Annex

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Banking (Capital) (Amendment) Rules 2014

Banking (Capital) (Amendment) Rules 2014

(Made by the Monetary Authority under section 97C of the Banking Ordinance (Cap. 155) after consultation with the Financial Secretary, the Banking Advisory Committee, the Deposit-taking Companies Advisory Committee, The Hong Kong Association of Banks and The Hong Kong Association of Restricted Licence Banks and Deposit-taking Companies)

1. Commencement

These Rules come into operation on 1 January 2015.

2. Banking (Capital) Rules amended

The Banking (Capital) Rules (Cap. 155 sub. leg. L) are amended as set out in sections 3 to 20.

3. Section 2 amended (interpretation)

(1) Section 2(1), definition of ***collective provisions***—

Repeal

everything after "exposures of an"

Substitute

"authorized institution—

(a) means an allowance for impairment loss in respect of a group of exposures where—

(i) the group of exposures is considered by the institution as having similar credit risk characteristics that are indicative of the debtors' ability to pay all amounts due according to the contractual terms of the group of exposures; and

(ii) the impairment loss has been assessed by the institution on a collective basis in respect of the group of exposures by reference to historical loss experience in respect of exposures with similar credit risk characteristics, relevant observable data reflecting current market conditions and other relevant factors; but

(b) does not include any allowance for impairment loss ascribed to identified deterioration of particular assets or known liabilities, whether individual or grouped;".

(2) Section 2(1)—

Add in alphabetical order

"***investing institution*** ( ) has the meaning given by section 227(1);

originating institution ( ) has the meaning given by section 227(1);".

4. Section 2A added

Part 1, after section 2—

Add

"2A. Application

These Rules apply to an authorized institution incorporated in Hong Kong.".

5. Part 1B added

After Part 1A—

Add

"Part 1B

Additional CET1 Capital Required to be Maintained Before Distribution Payment Allowed

Division 1—General

3F. Interpretation of Part 1B

(1) In this Part—

buffer level (　)— see section 3H;

CB ratio (　) means the capital conservation buffer ratio applicable to all authorized institutions as specified in section 3N;

CCyB ratio (　), in relation to an authorized institution, means the countercyclical capital buffer ratio applicable to the institution as specified in section 3P;

distributable profits (　), in relation to an authorized institution, means the profits after taxation generated in a financial year out of which the institution may make a distribution payment;

distribution payment (　), in relation to the making of a payment by an authorized institution—

(a) means—

(i) payment of dividends;

(ii) payment for purchase of the institution's own shares;

(iii) discretionary payment on Additional Tier 1 capital instruments;

(iv) discretionary bonus payment to the directors, senior management and employees of the institution; and

(v) any other payment which is in substance a distribution of the institution's CET1 capital; but

(b) does not include any payment that does not deplete the institution's CET1 capital;

domestic systemically important authorized institution (　) means an authorized institution so designated by the Monetary Authority under section 3ZB;

D-SIB (　) means domestic systemically important authorized institution;

earnings (　), in relation to an authorized institution, means its distributable profits generated in a financial year—

(a) plus any distribution payment made, and deducted from the institution's income, in the financial year; and

(b) net of any additional tax that would have been reported if no distribution payments had been made in the financial year;

global systemically important authorized institution (　) means an authorized institution so designated by the Monetary Authority under section 3Z;

G-SIB ( ) means global systemically important authorized institution;

HLA ratio ( ) means the higher loss absorbency ratio—

(a) determined for a G-SIB under section 3ZA; or

(b) determined for a D-SIB under section 3ZC;

maximum distributable amount ( )—see section 3J;

minimum capital adequacy ratio requirement ( ) means the requirement under section 3B applicable to an authorized institution as may be varied by the Monetary Authority under section 97F of the Ordinance;

net CET1 capital ( ), in relation to an authorized institution, means the institution's CET1 capital less the amount from the CET1 capital which the institution requires for the purpose of complying with the minimum capital adequacy ratio requirement;

(2) The ***net CET1 capital ratio*** for an authorized institution is determined in the same way as the institution's CET1 capital ratio under these Rules, except that the institution's net CET1 capital is used in place of the institution's CET1 capital for the determination.

(3) For this Part—

(a) where an authorized institution creates an obligation to make a distribution payment, the institution is treated as making a distribution payment; and

(b) where an authorized institution intends to create an obligation to make a distribution payment, the institution is treated as intending to make a distribution payment.

Division 2—Constraints on Distribution Payment

3G. Distribution payment requirements

(1AA) This section applies in relation to an authorized institution with effect from—

(a) 1 January 2016; or

(b) if earlier, from the date on which a buffer level greater than zero is applicable to the institution.

(1) No distribution payment may be made by an authorized institution in a financial year unless this section is complied with.

(1A) Without prejudice to any requirement imposed on an authorized institution under any other Parts, subsection (1B), (1C) or (1D) applies to the institution if it intends to make a distribution payment in a financial year.

(1B) If an authorized institution's net CET1 capital ratio is above its buffer level, irrespective of whether the institution has earnings for the preceding financial year, the institution may make the payment if section 3KA, where applicable, is complied with.

(1C) If an authorized institution's net CET1 capital ratio is equal to or below its buffer level, and the institution does not have earnings for the preceding financial year, the institution may not make the payment.

(1D) If an authorized institution's net CET1 capital ratio is equal to or below its buffer level, and the institution has earnings for the preceding financial year, the institution may make the payment in accordance with section 3J if section 3L(2) is complied with.

3H. Buffer level

Subject to section 3K, there is applicable to an authorized institution a buffer level that is expressed as a percentage and calculated according to the following formula—

(a) if the institution is a G-SIB or D-SIB—

CB ratio + CCyB ratio + HLA ratio

(b) in any other case—

CB ratio + CCyB ratio.

3J. Maximum distributable amount

(1) Subject to section 3K, any distribution payment that may be made by an authorized institution during a financial year under section 3G(1D) must not exceed the greater of—

(a) zero; and

(b) the maximum distributable amount notified to the Monetary Authority under section 3L(2)(a) as calculated in accordance with subsection (2) less the aggregate amount of those distribution payments that have already been made in the year, whether under section 3G(1B) or (1D).

(2) The maximum distributable amount is the product of—

(a) the institution's earnings for the financial year immediately preceding the financial year in which the institution notifies the Monetary Authority of the maximum distributable amount under section 3L(2)(a); and

(b) the maximum distribution percentage determined by reference to the quartile of the institution's buffer level within which the institution's net CET1 capital ratio falls, as listed in Table 1AA.

Table 1AA

Quartile of buffer level within which net CET1 capital ratio falls:	**Maximum distribution percentage**
1st quartile (0% to 25% of buffer level)	0%
2nd quartile (more than 25% to 50% of buffer level)	20%
3rd quartile (more than 50% to 75% of buffer level)	40%
4th quartile (more than 75% to 100% of buffer level)	60%

(3) For the purpose of subsection (2)(b), an authorized institution must determine the quartile of the institution's buffer level within which the institution's net CET1 capital ratio falls as at the latest practicable date (***position date***)—

(a) which must be not more than 2 months prior to the date on which the institution notifies the Monetary Authority of the maximum distributable amount under section 3L(2)(a); and

(b) for which the institution has the necessary data readily available for making the determination.

3K. Monetary Authority may require buffer level and maximum distribution percentage to be applied on unconsolidated or consolidated basis where there is subsidiary

(1) For the purposes of applying the buffer level and the maximum distribution percentage to an authorized institution that has one or more subsidiaries, the Monetary Authority may, by notice in writing given to the institution, require the buffer level and the maximum distribution percentage to be applied—

(a) on an unconsolidated basis in respect of the institution;

(b) on a consolidated basis in respect of the institution and one or more of such subsidiaries; or

(c) on an unconsolidated basis in respect of the institution and on a consolidated basis in respect of the institution and one or more or such subsidiaries.

(2) An authorized institution must comply with the requirements of a notice given to it under subsection (1).

3KA. What authorized institution must do where net CET1 capital ratio above the buffer level

(1) This section applies in relation to an authorized institution with effect from—

(a) 1 January 2016; or

(b) if earlier, from the date on which a buffer level greater than zero is applicable to the institution.

(2) If an authorized institution's net CET1 capital ratio is above the buffer level and it intends to make a distribution payment that would result in its net CET1 capital ratio being equal to, or falling below, the buffer level, the institution must—

(a) consult the Monetary Authority in advance of making the distribution payment; and

(b) submit to the Monetary Authority, within such period as the Monetary Authority may specify in writing (being a period reasonable in all the circumstances), for approval a capital plan setting out the measures proposed to be taken by the institution, within such time frame as the Monetary Authority may specify, to manage and improve the institution's capital position.

3L. What authorized institution must do where net CET1 capital ratio not above the buffer level

(1A) This section applies in relation to an authorized institution with effect from—

(a) 1 January 2016; or

(b) if earlier, from the date on which a buffer level greater than zero is applicable to the institution.

(1) If an authorized institution's net CET1 capital ratio is equal to or below the institution's buffer level, the institution must, on becoming aware of the fact, immediately notify the Monetary Authority and specify the quartile of the buffer level that the net CET1 capital ratio falls within.

(2) If an authorized institution's net CET1 capital ratio is equal to or below the institution's buffer level, and the institution intends to make a distribution payment, the institution—

(a) must, within one month prior to making the distribution payment, notify the Monetary Authority of the maximum distributable amount applicable to the institution;

(b) must provide the Monetary Authority with any particulars that the Monetary Authority requires; and

(d) must submit to the Monetary Authority, within such period as the Monetary Authority may specify in writing (being a period reasonable in all the circumstances), for approval a capital plan setting out the measures proposed to be taken by the institution, within such time frame as the Monetary Authority may specify, to manage and improve the institution's capital position.

3M. Other requirement

(1A) This section applies in relation to an authorized institution with effect from—

(a) 1 January 2016; or

(b) if earlier, from the date on which a buffer level greater than zero is applicable to the institution.

(1) An authorized institution must consult the Monetary Authority in advance—

(a) if the institution intends to raise capital in the private sector for the purpose of putting itself into a position to make a distribution payment in excess of the maximum distributable amount that would have otherwise been applicable to the institution in the absence of such intended capital raising; and

(b) where the amount of such intended capital would not result in any noticeable improvement in the capital position of the institution after making of the distribution payment.

Division 3—Capital Conservation Buffer Ratio

3N. Capital conservation buffer ratio

The CB ratio—

(aa) for 2015, is 0%;

(a) for 2016, is 0.625%;

(b) for 2017, is 1.25%;

(c) for 2018, is 1.875%; and

(d) at any time on or after 1 January 2019, is 2.5%.

Division 4—Countercyclical Capital Buffer Ratio

3O. Interpretation of Division 4

In this Division—

applicable JCCyB ratio ( ), in relation to a jurisdiction in which an authorized institution has private sector credit exposures, means—

(a) (where the jurisdiction is a place outside Hong Kong) an applicable JCCyB ratio as specified in section 3QA; or

(b) (where the jurisdiction is Hong Kong) an applicable JCCyB ratio as specified in section 3SA;

effective date ( ), in relation to a JCCyB ratio or an applicable JCCyB ratio, means the date on which the ratio becomes effective;

JCCyB ratio ( ), in relation to a jurisdiction outside Hong Kong in which an authorized institution has private sector credit exposures, means—

(a) a countercyclical capital buffer level, expressed as a percentage, announced by the relevant authority of the jurisdiction for the purpose of implementing the provisions concerning the countercyclical capital buffer in the document entitled "Basel III: A global regulatory framework for more resilient banks and banking systems" published by the Basel Committee in December 2010 (revised in June 2011); or

(b) if no such announcement has been made, 0%;

pre-announcement period ( ) means the period of time between—

(a) the date on which a JCCyB ratio is announced by the relevant authority of a jurisdiction; and

(b) the effective date of the ratio;

private obligor ( ) means an obligor who is none of the following—

(a) a sovereign;

(b) a regional, provincial or municipal government;

(c) a public sector entity;

(d) a multilateral development bank;

(e) a bank;

private sector credit exposures ( ), in relation to an authorized institution, means—

(a) non-securitization exposures for which the institution calculates a risk-weighted amount for credit risk in accordance with Parts 4, 5, 6 or Division 4 of Part 6A;

(b) securitization exposures for which the institution calculates a risk-weighted amount for credit risk in accordance with Part 7; or

(c) exposures for which the institution calculates a market risk capital charge for specific risk in accordance with Part 8,

to the extent that such exposures are to a private obligor only;

ultimate risk basis ( ) means the allocation of private sector credit exposures to the jurisdiction where the risk ultimately lies to the best of an authorized institution's knowledge and information.

3P. Countercyclical Capital Buffer Ratio

(1) The CCyB ratio for determining an authorized institution's buffer level under section 3H is calculated by the use of Formula 1A.

Formula 1A

$$CCyB = \frac{\sum_{j} \left(RWA_j \cdot AJCCyB_j \right)}{\sum_{j} RWA_j}$$

where—

CCyB = the institution's CCyB ratio for determining its buffer level under section 3H;

RWA_j = the sum of—

(a) the risk-weighted amount for credit risk that relates to the institution's private sector credit exposures in jurisdiction j calculated in accordance with—

(i) Parts 4, 5, 6, Division 4 of Part 6A; and

(ii) Part 7; and

(b) the risk-weighted amount for market risk that relates to the institution's private sector credit exposures in jurisdiction j derived by multiplying by 12.5 the aggregate of the market risk capital charge for specific risk for the exposures calculated in accordance with Part 8 (*Note*: where the institution is exempted by the Monetary Authority under section 22(1) from calculating its market risk under section 17, this subparagraph is to be disregarded);

$AJCCyB_j$ = the applicable JCCyB ratio in respect of jurisdiction j that is in effect on the position date referred to in section 3J(3) as at which the institution calculates its CCyB ratio for determining its buffer level under section 3H.

(2) Subject to subsection (2A), the jurisdiction in which an authorized institution is considered to have private sector credit exposures must be determined by the institution, where possible, on an ultimate risk basis.

(2A) If, in relation to an authorized institution, it is not possible to determine under subsection (2) the jurisdiction in which the institution has private sector credit exposures, the jurisdiction is taken to be the jurisdiction where the exposures are booked.

3QA. Applicable JCCyB ratio for a jurisdiction outside Hong Kong

(1AA) This section applies in relation to a jurisdiction outside Hong Kong in which an authorized institution has private sector credit exposures.

(1AB) Prior to 1 January 2016, the applicable JCCyB ratio for a jurisdiction is 0%.

(1A) For any time on or after 1 January 2016, where a JCCyB ratio for a jurisdiction is not more than 2.5%—

(a) subject to paragraph (b), the applicable JCCyB ratio for the jurisdiction is equal to the JCCyB ratio; or

(b) if an announcement is made by the Monetary Authority under subsection (1B), the applicable JCCyB ratio is the one as announced by the Monetary Authority.

(1B) For subsection (1A)(b), where the Monetary Authority reasonably considers that the JCCyB ratio is not sufficient to adequately bolster authorized institutions' resilience in view of the risks posed to the institutions by reason of the excessive credit growth in the jurisdiction, the Monetary Authority may announce, in accordance with subsection (6), a higher ratio at not more than 2.5% to be the applicable JCCyB ratio.

(1C) For any time on or after 1 January 2016, where a JCCyB ratio for a jurisdiction is more than 2.5%—

(a) subject to paragraph (b), the applicable JCCyB ratio for the jurisdiction is 2.5%; or

(b) if an announcement is made by the Monetary Authority under subsection (1), the applicable JCCyB ratio is the one as announced by the Monetary Authority.

(1) For subsection (1C)(b), where the Monetary Authority reasonably considers that a higher applicable JCCyB ratio is necessary to adequately bolster authorized institutions' resilience in view of the risks posed to the institutions by reason of the excessive credit growth in the jurisdiction, the Monetary Authority may announce, in accordance with subsection (6), the JCCyB ratio to be the applicable JCCyB ratio.

(3) The effective date of a JCCyB ratio for a jurisdiction is taken to be the effective date of the applicable JCCyB ratio for the jurisdiction unless—

(a) where the JCCyB ratio is higher than the previous one, the pre-announcement period for the JCCyB ratio is less than 6 months or more than 12 months; or

(b) the Monetary Authority reasonably considers that, with a view to ensuring adequate resilience of authorized institutions, or the effective working of the banking system in Hong Kong, the effective date of the applicable JCCyB ratio should be different from that of the JCCyB ratio.

(4) In the case of subsection (3)(a), subject to subsection (5), the effective date of the applicable JCCyB ratio for the jurisdiction is taken to be—

(a) where the pre-announcement period is less than 6 months, the same as that of the JCCyB ratio as if the pre-announcement period had been 6 months; or

(b) where the pre-announcement period is more than 12 months, the same as that of the JCCyB ratio as if the pre-announcement period had been 12 months.

(5) In the case of subsection (3)(b), the Monetary Authority may announce, in accordance with subsection (6), the effective date of the applicable JCCyB ratio for the jurisdiction to be a date—

(a) (subject to paragraph (b)) not more than 12 months after the announcement by the Monetary Authority; and

(b) (where the applicable JCCyB ratio is higher than the previous one) not less than 6 months after the announcement by the Monetary Authority.

(6) An announcement made under subsections (1B), (1) and (5) must be made by the Monetary Authority by—

(a) notifying all authorized institutions in writing; and

(b) posting a notification on the Monetary Authority's website.

3SA. Applicable JCCyB ratio for Hong Kong

(1AA) Prior to 1 January 2016, subject to this section, the applicable JCCyB ratio for Hong Kong is 0%.

(1A) Subject to subsections (1B) and (1), if the Monetary Authority reasonably considers that a period of excessive credit growth in Hong Kong is leading to a build-up of system-wide risks in the financial system of Hong Kong, based on the Monetary Authority's assessment of the extent of risk, the Monetary Authority may announce, in accordance with subsection (7), a ratio above zero to be the applicable JCCyB ratio for authorized institutions which have private sector credit exposures in Hong Kong.

(1B) For subsection (1A), the applicable JCCyB ratio—

(a) for 2016, must be not more than 0.625%;

(b) for 2017, must be not more than 1.25%;

(c) for 2018, must be not more than 1.875%;

(d) at any time on or after 1 January 2019, must be not more than 2.5%;

(1) The Monetary Authority may, after consulting the Banking Advisory Committee, the Deposit-taking Companies Advisory Committee, The Hong Kong Association of Banks and The DTC Association, take any of the actions specified in subsections (2) and (3).

(2) The Monetary Authority may, subject to subsections (3) and (4), vary, by announcement in accordance with subsection (7), the provisions under subsection (1B) if—

(a) the Monetary Authority reasonably considers that the variation is warranted by the extent of any excessive credit growth in Hong Kong during the period covered by the provisions; and

(b) the Monetary Authority reasonably considers that the variation would have the effect of increasing authorized institutions' resilience to the risks arising from such excessive credit growth.

(3) The Monetary Authority may announce a ratio of more than 2.5% to be an applicable JCCyB ratio if—

(a) the latest applicable JCCyB ratio is 2.5% and has been in effect for a period of not less than 6 months;

(b) the Monetary Authority reasonably considers that the pace of credit growth did not slow to any material extent during the period; and

(c) the Monetary Authority reasonably considers it necessary to decide a ratio of more than 2.5% to be the applicable JCCyB ratio in order to protect authorized institutions from the expected consequences of excessive credit growth and the build-up of system-wide risks in Hong Kong.

(4) If an applicable JCCyB ratio announced by the Monetary Authority is higher than the previous one, the Monetary Authority must announce, in accordance with subsection (7), the applicable JCCyB ratio not less than 6 months and not more than 12 months before the effective date of the applicable JCCyB ratio.

(6) Where the Monetary Authority reasonably considers that the system-wide risks associated with a period of excessive credit growth are receding, or that the banking sector may be entering a period of stress, the Monetary Authority may reduce, by announcement in accordance with subsection (7), the applicable JCCyB ratio.

(7) An announcement made under subsections (1A), (2), (3) and (6) must be made by the Monetary Authority by—

(a) notifying all authorized institutions in writing; and

(b) posting a notification on the Monetary Authority's website.

3SB. Distribution payments made after reduction of an applicable JCCyB ratio

(1) An authorized institution must comply with subsection (2) if—

(a) a latest applicable JCCyB ratio for Hong Kong, or for a jurisdiction outside Hong Kong, is lower than the previous one; and

(b) the institution intends, within a period of 12 months after the effective date of the latest applicable JCCyB ratio, to use for making a distribution payment any of its earnings that would have been subject to constraint on distribution payments under this Part but for the lower applicable JCCyB ratio.

(2) In the case of subsection (1), an authorized institution must—

(a) consult the Monetary Authority in advance of making the payment; and

(b) provide the Monetary Authority with a justification regarding the prudence of the intended distribution payment within the context of the institution's capital planning.

Division 5—Higher Loss Absorbency Ratio

3Z. Global systemically important institution

The Monetary Authority may designate an authorized institution as a G-SIB if, in the opinion of the Monetary Authority, the risks associated with the institution are such as to render the institution capable of having a significant impact on the effective working and stability of the global financial system were the institution to become non-viable.

3ZA. Higher loss absorbency ratio as applicable to G-SIB

(1) Subject to subsection (3) and section 3ZD, the Monetary Authority may, by reference to the degree of global systemic importance which it assesses a G-SIB to bear, determine for the institution an HLA ratio as specified in subsection (2).

(2) The HLA ratio applicable to the G-SIB concerned—

(aa) for 2015, is 0%;

(a) for 2016, must be not less than 0.25% and not more than 0.875%;

(b) for 2017, must be not less than 0.5 % and not more than 1.75%;

(c) for 2018, must be not less than 0.75 % and not more than 2.625%; and

(d) at any time on or after 1 January 2019, must be not less than 1 % and not more than 3.5%.

(3) The Monetary Authority must notify the G-SIB concerned in writing of the HLA ratio determined for the institution, and the institution must apply, within 12 months from the notification, the HLA ratio to the calculation of its buffer level.

3ZB. Domestic systemically important institution

The Monetary Authority may designate an authorized institution as a D-SIB if, in the opinion of the Monetary Authority, the risks associated with the institution are such as to render the institution capable of having a significant impact on the effective working and stability of the banking or financial system of Hong Kong were the institution to become non-viable.

3ZC. Higher loss absorbency ratio as applicable to D-SIB

(1) Subject to subsection (3) and section 3ZD, the Monetary Authority may, by reference to the degree of domestic systemic importance which it assesses a D-SIB to bear, determine for the institution an HLA ratio as specified in subsection (2).

(2) The HLA ratio applicable to the D-SIB concerned—

(aa) for 2015, is 0%;

(a) for 2016, must be not less than 0.25% and not more than 0.875%;

(b) for 2017, must be not less than 0.5 % and not more than 1.75%;

(c) for 2018, must be not less than 0.75 % and not more than 2.625%; and

(d) at any time on or after 1 January 2019, must be not less than 1 % and not more than 3.5%.

(3) The Monetary Authority must notify the D-SIB concerned in writing of the HLA ratio determined for the institution, and the institution must apply, within

12 months from the notification, the HLA ratio to the calculation of its buffer level.

3ZD. Where authorized institution being both G-SIB and D-SIB

If an authorized institution is designated under this Division as both a G-SIB and a D-SIB, the HLA ratio applicable to the authorized institution is the higher of the following—

(a) the HLA ratio applicable to the authorized institution as a G-SIB; and

(b) the HLA ratio applicable to the authorized institution as a D-SIB.

3ZE. Where authorized institution and its subsidiary both a D-SIB

If an authorized institution is the subsidiary of a D-SIB, and the Monetary Authority also designates the authorized institution as a D-SIB, the Monetary Authority may determine under section 3ZC(1) for the authorized institution an HLA ratio that is different from the one determined for the D-SIB of which the authorized institution is a subsidiary.".

6. Section 15 amended (authorized institution shall only use STC(S) approach or IRB(S) approach to calculate its credit risk for securitization exposures)

(1) Section 15, heading—

Repeal

"**shall only**"

Substitute

"**must only**".

(2) Section 15(3)—

Repeal

"shall use the STC(S) approach"

Substitute

"must use the approach or method as specified in subsection (3A)".

(3) After section 15(3)—

Add

"(3A) The institution under subsection (3) must use—

(a) (if it is an originating institution) the STC(S) approach; or

(b) (if it is an investing institution) the ratings-based method.".

7. Section 27 amended (authorized institution shall calculate its capital adequacy ratio on solo basis, solo-consolidated basis or consolidated basis)

(1) Section 27(3), definition of ***relevant financial activity***, paragraph (i)—

Repeal

"or".

(2) Section 27(3), definition of relevant financial activity, paragraph (j)—

Repeal

"the full stop"

Substitute

"; or".

(3) Section 27(3), definition of relevant financial activity, after paragraph (j)—

Add

"(k) custodial and safekeeping services.".

8. Section 69 amended (application of ECAI ratings)

Section 69(5), chapeau—

Repeal

"falls within paragraph (a) of that subsection"

Substitute

"as described in the chapeau of that subsection".

9. Section 145 amended (equity exposures)

After section 145(3)—

Add

"(4) In this section, ***corporate*** ( ) includes a bank or a securities firm.".

10. Section 149 amended (default of obligor)

Section 149(6)(c)—

Repeal

"internal data or".

11. Section 205 amended (recognized financial receivables)

(1) Section 205(2)—

Repeal

everything after "derived from"

Substitute

"the following do not fall within subsection (1)—

(a) securitization transactions;

(b) sub-participations;

(c) credit derivative contracts; and

(d) any affiliates of a direct obligor of an authorized institution.".

(2) After section 205(2)—

Add

"(3) For the purposes of subsection (2), ***affiliate***, in relation to a direct obligor of an authorized institution, means—

(a) a subsidiary of the direct obligor;

(b) a person that belongs to the same group of companies as the direct obligor; or

(c) an employee of the direct obligor.".

12. Section 216 amended (provisions supplementary to section 214(1)—substitution framework for corporate, sovereign and bank exposures under foundation IRB approach and for equity exposures under PD/LGD approach)

(1) Section 216(1)—

Repeal

"(5) and (6)"

Substitute

"(5), (6) and (7)".

(2) After section 216(6)—

Add

"(7) Where the credit protection in respect of an authorized institution's exposure consists of a recognized credit derivative contract providing that, on the happening of a credit event—

(a) the credit protection provider is not obliged to make a payment in respect of any loss until the loss exceeds a specified amount (referred to in this subsection as ***first loss portion***); and

(b) the credit protection provider is not obliged to make a payment in respect of any loss except to the extent that the loss exceeds the first loss portion,

the institution must, in calculating its capital adequacy ratio, allocate a risk-weight of 1,250% to the first loss portion.".

13. Section 227 amended (interpretation of Part 7)

(1) Section 227(1), definition of ***excess spread***—

Repeal

everything after "means"

Substitute

"interest and other income derived by the SPE in the transaction from the underlying exposures in the transaction in excess of the transaction costs (including servicing fees and other expenses incurred by the SPE) and any interest payments and charge-offs incurred or made by the SPE, as specified in the documentation for the transaction, expressed as a percentage of the underlying exposures;".

(2) Section 227(1), definition of ***special purpose entity***—

Repeal

"insulates the underlying exposures transferred to it"

Substitute

"is insulated".

14. Section 232A amended (recognized guarantees and recognized credit derivative contracts)

(1) Section 232A(1)—

Repeal

"(2) and (3)"

Substitute

"(2), (3) and (4)".

(2) After section 232A(3)—

Add

"(4) For subsection (1)—

(a) a guarantee for which the guarantor is an SPE does not constitute a recognized guarantee under this Part; and

(b) a credit derivative contract for which the protection seller is an SPE does not constitute a recognized credit derivative contract under this Part".

15. Section 235 amended (provisions supplementary to section 234)

(1) Section 235(1)—

Repeal

"protection to a securitization issue"

Substitute

"protection for a securitization exposure".

(2) Section 235(1)—

Repeal

"investor in the securitization issue"

Substitute

"investor in the securitization transaction".

16. Section 261 amended (provisions supplementary to section 260)

(1) Section 261(1)—

Repeal

"protection to a securitization issue"

Substitute

"protection for a securitization exposure".

(2) Section 261(1)—

Repeal

"investor in the securitization issue"

Substitute

"investor in the securitization transaction".

17. Section 269 amended (provisions supplementary to section 268)

(1) Section 269(1)—

Repeal

"protection to a securitization issue"

Substitute

"protection for a securitization exposure".

(2) Section 269(1)—

Repeal

"investor in the securitization issue"

Substitute

"investor in the securitization transaction".

18. Schedule 1 amended (specifications for purposes of certain definitions in these Rules)

Schedule 1, Part 10—

Add

"

5.	European Financial Stability Facility.
6.	European Stability Mechanism.

".

19. Schedule 4B amended (qualifying criteria to be met to be Additional Tier 1 capital)

(1) Schedule 4B, section 1(q)(vii)—

Repeal

"and".

(2) Schedule 4B, after section 1(q)(vii)—

Add

"(viia) the institution obtains the prior consent of the Monetary Authority before including, as Additional Tier 1 capital, any issuance of a capital instrument the terms and conditions of which provide for trigger events in addition to the trigger events specified under this paragraph; and".

(3) Schedule 4B, section 1(q)(viii)—

Repeal

"and obtains the prior consent of the Monetary Authority".

20. Schedule 4C amended (qualifying criteria to be met to be Tier 2 capital)

(1) Schedule 4C, section 1(k)(vii)—

Repeal

"and".

(2) Schedule 4C, after section 1(k)(vii)—

Add

"(viia) the institution obtains the prior consent of the Monetary Authority before including, as Tier 2 capital, any issuance of a capital instrument the terms and conditions of which provide for trigger events in addition to the trigger events specified under this paragraph; and".

(3) Schedule 4C, section 1(k)(viii)—

Repeal

"and obtains the prior consent of the Monetary Authority".

Monetary Authority

2014