

Suppliment tal-Gazzetta tal-Gvern ta' Malta, Nru. 19,406, 10 ta' April, 2015

Taqsimha B

L.N. 130 of 2015

**BANKING ACT
(CAP. 371)**

**CRR (Implementing and Transitional Provisions)
Regulations, 2015**

IN exercise of the powers conferred by article 3 of the Banking Act, the Minister for Finance, acting on the advice of the Malta Financial Services Authority, has made the following regulations:-

1. (1) The title of these regulations is the CRR (Implementing and Transitional Provisions) Regulations, 2015. Citation and scope.

(2) The purpose of these regulations is to implement Articles 49(1), 89(3), 124(2), 400(2), 465, 467, 468, 469, 471(1), 473(1), 474(a), 476(a), 478, 479, 480, 481, 486 and 493(3) of the CRR.

2. (1) In these regulations, unless the context otherwise requires - Interpretation.

"the Act" means the Banking Act; Cap. 371.

"Additional Tier 1 capital" shall have the same meaning as that assigned to it in Article 61 of the CRR;

"Additional Tier 1 items" shall consist of the items indicated in Article 51 of the CRR;

"Common Equity Tier 1 capital" shall have the same meaning as that assigned to it in Article 50 of the CRR;

"Common Equity Tier 1 capital ratio" shall be calculated in accordance with point (a) of Article 92(2) of the CRR;

"Common Equity Tier 1 items" shall consist of the items indicated in Article 26 of the CRR;

"CRR" 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 amended from time to time, and includes any implementing measures that have been or may be made thereunder;

"market value" shall have the same meaning as that assigned to

it in point (76) of Article 4(1) of the CRR;

"own funds instruments" shall have the same meaning as that assigned to it in point (119) of Article 4(1) of the CRR;

"parent financial holding company" shall have the same meaning as that assigned to it in point (30) or (31) of Article 4(1) of the CRR;

"parent institution" shall have the same meaning as that assigned to it in point (28) or (29) of Article 4(1) of the CRR;

"parent mixed financial holding company" shall have the same meaning as that assigned to it in point (32) or (33) of Article 4(1) of the CRR;

"Tier 1 capital" shall have the same meaning as that assigned to it in Article 25 of the CRR;

"Tier 1 capital ratio" shall be calculated in accordance with point (b) of Article 92(2) of the CRR;

"Tier 2 capital" shall have the same meaning as that assigned to it in Article 71 of the CRR;

"Tier 2 items" shall consist of the items indicated in Article 62 of the CRR.

(2) Words and expressions used in these regulations which are also used in the Act but which are not defined herein, shall have the same meaning as in the Act.

Requirement for deduction where consolidation, supplementary supervision or institutional protection schemes are applied.

3. For the purposes of calculating own funds on an individual basis, a sub-consolidated basis and a consolidated basis, as an alternative to the deduction of holdings of own funds instruments of a financial sector entity in which the parent institution, parent financial holding company or parent mixed financial holding company or credit institution has a significant investment, the competent authority shall permit credit institutions to apply method 1, 2 or 3 of Annex I to Directive 2002/87/EC subject to the conditions laid down in Article 49(1) of the CRR. The method chosen shall be applied in a consistent manner over time.

Qualifying holdings outside the financial sector.

4. The competent authority shall apply the requirements laid down in point (a) of Article 89(3) of the CRR to qualifying holdings of credit institutions referred to in Article 89(1) and (2) of the CRR.

5. The competent authority shall, after consulting EBA, apply stricter criteria than those set out in Article 125(2)(d) of the CRR, which will be calculated in accordance with the criteria set out in Article 124(2) of the CRR as specified by the regulatory technical standards referred to in Article 124(4) of the CRR. In particular, the part of the loan to which the 35% risk weight is assigned shall not exceed 70% of the market value of the property in question.

Exposures secured by mortgages on immovable property.

6. (1) The competent authority shall fully exempt the exposures listed in Article 400(2) of the CRR from the application of Article 395(1) of the CRR where the conditions listed in Article 400(3) of the CRR are met.

Large exposures.

(2) By way of derogation from Article 400(2) and (3) of the CRR and in line with Article 493(3) of the CRR, for a transitional period until the entry into force of any legal act following the review in accordance with Article 507 of the CRR, but not after 31 December 2028, the exposures listed in Article 493(3) of the CRR shall be fully exempt from the application of Article 395(1) of the CRR.

7. The competent authority shall apply an outflow rate of 5% for trade finance off-balance sheet related products as referred to in Article 429 and Annex I of the CRR.

Liquidity outflows.

8. The own funds requirements that shall apply during the period from 1 January 2014 to 31 December 2014 shall be:

Own funds requirements.

(a) a Common Equity Tier 1 capital ratio of 4.5%;

(b) a Tier 1 capital ratio of 6%.

9. The applicable percentage for the purposes of Article 467(1) of the CRR shall be:

Unrealised losses measured at fair value.

(a) 100% during the period from 1 January 2014 to 31 December 2014;

(b) 100% during the period from 1 January 2015 to 31 December 2015;

(c) 100% during the period from 1 January 2016 to 31 December 2016; and

(d) 100% for the period from 1 January 2017 to 31 December 2017.

10. (1) The applicable percentage for the purposes of Article 468(1) of the CRR shall be:

Unrealised gains measured at fair value.

(a) 60% during the period from 1 January 2015 to 31 December 2015;

(b) 40% during the period from 1 January 2016 to 31 December 2016; and

(c) 20% for the period from 1 January 2017 to 31 December 2017.

(2) The applicable percentage for the purposes of Article 468(4) of the CRR shall be:

(a) 20% for the period from 1 January 2014 to 31 December 2014;

(b) 40% for the period from 1 January 2015 to 31 December 2015;

(c) 60% for the period from 1 January 2016 to 31 December 2016; and

(d) 80% for the period from 1 January 2017 to 31 December 2017.

Deductions
from Common
Equity Tier 1
items.

11. (1) The applicable percentage for the purposes of Article 469(1)(a) of the CRR as it applies to the items referred to in points (a)-(b) of Article 36(1) of the CRR shall be:

(a) 100% during the period from 1 January 2014 to 31 December 2014;

(b) 100% during the period from 1 January 2015 to 31 December 2015;

(c) 100% during the period from 1 January 2016 to 31 December 2016; and

(d) 100% for the period from 1 January 2017 to 31 December 2017.

(2) The applicable percentage for the purposes of Article 469(1)(a) of the CRR as it applies to the items referred to in points (c)-(h) of Article 36(1) of the CRR excluding deferred tax assets that rely on future profitability and arise from temporary differences shall be:

(a) 20% during the period from 1 January 2014 to 31 December 2014;

(b) 40% during the period from 1 January 2015 to 31 December 2015;

(c) 60% during the period from 1 January 2016 to 31 December 2016; and

(d) 80% for the period from 1 January 2017 to 31 December 2017.

(3) The applicable percentage for the purposes of Article 469(1)(c) of the CRR shall be:

(a) 20% during the period from 1 January 2014 to 31 December 2014;

(b) 40% during the period from 1 January 2015 to 31 December 2015;

(c) 60% during the period from 1 January 2016 to 31 December 2016; and

(d) 80% for the period from 1 January 2017 to 31 December 2017.

(4) By way of derogation from sub-regulation (3) above, for the items referred to in point (c) of Article 36(1) of the CRR that existed prior to 1 January 2014, the applicable percentage for the purpose of Article 469(1)(c) of the CRR shall be:

(a) 0% during the period from 1 January 2014 to 31 December 2014;

(b) 10% during the period from 1 January 2015 to 31 December 2015;

(c) 20% during the period from 1 January 2016 to 31 December 2016;

(d) 30% during the period from 1 January 2017 to 31 December 2017;

(e) 40% during the period from 1 January 2018 to 31 December 2018;

(f) 50% during the period from 1 January 2019 to 31 December 2019;

(g) 60% during the period from 1 January 2020 to 31

December 2020;

(h) 70% during the period from 1 January 2021 to 31 December 2021;

(i) 80% during the period from 1 January 2022 to 31 December 2022;

(j) 90% during the period from 1 January 2023 to 31 December 2023.

Exemption from Deduction of Equity Holdings in Insurance Companies from Common Equity Tier 1 items.

12. The competent authority shall permit credit institutions to not deduct equity holdings in insurance undertakings, reinsurance undertakings and insurance holding companies where the conditions laid down in Article 471 of the CRR are met.

Introduction of amendments to IAS 19.

13. The competent authority shall permit credit institutions to add to their Common Equity Tier 1 capital the applicable amount in accordance with Article 473(2) and (3) of the CRR, as applicable, multiplied by the factor applied in accordance with Article 473(4) of the CRR.

Deductions from Additional Tier 1 items.

14. The applicable percentage for the purposes of Article 474(a) of the CRR shall be:

(a) 20% during the period from 1 January 2014 to 31 December 2014;

(b) 40% during the period from 1 January 2015 to 31 December 2015;

(c) 60% during the period from 1 January 2016 to 31 December 2016; and

(d) 80% for the period from 1 January 2017 to 31 December 2017.

Deductions from Tier 2 items.

15. The applicable percentage for the purposes of Article 476(a) of the CRR shall be:

(a) 20% during the period from 1 January 2014 to 31 December 2014;

(b) 40% during the period from 1 January 2015 to 31 December 2015;

(c) 60% during the period from 1 January 2016 to 31 December 2016; and

(d) 80% for the period from 1 January 2017 to 31 December 2017.

16. The applicable percentage for the purposes of Article 479(2) of the CRR shall be:

Recognition in consolidated Common Equity Tier 1 capital of instruments and items that do not qualify as minority interests.

(a) 80% for the period from 1 January 2014 to 31 December 2014;

(b) 60% for the period from 1 January 2015 to 31 December 2015;

(c) 40% for the period from 1 January 2016 to 31 December 2016; and

(d) 20% for the period from 1 January 2017 to 31 December 2017.

17. The applicable factor for the purpose of Article 480(1) of the CRR shall be:

Recognition in consolidated own funds of minority interests and qualifying Additional Tier 1 and Tier 2 capital.

(a) 0,2 in the period from 1 January 2014 to 31 December 2014;

(b) 0,4 in the period from 1 January 2015 to 31 December 2015;

(c) 0,6 in the period from 1 January 2016 to 31 December 2016; and

(d) 0,8 in the period from 1 January 2017 to 31 December 2017.

18. (1) The applicable percentage for the purposes of Article 481(1) of the CRR for the inclusion of unrealised gains measured at fair value in Tier 2 capital shall be:

Additional filters and deductions.

(a) 80% for the period from 1 January 2014 to 31 December 2014;

(b) 60% for the period from 1 January 2015 to 31 December 2015;

(c) 40% for the period from 1 January 2016 to 31 December 2016; and

(d) 20% for the period from 1 January 2017 to 31 December 2017.

(2) The applicable percentage for the purposes of Article 481(2) of the CRR for the period from 1 January 2014 to 31 December 2014 shall be 50%.

Limits for
grandfathering
of items within
Common Equity
Tier 1,
Additional Tier
1 and Tier 2
items.

19. The applicable percentage for the purposes of Article 486(2), (3) and (4) of the CRR shall be:

(a) 80% during the period from 1 January 2014 to 31 December 2014;

(b) 70% during the period from 1 January 2015 to 31 December 2015;

(c) 60% during the period from 1 January 2016 to 31 December 2016;

(d) 50% during the period from 1 January 2017 to 31 December 2017;

(e) 40% during the period from 1 January 2018 to 31 December 2018;

(f) 30% during the period from 1 January 2019 to 31 December 2019;

(g) 20% during the period from 1 January 2020 to 31 December 2020;

(h) 10% during the period from 1 January 2021 to 31 December 2021.

