance with the first paragraph is that the requirements in sub-part G3 or L3 are met. However, an institution may not apply the first paragraph, point b if there is a maturity mismatch, i.e. if the protection's maturity is shorter than the remaining maturity of the protected exposure.

In order to determine the exposure amount for large exposures, an institution may use the Financial Collateral Comprehensive Method and the method referred to in the first paragraph, point b only if the institution may use both the Financial Collateral Comprehensive Method and the Financial Collateral Simple Method to calculate capital requirements for credit risk.

Where liens on real estate or liens on tenant-owners’ rights are received as collateral, these may be included pursuant to Chapter 35, section 4.

Section 4 Exposures secured by liens on residential property or liens on tenant-owners’ rights in accordance with Chapter 16, sections 25–29 and exposures secured by liens on commercial property in accordance with Chapter 16, section 30

shall deduct the portion of the exposure that has a right of priority up to half of the pledged property's or association's value.

Section 5 The following exposures shall be considered to be exposures pursuant to Chapter 7, section 6, first paragraph, point 3 of the Capital Adequacy Act:
1. Exposures arising in conjunction with delayed receipt of financing.
2. Exposures arising in conjunction with unexpected, incoming transactions or exposures that are expected but that arise at a point in time when the institution cannot reasonably reduce the exposure before the close of the banking day.
3. Exposures that comprise pledged or received cash collateral.
4. Exposures arising as a result of a transfer of exposures in accordance with points 1 and 2, if
a) the exposure arises on the same day as the exposure in points 1 or 2 and only due to the institution's desire to decrease its exposure to another institution, and
b) the transfer is made to an institution that qualifies for credit quality step 3 or better under the standardised approach for credit risk.

Chapter 35

Section 1 An institution shall describe in conjunction with a notification in accordance with Chapter 10, section 15, second paragraph of the Capital Adequacy Act the prohibited large exposure and state why it arose. The institution shall also account for the measures taken to ensure that exposures in the future will not exceed the permitted threshold values. Where the institution applies to receive a certain period of time during which the exposure will be reduced to the permitted threshold values, it shall also append a plan for when and how the exposure will be reduced.

An institution shall describe in conjunction with an application for permission to exceed the threshold value by 100 per cent in accordance with Chapter 10, section 15, second paragraph of the Capital Adequacy Act the reasons for this, how the institution is managing the risk associated with the exposure and how the institution’s financial situation is affected.

General guidelines

An institution and a financial group should ensure that their total exposures are not so close to the threshold values for permitted exposures that there is a risk that these will be exceeded in the course of normal business activities and price changes.

Section 2 When determining large exposures, the exposure amount shall be the following:
1. Balance sheet items shall be taken at the net accounting value in accordance with Chapter 15, section 3, first to fifth paragraphs.
2. Off-balance sheet commitments shall consist of the nominal amount.
3. Derivative contracts shall be calculated in accordance with Chapter 15, section 3, seventh and eighth paragraphs.
4. Derivative contracts, repurchase transactions, margin lending transactions and securities and commodities lending may be handled in accordance with Chapter 15, section 3, eighth and ninth paragraphs.

When determining exposure amounts, the institution may take into consideration any netting agreements pursuant to Chapter 26.

Exposure amounts to a group of associated clients

Section 4a An institution shall conduct a comprehensive analysis of all exposures exceeding two per cent of the institution's or the financial group's own funds when determining large exposures to a group of associated clients in accordance with Chapter 7, section 4, first paragraph of the Capital Adequacy Act.

As a minimum, an analysis shall be conducted of
– a client who in full or in part guarantees another client's exposure, or in any other way can be obligated to take over another client's exposure, if the size of the exposure is so significant that the client probably will not be able to meet its obligations under the requirements set out in the guarantee or the obligation,
– a property owner and a tenant that pays the majority of the lease income,
– a client and its clients or counterparties, if a significant portion of the client's turnover, assets or liabilities are to the other client or counterparty,
– a manufacturer and its retailers, if the retailer represents a significant portion of the turnover and it can take time to replace the retailer,
– two firms that have an identical client base consisting of a small number of clients and that have limited opportunities to find new clients, and
– multiple clients if the institution becomes aware that the clients of another institution are considered to be a group of associated clients.

With regard to private clients, the institution as a minimum shall conduct an analysis of
– a borrower and its co-borrowers, and
– married persons or co-habitees if both pursuant to contract or law are responsible for the loan and the amount is significant for both of them.

Section 4b Where an institution primarily has exposures to a central government or local government which are assigned a risk weight of 0 % in accordance with the standardised approach for credit risk, neither the central government nor the local government and their respective subsidiaries need to form a group of associated clients.

Section 4c When an institution determines large exposures to a group of associated clients, it shall calculate the exposure's value by aggregating the total exposures to each individual client in the group, regardless of how much owner influence any one client has over one or several of the other members of the group.

Section 5 Exposures in the form of shares in CIUs shall be reported as an exposure to the CIU. Where an institution has holdings in different CIUs managed by the same management company, the holdings do not need to be aggregated. However, the institution shall apply section 5a with regard to the CIUs' underlying assets.

Exposures to underlying assets

Section 5a An institution shall use one of the following methods to analyse the exposures that have underlying assets to determine if a group of associated clients exists:
1. The institution identifies and regularly monitors the underlying assets and aggregates them with other exposures to the same client or group of associated clients when determining large exposures.
2. The institution applies point 1 for the underlying assets the institution has knowledge of and point 3 for other assets.

3. The underlying assets that the institution does not have knowledge of are aggregated as a single exposure to an unidentified client. The unidentified client shall be treated as an associated client to other unidentified clients determined in the same manner for other exposures that have underlying assets. The underlying assets do not need to be aggregated to a single exposure to an unidentified client if each of the exposure's unidentified underlying assets is less than five per cent of the exposure.

If the institution on an ongoing basis can demonstrate that the underlying assets together with other exposures to the same client, directly or indirectly, do not exceed two per cent of own funds, the institution may ignore any associations between the underlying assets and other exposures to the client.

The institution shall be able to demonstrate that the second paragraph, point 3 is not applied intentionally to prevent the institution from having a prohibited large exposure.

Analyses in accordance with the first and second paragraphs shall be conducted regularly, although at least once a month.

Section 6 The following exposures have low credit risk and shall not be included when determining an institution's large exposures:
1. Exposures to international organisations, multilateral development banks or public sector entities that shall be assigned a 0 % risk weight pursuant to Chapter 16.

2. Exposures to off-balance sheet commitments that refer to undrawn credit facilities classified as low risk commitments in accordance with Chapter 17, section 5. One condition for an institution to exclude these exposures, however, is that an agreement must have been entered into with the client stating that the credit facility can only be drawn if it does not entail that the threshold for large exposures as set out in Chapter 7, section 3 of the Capital Adequacy Act is breached.

3. Exposures for which there is adequate collateral in the form of cash on deposit with the lending institution or with an institution which is the parent undertaking or a subsidiary of the lending institution, or in the form of cash received for a credit linked note issued by the institution and deposits or loans received from a counterparty to the institution that are included in a netting agreement for balance sheet items approved in accordance with Chapters 26 and 56.

Exposures for which there is adequate collateral in the form of certificates of deposit issued by the lending institution or an institution which is the parent undertaking or a subsidiary of the lending institution and lodged with either of them.

4. Exposures to an institution within the EEA, if these exposures
   a) contractually fall due the following banking day,
   b) are in DKK, NOK, or SEK, and
   c) are not included in these institutions' own funds.

Section 14 An institution which has received permission to use one of the methods set out in sections 12–13 or that uses the Financial Collateral

Comprehensive Method in accordance with section 13 when determining large exposures pursuant to Chapter 7, sections 3 and 5 of the Capital Adequacy Act shall conduct periodic stress tests of its credit risk concentrations, including for the realisable value of any collateral taken.

These stress tests shall address risks that may arise from potential changes in market conditions that could adversely impact the institution’s capital adequacy and risks arising from the hurried realisation of collateral.

The institution shall be able to demonstrate that the stress tests carried out are adequate and appropriate for the assessment of such risks.

In the event that such a stress test indicates a lower realisable value of collateral taken than what would be permitted to be taken into account under sections 12-13, the value of collateral permitted to be recognised in calculating the value of exposures in accordance with Chapter 7, sections 3 and 5, first paragraph of the Capital Adequacy Act shall be reduced accordingly.

An institution shall include the following in its strategy for addressing concentration risk:
1. Strategies and procedures for addressing risks arising from maturity mismatches between exposures and any credit protection on those exposures.
2. Strategies and procedures in cases where a stress test indicates a lower realisable value for collateral than taken into account in accordance with sections 12–13.
3. Strategies and procedures relating to concentration risks arising from credit protection, in particular in conjunction with large indirect exposures (for example to a single issuer of securities taken as collateral).

Section 15 An institution can apply to Finansinspektionen for general permission to exceed the threshold values for large exposures set out in Chapter 7, section 3 of the Capital Adequacy Act within the framework set out in paragraphs 3–5 below and on condition that an additional capital requirement is met. The portion of a large exposure which exceeds the threshold values is designated as an excess exposure.

The additional capital requirement for an excess exposure shall be calculated in accordance with Chapter 13, section 68.

An excess exposure may only arise due to positions included in the trading book. The institution’s total exposure in non-trading activities to a client or group of associated clients may not exceed the threshold values set out in Chapter 7, section 3 of the Capital Adequacy Act.

The total amount of excess exposure in existence for more than ten days may not exceed 600 per cent of the institution's own funds.

Where 10 days or less has elapsed since an excess exposure arose, the sum of the exposures to that particular client or group of associated clients included in the trading book may not exceed 500 per cent of the institution's own funds.

At the end of every quarter the institution shall notify Finansinspektionen of all cases where the threshold values for large exposures set out in Chapter 7, section 3 of the Capital Adequacy Act have been exceeded during the previous three months.

Section 16 Investment firms which in accordance with section 8 of Act (2006:1372) regarding the introduction of the Capital Adequacy and Large Exposures Act (2006:1371) request permission from Finansinspektionen to exceed

the threshold values set out in Chapter 7, section 3 of the Capital Adequacy Act without calculating an additional capital requirement in accordance with section 15 must fulfil the following conditions:
1. The investment firm may not provide investment services or investment activities such as those referred to by the financial instruments set out in points 5-7 and 9-10 of section C in Appendix 1 to Directive 2004/39/EC for private individuals or on behalf of private individuals.
2. Breaches of the threshold values in Chapter 7, section 3 of the Capital Adequacy Act shall arise in conjunction with exposures that
a) result from contracts that are financial instruments as listed in points 5–7 and 9–10 of Section C in Appendix I to Directive 2004/39/EC and refer to commodities or such underlying variables as those set out in point 10 of Section C in Appendix I to Directive 2004/39/EG and are calculated in accordance with Appendices III and IV to the Credit Institution Directive, or
b) are the result of agreements which cover the supply of commodities or emission allowances.

Chapter 47

Traditional securitisation

Section 1 In a traditional securitisation, the originator may exclude the securitised exposures when calculating its risk-weighted exposure amounts and expected loss amounts under the IRB approach in sub-part L1 if
1. a significant portion of the credit risk originating from the securitised exposures has been transferred to a third party pursuant to section 4a or 4b, or
2. the originator applies a risk weight of 1,250 per cent to the positions it holds in the securitisation or deducts them from own funds pursuant to Chapter 3, section 7 of the Capital Adequacy Act.

In addition, the following conditions shall be met for the exposures to be excluded:
1. The economic substance of the transaction shall be reflected in the securitisation documentation.
2. The securitised exposures are put beyond the reach of the originator and its creditors, e.g. in the originator's bankruptcy or receivership. This shall be supported by a legal opinion from an external legal adviser highly experienced in this field.
3. The issued securities may not entail any payment obligation for the originator.
4. The transferee shall be a securitisation special purpose entity.
5. The originator may not maintain effective or indirect control over the transferred exposures. An originator shall be considered to have maintained effective control if it has the right to repurchase from the transferee the previously transferred exposures in order to realise the gains or if it is obligated to re-assume transferred risk. The originator's retention of servicing rights or obligations in respect of the exposures shall not of itself constitute indirect control of the exposures.
6. The agreement may not contain any clauses that
a) other than in the case of early amortisation provisions, require positions in the securitisation to be improved by the originator, or
b) increase the yield payable to holders of positions in the securitisation in response to a deterioration in the credit quality of the underlying pool.

When there is a clean-up call option, the following conditions shall also be met:
1. The clean-up call option is exercisable at the discretion of the originator.
2. The clean-up call option may only be exercised when 10 per cent or less of the original value of the exposures securitised remains unamortized.

3. The clean-up call option may not be structured to avoid allocating losses to credit enhancement positions or other positions held by investors or in any other way be structured to provide credit enhancement.

Section 2 If the originator applies section 1, first paragraph, point 1, risk-weighted exposure amounts shall be calculated in accordance with Chapters 48-51 for any own securitisation positions.

If the originator, pursuant to section 1, may not refrain from calculating risk-weighted exposure amounts and expected loss amounts for the securitised exposures in accordance with the IRB approach in sub-part L1, the risk-weighted exposure amount does not need to be calculated for any own positions in the securitisation.

Synthetic securitisation

3 § In a synthetic securitisation, the originator may exclude the securitised exposures when calculating risk-weighted exposure amounts and expected loss amounts in accordance with sub-part L1 and apply the credit protection rules in sub-part L3 if
1. a significant portion of the credit risk originating from the securitised exposures has been transferred to a third party via paid or unpaid credit protection pursuant to section 4a or 4b, or
2. the originator applies a risk weight of 1,250 per cent to the positions it holds in the securitisation or deducts them from own funds pursuant to Chapter 3, section 7 of the Capital Adequacy Act.

In addition, the following conditions shall be met for the exposures to be excluded:
1. The economic substance of the transaction shall be reflected in the securitisation documentation.
2. The credit protection through which the credit risk is transferred shall meet the requirements set out in the credit protection rules in sub-part L3. In this regard, special purpose entities shall not be accepted as issuers of guarantees or unfunded credit derivatives.
3. The instruments used to transfer credit risk may not contain provisions or conditions that
a) stipulate significant thresholds for when credit protection cannot be triggered if a credit event occurs,
b) allow for the termination of the protection due to deterioration of the credit quality of the underlying exposures,
c) other than in the case of early amortisation provisions, require positions in the securitisation to be improved by the originator, or
d) increase the originator's cost of credit protection or the yield payable to holders of securitisation positions if the credit quality of the underlying pool deteriorates.
4. A legal opinion is obtained from an external legal counsel with considerable experience in the field confirming the enforceability of the credit protection in all relevant jurisdictions.

Regulations covering all types of securitisations

Section 4a A significant portion of the credit risk shall be considered to have been transferred to a third party if
1. the total risk-weighted exposure amount for the mezzanine securitisation positions in the securitisation held by the originator does not exceed 50 per cent of

the risk-weighted exposure amount for the total mezzanine securitisation positions in the securitisation, or
2. a) there are no mezzanine securitisation positions in the securitisation,
b) the securitisation positions that shall be deducted from own funds or assigned a risk weight of 1,250 per cent with a significant margin exceed a reasonable estimation of the expected loss on the securitised exposures, and
c) the originator holds at the most 20 per cent of the exposure amount for the securitisation positions that shall be deducted from the own funds or assigned a risk weight of 1,250 per cent.

Even if the conditions in the first paragraph are met, Finansinspektionen can decide in respect of an individual securitisation that the originator may not exclude the securitised exposures from its calculation of risk-weighted exposure amounts. Finansinspektionen can make such a decision if the decrease to the risk-weighted exposure amounts achieved through the securitisation cannot be justified by a proportionate transfer of credit risk.

Section 4b Finansinspektionen may, after the submission of an application, grant that a significant portion of the credit risk is considered to be transferred to a third party and that the originator may thereby exclude the securitised exposures from its calculation of risk-weighted exposure amounts if the originator can show that
1. it applies guidelines and processes that ensure that the decrease to the capital requirements the originator can achieve through the securitisation is justified by a transfer of credit risk to a third party and that this transfer is in proportion to the decrease in the capital requirements, and
2. the transfer of credit risk to a third party is taken into account in the originator's internal risk management and capital allocation.

A decision pursuant to the first paragraph can cover one or more securitisations.

Section 5 If the originator applies section 3, first paragraph, point 1, risk-weighted exposure amounts shall be calculated in accordance with Chapters 48-51 for any own securitisation positions.

If the originator, pursuant to section 3, may not refrain from calculating risk-weighted exposure amounts and expected loss amounts for the securitised exposures in accordance with the IRB approach in sub-part L1, the risk-weighted exposure amount does not need to be calculated for any own positions in the securitisation.

Chapter 48

Section 1 A risk-weighted exposure amount shall be calculated for each securitisation position by multiplying the exposure amount in accordance with section 10 by the risk weight that applies for the position.

Where Finansinspektionen decides that increased risk shall apply pursuant to Chapter 7a, section 7 of the Capital Adequacy Act, the increased risk weight shall be a proportionate extra risk weight of at least 250 per cent of the risk weight that applies to the relevant securitisation positions in accordance with sub-part L2. Finansinspektionen takes into account the number of breaches and the exceptions set out in Chapter 20, section 1c when determining the extra risk weight. Decisions on extra risk weights can at the most result in a risk weight of 1,250 per cent.

Section 1a The originator, sponsor or the original lender has maintained an economic interest in a securitisation if any of them has kept at least 5 per cent net of
1. the nominal value of each tranche sold or transferred to the investors,
2. the originator's share of the nominal value of the securitised exposures in a securitisation of revolving exposures,
3. the nominal value of the securitised exposures by keeping randomly selected exposures that would have otherwise been included in the securitisation in question, provided that the original number of potential securitised exposures is not less than 100, or
4. the nominal value of the securitised exposures by keeping the first loss tranche and, if necessary, even other tranches that have a risk profile that is the same or higher than the tranches sold or transferred to the investors,
provided that the tranches that are kept do not have a shorter maturity than those sold or transferred.

The economic interest is measured on the date of the securitisation. The method chosen to calculate the economic interest may only be modified during the term of the securitisation if exceptional circumstances exist and the investors are informed.

Where there are multiple originators or original lenders in a securitisation, each actor shall fulfil the requirement set out in Chapter 7a, section 1 of the Capital Adequacy Act in proportion to their share of the securitised exposures.

For a resecuritisation, the requirement set out in Chapter 7a, section 1 of the Capital Adequacy Act applies independently to both the securitisation and resecuritisation.

Section 1b An economic interest has not been maintained pursuant to section 1a if the maintained position at any time during the course of the securitisation is sold or covered by credit protection, short positions or other insurances.

Section 1c The requirement set out in Chapter 7a, section 1 of the Capital Adequacy Act regarding maintaining an economic interest does not apply to
1. securitised exposures that are exposures to, or guaranteed by,
a) a central government or central bank,
b) a local authority, a comparable entity or a public body within the EEA,
c) an institute whose exposures are assigned a risk weight of 50 per cent or lower under the standardised approach for credit risk, or
d) a multilateral development bank,
2. transactions that are based on a clear, transparent and publicly available index where the underlying reference assets are identical to either assets in an index with high turnover or transferable securities other than securitisation positions, or
3. syndicated loans, purchased receivables (but not ABCP programmes) or credit swaps where these instruments are not used
to package or hedge a securitisation covered by Chapter 7a, section 1 of the Capital Adequacy Act.

Section 1d A credit institution shall analyse and document information about the following prior to investing in a securitisation:
1. Information indicating that an economic interest of at least 5 per cent net was maintained pursuant to Chapter 7a, section 1 of the Capital Adequacy Act.
2. The risk characteristics of an individual securitisation position.
3. The risk characteristics of the securitisation position's underlying exposures.
4. The originator's or the sponsor's reputation and loss history in previous securitisations of the same exposure type.

5. Statements and information provided by the originator or a sponsor, or their agent or advisor, regarding their investigation into the securitised exposures and, where applicable, the quality of the collateral for the securitised exposures.
6. Where applicable, the valuation methods used for the securitised exposures' collateral and the policy guidelines adopted by the originator or a sponsor to guarantee that the valuation is conducted by an independent party.
7. All structural characteristics of the securitisation that can have a significant impact on the development of the credit institution's exposure in the securitisation.

The credit institution shall immediately conduct a new analysis if a significant event occurs that can have an impact on the securitisation position.

The analysis and information pursuant to this provision shall be documented and be able to be reported to Finansinspektionen.

Section 1e A credit institution shall regularly conduct its own stress tests of its securitisation positions. Financial models developed by an external credit assessment institution or another external party may be used if the credit institution can show that prior to the investment it carefully validated relevant assumptions in the models and that it understands the method, assumptions and results.

Section 1f In order to regularly monitor the securitisation positions' underlying exposures, the credit institution, as a minimum and where appropriate, shall monitor
1. the type of exposure,
2. the share of loans unpaid 30, 60 and 90 days after the due date,
3. the share of defaults,
4. the share of prepaid loans,
5. loans terminated for early repayment,
6. the type of collateral and, in cases where the collateral consists of real estate, the type of real estate and occupancy,
7. the allocation of credit assessments or other measures of creditworthiness for the underlying exposures,
8. industry and geographic distribution, and
9. the distribution of loan-to-value ratios into intervals that facilitate appropriate sensitivity analyses.

Where the underlying exposures consist of securitisation positions, the credit institution shall also apply the first paragraph to the exposures comprising the underlying securitisations.

The credit institution shall follow up at least once a year. In conjunction with a significant event that can affect the risk of the securitisation position, a follow-up shall be conducted immediately.

Section 1g Sponsors and credit institutions that are originators shall provide information that enables credit institutions investing in a securitisation to meet the requirements set out in sections 1d–1f.

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1. These regulations shall enter into force on 1 July 2011 in respect of Chapter 4, sections 1 and 1a, and 30 June 2011 for the remaining regulations.

2. The provisions in Chapter 13, section 8a, Chapter 20, sections 1a–1g and Chapter 48, sections 1a–1g shall apply to securitisations issued as of 30 June 2011.

The same provisions shall apply to securitisations issued prior to 30 June 2011 as of 1 January 2015 if new underlying exposures were added or replaced after 31 December 2014.

3. An institution does not need to apply Chapter 35, section 5a prior to 31 December 2015 for exposures with underlying assets the institution held on 29 June 2011.

MARTIN ANDERSSON

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