Ordinance concerning Capital Adequacy and Risk Diversification for Banks and Securities Firms

(Capital Adequacy Ordinance, CAO)

SR **952.03**
of 1 June 2012 (status as at 28 March 2020)

KPMG

FINANCIAL SERVICES

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DE: Verordnung über die Eigenmittel und Risikoverteilung für Banken und Wertpapierhäuser vom 28.3.2020

FR: Ordonnance sur les fonds propres et la répartition des risques des banques et maisons de titres du 28.3.2020

IT: Ordinanza sui fondi propri e sulla ripartizione dei rischi delle banche e delle società di intermediazione mobiliare delle 28.3.2020

Unofficial translation of August 2020

Ordinance concerning Capital Adequacy and Risk Diversification for Banks and Securities Firms[1] 952.03

(Capital Adequacy Ordinance, CAO)

of 1 June 2012 (status as at 28 March 2020)

The Swiss Federal Council,
pursuant to Articles 3(2)(b), 3g, 4(2) and (4), 4bis(2), 10(4)(a) and 56 of the Banking Act of 8 November 1934[2] (BA), and Articles 46(3) and 72 of the Swiss Federal Act on Financial Institutions of 15 June 2018[3] (FinIA),[4]
decrees:

Title 1: General Provisions

Chapter 1: Object, Scope and Definitions

ARTICLE 1 Principle

1 To protect the interests of creditors and the stability of the financial system, banks and account-holding securities firms, these shall ensure that risks are mitigated appropriately and that they hold adequate capital to support their business operations and the risk to which they are exposed.[5]

2 They shall ensure that they hold adequate capital to cover credit risk, market risk, non-counterparty risk and operational risk.

ARTICLE 2 Subject matter

1 This Ordinance shall regulate:

a. eligible capital;

b. the risks for which capital must be held, and in what amount;

c. risk diversification, in particular the limits for large exposures and the treatment of intra-group exposures; and

[1] Version according to Annex 1 Section II 10 of the Financial Institutions Act of 6 November 2019 in force since 1 January 2020 (AS **2019** 4633).
[2] SR **952.0**
[3] SR **954.1**
[4] Version according to Annex 1 Section II 10 of the Financial Institutions Act of 6 November 2019 in force since 1 January 2020 (AS **2019** 4633).
[5] Version according to Annex 1 Section II 10 of the Financial Institutions Act of 6 November 2019 in force since 1 January 2020 (AS **2019** 4633).

d. the specific requirements for systemically important banks.

2 The Swiss Financial Market Supervisory Authority (FINMA) may issue implementing provisions.

ARTICLE 3[6] Scope of application

This Ordinance shall apply to banks and to account-holding securities firms under the Federal Act on Financial Institutions (FinIA), henceforth "banks".

ARTICLE 4 Definitions

For the purpose of this Ordinance, the following terms shall have the following meaning:

a. *regulated securities exchange:* any institution that is adequately regulated and supervised in accordance with internationally recognized standards, the purpose of which is to facilitate the simultaneous purchase and sale of securities among several securities firms[7] and which also ensures sufficient market liquidity;

b. *main index:* an index comprising all securities traded on a regulated securities exchange (total market index) or a selection of major securities on such an exchange, or any index comprising the major securities of various regulated securities exchanges;

c. *regulated company:* a company active in the financial sector that must comply with appropriate capital adequacy requirements, in particular in regard to its business risks, and that is supervised by a banking, securities exchange, or an insurance regulatory authority;

d. *equity shares:* securities that represent interests in the share capital of a company;

e. *equity instrument:* equity shares that qualify as Common Equity Tier 1 (CET1) or Additional Tier 1 Capital (AT1), as well as debt instruments that qualify as Additional Tier 1 (AT1) or Tier 2 Capital (T2); and

f. *corresponding deduction approach:* the "corresponding deduction approach" described in the Basel Minimum Standards;

g. *qualified interest rate instrument:* an interest rate instrument which is:

1. rated between 1 and 4 by at least two recognized rating agencies;

2. rated between 1 and 4 by a single recognized rating agency, provided it is not rated lower by any other FINMA-recognized rating agency;

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6 Version according to Annex 1 Section II 10 of the Financial Institutions Ordinance of 6 November 2019 in force since 1 January 2020 (AS **2019** 4633).

7 Terminology according to Annex 1 Section II 10 of the Financial Institutions Ordinance of 6 November 2019 in force since 1 January 2020 (AS **2019** 4633). This amendment has been taken into account throughout the entire enactment.

3. not rated by a recognized rating agency but has a yield to maturity and residual term comparable to that of securities rated between 1 and 4, provided that the securities of the corresponding issuer are traded on a regulated securities exchange or on a representative market where at least three market makers independent of each other quote rates on a daily basis that are regularly published; or

4. not rated by a recognized rating agency (external rating), but is rated with a bank-internal rating between 1 and 4, provided the securities of this issuer are traded on a regulated securities exchange or on a representative market where at least three market makers independent of each other quote rates on a daily basis that are regularly published;

h. *Basel Minimum Standards:* the standards defined by the Basel Committee for Banking Supervision that are relevant for calculating the capital adequacy requirements.[8]

ARTICLE 5 Trading book

1 Banks may keep a trading book containing positions in financial instruments and commodities held with the intent of trading or in order to hedge other trading-book positions.

2 Banks may only allocate positions to the trading book, if they are:

a. unencumbered by any restrictive covenants regarding their tradability; or

b. fully hedgeable at all times.

3 Trading intent shall exist if the bank intends to:

a. hold the positions for a short term;

b. take advantage of short-term price movements; or

c. realize arbitrage gains.

4 Positions shall be valued frequently and accurately. The trading book shall be managed actively.

ARTICLE 6 Rating agencies

1 The FINMA may recognize a rating agency, if:

a. its rating method and ratings are objective;

b. the agency and its credit rating procedures are independent;

c. it publishes its ratings as well as the respective underlying information;

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[8] The current Basel Minimum Standards may be obtained from the Bank for International Settlements at Centralbahnplatz 2, 4002 Basel, or downloaded online at www.bis.org/bcbs.

d. it discloses its rating methodology, its code of conduct, its remuneration policy and the primary characteristics of its ratings;

e. it disposes of sufficient resources; and

f. the agency and its credit ratings are credible.

2 The FINMA shall publish a list of recognized rating agencies.

3 The FINMA shall withdraw its recognition if a recognized rating agency no longer satisfies the recognition criteria.

Chapter 2: Consolidation

ARTICLE 7 Consolidation requirements

1 Capital adequacy and risk diversification requirements have to be met at the single-entity level; in addition, they must also be met at the level of the financial group and the financial conglomerate (consolidation requirement).

2 A consolidation shall include all of the group companies active in the financial sector as described in Article 4 in conjunction with Article 22 of the Banking Ordinance of 30 April 2014[9] (BO), with the following exceptions:[10]

a. equity interest in insurance companies is only to be consolidated for the purpose of meeting risk diversification requirements, with the exception of Article 12;

b. there is no requirement to consolidate collective capital investment schemes where such investments are managed on behalf of investors, or where founding capital is held in investment companies.

3 Should the bank hold equity instruments in non-consolidated companies as per (2)(a), these shall be subject to the corresponding deduction approach.

4 Should the bank hold equity instruments in non-consolidated companies as per (2)(b), these shall be subject to the corresponding deduction approach without reference to a threshold value.

ARTICLE 8 Types of consolidation and choices open to the bank

1 Majority interests in companies subject to consolidation shall be fully consolidated.

2 In the case of interests jointly held with another shareholder or partner with 50% of the voting rights

[9] SR **952.02**

[10] Version according to Annex 2 Section 4 of the Banking Ordinance of 30 April 2014, in force since 1 January 2015 (AS **2014** 1269).

each (joint ventures), the bank shall have the choice of applying the full or proportionate consolidation, or the corresponding deduction approach.

3 Minority interests of 20% or more in companies subject to consolidation, in which the bank exerts a controlling influence either directly or indirectly jointly with other investors, may be consolidated proportionately or by applying the corresponding deduction approach.

4 For all other minority interests the corresponding deduction approach shall be applicable.

5 When applying the proportionate consolidation, the eligible and required capital as well as large exposures shall be accounted for in proportion to the investments made.

6 Equity interests accounted for in the corresponding deduction approach shall not be considered for the risk diversification.

7 The corresponding deduction approach according to (2) and (3) shall be made without reference to a threshold value.

ARTICLE 9 Exceptional treatment approved by the audit firm

1 With the audit firm's approval, the following equity interests may be treated as exempt from the consolidation requirement:

a. equity interests in companies which, on account of their size and business activities, are of no significance to the compliance with the capital adequacy provisions;

b. significant group companies bought and sold within the business year.

2 Equity interests conferring more than 50% of the voting rights may, by way of exception, be consolidated on a proportionate basis, provided that the auditor consents to such a method and an agreement has been contractually stipulated that:

a. the bank's support of the company subject to consolidation is limited to the bank's own holding quota; and

b. the remaining shareholders or partners are obliged to provide support in proportion to their holding quota and are legally and financially able to fulfill that obligation.

3 Equity interests exempt from consolidation as per (1) shall be subject to the corresponding deduction approach without referring to a threshold value.

ARTICLE 10 Special requirements

1 In exceptional circumstances, the FINMA may exempt specific banks from selected or all of the capital adequacy and risk diversification requirements at the level of single-entity institutions, provided

the conditions set out in Article 17 of the BO[11] have been met.[12]

2 In the context of capital adequacy requirements to be met by a financial group or financial conglomerate, FINMA may specify additional requirements regarding the adequate level of capitalization of a company heading a financial group or financial conglomerate and which is not subject to supervision at single-entity level.

3 FINMA may permit a bank to consolidate its group companies active in the financial sector already at the level of the single-entity institution (solo consolidation) due to their especially close relationship with the bank.

ARTICLE 11 Subordinated financial groups

1 The consolidation requirement shall apply to any financial group, even if such a financial group is controlled by a financial group or financial conglomerate already subject to FINMA supervision.

2 The FINMA may, by way of exception, may exempt a financial sub-group from the consolidation requirement, in particular, if:

a. their group companies operate exclusively within Switzerland; and

b. the financial parent group or financial conglomerate is subject to adequate consolidated supervision by a financial market supervisory authority.

ARTICLE 12 Captives for operational risks

Subject to FINMA approval, subsidiaries set up for the sole purpose of providing intra-group insurance cover for operational risk (captive insurers) can be fully consolidated at financial group level in the same way as subsidiaries operating within the financial sector and, if appropriate, solo consolidation may be used (see Article 10(3)).

ARTICLE 13 Equity Interests Held in the Non-Financial Sector

The limit for a bank's qualifying interests in a company outside the financial sector as specified in Article 4(4) BA shall not be applicable where:

a. such equity interests are acquired only temporarily in the course of a corporate restructuring or rescue;

b. securities are acquired for the standard underwriting period; or

c. the difference between the book value and applicable limit is for such interests is fully covered by unencumbered eligible capital.

[11] SR **952.02**

[12] Version according to Annex 2 Section 4 of the Banking Ordinance of 30 April 2014, in force since 1 January 2015 (AS **2014** 1269).

Chapter 3: Statement and Disclosure of Adequate Capital

ARTICLE 14 Capital adequacy report

1 Banks must prove on a quarterly basis that they dispose of adequate capital. The FINMA shall define the mandatory contents of the capital adequacy reports.

2 Capital adequacy reports on a consolidated basis must be prepared semi-annually.

3 The forms have to be submitted to the Swiss National Bank within six weeks after the end of each quarter or half-year.

ARTICLE 15 Calculation basis

When calculating the eligible and required capital for the capital adequacy report, the bank shall rely on the financial statements that have been prepared according to the accounting standards prescribed by FINMA. FINMA may grant exceptions to this general principle.

ARTICLE 16 Disclosure

1 Banks must adequately inform the public of their risks and their capital adequacy. The calculation of the eligible capital must obviously be based on the financial reports.

2 Private bankers that do not publicly offer to accept deposits shall be excluded from this obligation.

3 FINMA shall enact technical implementing provisions. In particular, it shall specify which information must be disclosed in addition to the annual financial statements and the interim financial statements.

Chapter 4: Simplified Application

ARTICLE 17

1 Banks may apply specific provisions of this Ordinance including FINMA's clarifying implementing provisions in a simplified manner, if:

a. this allows them to avoid disproportionate efforts;

b. they ensure an appropriate risk management in view of their business operations; and

c. the bank's ratio of minimum capital required to eligible capital is at least maintained.

2 They shall make sure that the requirements are met and document the simplifications used.

Title 2: Eligible capital

Chapter 1: General aspects

ARTICLE 18 Capital components

1 Eligible capital shall consist of Tier 1 Capital (T1) and Tier 2 Capital (T2).

2 Tier 1 Capital shall consist of Common Equity Tier 1 Capital (CET1) and Additional Tier 1 Capital (AT1).

ARTICLE 19 Loss absorbency

1 Capital components shall absorb losses according to the following principles:

a. Common Equity Tier 1 capital shall absorb losses before the Additional Tier 1 capital.

b. Additional Tier 1 capital shall absorb losses before Tier 2 capital.

2 Should individual instruments of the same capital component (outside CET1) absorb losses differently, the bank must specify this in its articles of incorporation or at issue of the instrument.

ARTICLE 20 Common requirements regarding capital

1 Capital must be paid in or generated internally in the amount used to cover capital adequacy requirements.

2 At issuance, the capital must not:

a. directly or indirectly be financed with a loan granted by the bank to third parties;

b. be netted with the bank's receivables;

c. be guaranteed with the bank's assets.

3 Capital is to be subordinated to the unsubordinated claims of all other creditors in the case of liquidation, bankruptcy or restructuring of the bank.

4 Capital instruments with conditional conversion or debt reduction that become applicable not only at the point of non-viability (Article 29) shall be accounted for as the type of capital components as corresponds to their characteristics prior to the conversion or the debt reduction. The following shall remain applicable:

a.[13] the eligibility for recognition to meet the requirements for the capital buffer as per Article 43(1) and Annex 8; and

[13] Version according to Section I of the Ordinance of 22 November 2017, in force since 1 January 2018 (AS **2017** 7625).

b. the provisions for conversion capital of systemically important banks as per Title 5.

Chapter 2: Calculations

Section 1: Common Equity Tier 1 Capital (CET1)

ARTICLE 21 Eligible elements

1 The following shall be eligible as Common Equity Tier 1 capital:

a. paid-in share capital;

b. disclosed reserves;

c. reserves for general banking risks after deduction of deferred taxes, if no corresponding provisions have been created;

d. profits carried forward;

e.[14] the profit for the current business year after deducting the estimated percentage of profits to be distributed, provided a full income statement as specified under Article 42 BO[15] or according to recognized international accounting standards has been submitted and reviewed by the auditor as per FINMA's requirements.

2 Minority interests in regulated, fully consolidated companies shall be eligible, provided they are eligible in that entity itself. Capital surpluses attributed to minorities (calculated based on requirements that include capital buffers and additional capital) are not eligible.

ARTICLE 22 Eligibility of share capital

1 Share capital shall be eligible as Common Equity Tier 1 capital, if it:

a. meets the requirements of Article 20;

b. was issued directly according to the owners' resolution or authorization;

c. does not constitute a liability for the company;

d. is disclosed clearly and separately in the balance sheet in accordance with the relevant accounting standards;

e. is perpetual and is not subject to a provision to the contrary in the articles of incorporation or to

[14] Version according to Annex 2 Section 4 of the Banking Ordinance of 30 April 2014, in force since 1 January 2015 (AS **2014** 1269).

[15] SR **952.02**

a contractual obligation of the bank;

f. dividends to the owners may be distributed from freely available reserves without any obligations or privileges; and

g. the owners do not hold any privileges or prerogative claims to proceeds in case of a liquidation.

2 Preferred shares and participation capital shall be eligible as Common Equity Tier 1, if:

a. they meet conditions stated in (1);

b. they can be used as collateral in the same manner as Common Equity Tier 1 share capital; and

c. the issuer (as a public limited company) has not listed its ordinary shares on a regulated exchange.[16]

3 The FINMA shall take into account the bank's legal form and the characteristics of its share capital when assessing whether the requirements of (1) and (2)(b) mentioned above have been met.

ARTICLE 23 Types of Share Capital

1 Depending on the bank's legal form, the share capital shall be composed of share, equity, cooperative or endowment capital, or in the case of partnerships (private bankers), the partnership's capital contribution ("Kommanditeinlage").

2 The FINMA may issue implementing provisions on the regulatory recognition of a bank's share capital.

ARTICLE 24 Endowment capital of public-law banks

Should the cantonal legislation or the articles of incorporation of a public law bank define the maturity date of the endowment capital, it may be eligible as Common Equity Tier 1 capital, if the maturity:

a. serves to redefine the conditions; and

b. does not lead to the repayment of the endowment capital.

ARTICLE 25 Capital contributions of private bankers

1 Private bankers may account capital contributions as Common Equity Tier 1 capital, provided:

a. their amount is defined in the partnership agreement to be approved by the FINMA;

b. they bear interest or entitle to participation in profits only if there is sufficient profit at the end of the financial year; and

[16] Version according to Annex 2 Section 4 of the Banking Ordinance of 30 April 2014, in force since 1 January 2015 (AS **2014** 1269).

c. the capital contributions are liable for losses to the same extent as the partnership's capital contribution.

2 Capital contributions may only be reduced in a process that involves all fully liable partners.

3 Common Equity Tier 1 capital may only be decreased by a reduction in capital contributions if the remaining capital still satisfies the requirements of Article 41.

ARTICLE 26 Cooperative capital

1 If the articles of incorporation foresee a redemption of share certificates in the cooperative capital, it may be eligible as Common Equity Tier 1 capital, provided the articles of incorporation foresee that a redemption:

a. may be rejected by the competent bodies at any time without any reasons given; and

b. solely occurs as long as the bank's remaining capital satisfies the requirements of Article 41.

2 A limitation on the claim to the liquidation proceeds must:

a. affect all share certificate holders to the same degree; and

b. be foreseen in the articles of incorporation.

3 A part of the liquidation proceeds may only be forfeited if this occurs in favor of:

a. public or tax-exempt private institutions; or

b.[17] a central organization as per Article 17 BO[18], if the bank to be liquidated belongs to such a central organization

4 The articles of incorporation may not promise a payout to the share certificate holders even if an upper limit is specified.

2. Section: Additional Tier 1 Capital (AT1)

ARTICLE 27 Eligibility

1 A capital instrument shall be eligible as AT1 capital, if:

a. it meets the requirements of Articles 20 and 29;

b. it is open-ended and does not give rise to any expectations of repayment or the corresponding

[17] Version according to Annex 2 Section 4 of the Banking Ordinance of 30 April 2014, in force since 1 January 2015 (AS **2014** 1269).
[18] SR **952.02**

approval by the supervisory authority;

c. the bank is entitled to repay the capital no earlier than five years after issue;

d. the bank indicates at the time of issue that the supervisory authority shall only approve a repayment only if:

   1. the remaining capital continues to satisfy the requirements of Article 41; or

   2. the bank issues a sufficient amount of capital that is at least equivalent;

e. it does not have any characteristics that would complicate an increase of the bank's share capital in any way;

f. the bank makes distributions to investors only on a discretionary basis and only if corresponding distributable reserves are available; and

g. it is excluded that distributions to investors increase during the credit's lifetime based on issuer-specific credit risks.

2 Equity shares shall be eligible as AT1 if they satisfy the requirements of (1).

3 Liabilities that meet the requirements of (1) shall be accounted for as Additional Tier 1 capital if, in the event of a contractually defined trigger, but at the latest when the CET1 falls below a ratio of 5.125 percent, are waived by way of a:

a. debt reduction; or

b. conversion to Common Equity Tier 1 capital.

4 Issuance conditions for a capital instrument equipped with a conditional debt waiver may grant the capital lender a deferred conditional participation claim in the improvement of the bank's financial situation. Such conditions may not substantially impair the bank's capital base at the time of the debt reduction.

5 Prior to an equity instrument's issue, the FINMA shall approve:

a. the contractually defined trigger event as per (3); and

b. the extent to which participation claims in an improvement according to (4) are admissible.

6 Article 21(2) on the eligibility of minority equity shares in fully consolidated regulated companies shall also apply accordingly.

ARTICLE 28 Availability within a financial group

Additional Tier 1 capital issued by a special purpose entity shall be eligible for consolidation if it is made available to the group holding company or an operative entity of the bank immediately and in perpetuity in the same or higher quality.

ARTICLE 29 Point of non-viability ("PONV")

1 The terms of issue or the articles of incorporation must include the provision that Additional Tier 1 capital contributes to the bank's recovery in the case of a point of non-viability by way of a complete debt reduction or a conversion. In this case the creditors' claims must be completely written off.

2 The conversion to Common Equity Tier 1 capital or the debt reduction shall occur at the latest:

a. before emergency financial aid offered by the government is drawn down; or

b. if the FINMA prescribes it to avoid bankruptcy.

3 For equity shares eligible as Additional Tier 1 capital but without a loss-absorbance mechanism as per (1), the contract or the articles of incorporation must include an irrevocable waiver of any privileges with respect to the share capital denoted as Common Equity Tier 1 capital should a point of non-viability be attained.

3. Section: Tier 2 Capital (T2)

ARTICLE 30 Eligibility

1 An equity instrument shall be eligible as Tier 2 capital, if:

a. the requirements of Articles 20 and 29(1) and (2) are met;

b. its original maturity is in five years at the earliest and the terms of emission do not stipulate any repayment incentives for the bank;

c. the bank is entitled to repay the capital no earlier than five years after issue;

d. the bank indicates at the time of issue that the FINMA will only approve an early repayment, if:

1. the remaining capital continues to satisfy the requirements of Article 41; or

2. the bank instead issues a sufficient amount of capital that is at least equivalent; and

e. it is excluded that distributions to investors increase during the credit's lifetime based on issuer-specific credit risks.

2 During the last five years before final maturity, the eligibility of equity instruments in Tier 2 capital

shall be reduced by 20% of their nominal amount annually. In the last year, they shall no longer be eligible at all.

3 Articles 21(2), 28 and 29(1) and (2) shall be applicable accordingly.

4 The FINMA shall issue implementing provisions that outline the prerequisites for additional elements of the Tier 2 capital to become eligible, in particular in regard to:

a. public-law banks;

b. the capital contributions of fully liable shareholders of private banks compared to those that do not comply with Article 25.; and

c. hidden reserves.

4. Section: Adjustments

ARTICLE 31 General aspects

1 Adjustments to eligible capital must be calculated in the same manner for single entities as for consolidated groups.

2 The adjustment shall be based on the carrying amount. Anticipated impacts from taxation may only be taken into account to reduce the adjustment, if:

a. the tax liability automatically expires together with the position it refers to; or

b. it is explicitly foreseen either in this ordinance or in the FINMA's implementing provisions.

3 The FINMA may issue implementing provisions that foresee adjustments for banks preparing their financial statements in accordance with internationally accepted accounting standards.

ARTICLE 31a[19] Changes in the fair value of own liabilities due to a change in the bank's credit risk

1 When calculating Common Equity Tier 1 capital, all unrealized gains and losses of own liabilities due to a change in fair value because of a change in the bank's credit risk shall be neutralized.

2 Moreover, all of the value adjustments of derivative liabilities shall be neutralized if they result from the bank's own credit risk.

3 Value adjustments made due to the bank's own credit risk may not be netted with value adjustments due to counterparties' credit risk.

[19] Inserted with Annex 2 Section 4 of the Banking Ordinance of 30 April 2014, in force since 1 January 2015 (AS **2014** 1269).

ARTICLE 32 Deductions from CET1

The following shall be fully deducted from Common Equity Tier 1 capital:

a. Any loss carried forward and current financial year's loss;

b. any uncovered need for value adjustments and provisions in the current financial year;

c. goodwill, including any goodwill included in the valuation of significant equity interests in financial sector entities not in the bank's scope of consolidation, and intangible assets, with the exception of mortgage servicing rights (MSR);

d. deferred tax assets (DTA) that rely on the bank's future profitability, whereby netting with associated deferred tax liabilities within the same geographical and factual taxation jurisdiction is permitted; DTAs due to temporary differences are prohibited;

e. at banks using the IRB[20] approach (Article 77): the amount by which the expected losses calculated according to the approach exceed the value adjustments in accordance with the Basel Minimum Standards;

f. gains on sales related to securitization transactions;

g. defined benefit pension fund assets recognized in the balance sheet in accordance with the relevant provisions of the Basel Minimum Standards;

h. net long positions in own equity shares according to Article 52 that are part of the Common Equity Tier 1 capital, that are directly or indirectly held as treasury shares, on and off the trading book, provided they have not already been recorded in the income statement;

i. qualified equity interests in the capital of another financial sector entity as long as this same financial sector entity also holds capital of the bank ("reciprocal holdings");

j.[21] in the context of the single-entity calculation, if FINMA does not allow a risk weighting in accordance with Annex 4 Sections 1.6 or 1.7: the net long positions of directly held equity interests in companies active in- financial industry that must be consolidated, whereby these are calculated in accordance with Article 52;

j. deductions resulting from the bank's chosen deduction option within the consolidation provisions as per Articles 7(4), 8(2) and (3), 9(1) and (3).

ARTICLE 33 Corresponding deduction approach

1 Should the bank hold investments in the equity instruments of a financial sector entity, the deductions shall be made according to the corresponding deduction approach. The value of these instru-

[20] Stands for: internal ratings-based approach.

[21] Version according to Section I of the Ordinance of 21 November 2018, in force since 1 January 2019 (AS **2018** 5241).

ments must be deducted from the bank's capital component in an amount that corresponds to the component at third-party company level.

1bis Debt instruments issued by internationally active, systemically important banks used for loss absorbency in case of insolvency measures in accordance with Article 126a(1) or in accordance with relevant laws of foreign jurisdictions shall be treated as instruments of Tier 2 capital for the requirements of this section.[22]

2 If the bank does not hold any or insufficient capital to apply such a deduction in the corresponding component of the eligible capital, it shall make the deduction from the next higher capital component.

ARTICLE 34 Deductions of positions in own equity instruments outside of Common Equity Tier 1 capital

1 Net long positions in equity instruments in Additional Tier 1 capital and Tier 2 capital in direct and indirect treasury holdings calculated according to Article 52 must be deducted using the corresponding deduction approach.

2 In the corresponding deduction approach for instruments of Tier 2 capital as per (1), the limited eligibility as per Article 30(2) (amortization) is not applicable to titles of the same issue; nominal values may be netted.

ARTICLE 35 Threshold Deductions

1 In the case of threshold deductions, the amount exceeding the threshold shall be deducted. To determine the threshold, the bank's exposures shall be valued using a fixed percentage of its Common Equity Tier 1 capital according to the Basel Minimum Standards.

2 Threshold 1 shall amount to 10% of the Common Equity Tier 1 capital after all adjustments as per Articles 31(3) and 32(a)-(i) and (k).

3 Threshold 2 amounts to 10% of the Common Equity Tier 1 capital after all adjustments as per Articles 31(3) and 32, including a possible deduction from the Common Equity Tier 1 capital due to the calculation of threshold 1 (pursuant to Article 37(1) and (2)).

4 Threshold 3 is to be defined in such a way that, after having considered all of the regulatory adjustments (including the deduction made to this very threshold in accordance with Article 40(1)), the residual amount of the three exposures does not exceed 15 percent of the Common Equity Tier 1 capital.[23]

ARTICLE 36 Applicable deduction approach for equity instruments

[22] Inserted with Section I of the Ordinance of 21 Nov 2018 (AS **2018** 5241). Version according to Section I of the Ordinance of 27 November 2019, in force since 1 January 2020 (AS **2019** 4623).

[23] Version according to Annex 2 Section 4 of the Banking Ordinance of 30 April 2014, in force since 1 January 2015 (AS **2014** 1269).

1 1 Whether the deduction approach of Article 37 or that of Article 38 applies to investments in equity instruments of financial sector entities held by the bank shall depend on the percentage of equity shares calculated according to Article 52 (directly or indirectly) held in equity shares and other investment forms in such types of securities that synthetically present the same type of risk (securities held).[24]

2 Investments in equity instruments of entities held as Additional Tier 1 capital or Tier 2 capital, the equity shares of which must be fully deducted from the Common Equity Tier 1 capital as per Article 32(i)-(k), must be treated with the method described in Article 38(1).

ARTICLE 37 Equity shares in financial sector entities up to 10 percent

1 A bank holding no more than 10% equity shares in a financial sector entity in the form of Common Equity Tier 1 capital must deduct the total carrying value of the total investments in equity instruments of all the financial sector entities that exceeds threshold 1 from its own equity components. This shall also apply if the bank holds only equity instruments in a financial entity not deemed to be Common Equity Tier 1 capital.[25]

2 When applying the corresponding deduction approach, the deductible amount as per (1) shall first be proportioned to the bank's investments in the equity instruments of the respective financial sector entities before it is deducted.

2bis In addition to the limit as per (1) on threshold 1, a bank may hold debt instruments used for loss absorbency in case of insolvency as per Article 33(1bis) of up to 5 percent of its CET 1 capital, without deducting these from equity components. The FINMA may issue implementing provisions.[26]

3 The part of the aggregated carrying values as per (1) that is below the threshold shall be risk-weighted. The risk weighting for each capital component shall depend on whether it was allocated to the banking or the trading book prior to the deduction.

ARTICLE 38 Equity shares in financial sector entities above 10 percent

1 A bank holding more than 10% equity shares in an entity in the financial sector in the form of CET1 capital shall treat all equity instruments of the Additional Tier 1 capital and Tier 2 capital of such entities with the corresponding deduction approach without using a threshold. The corresponding deduction approach without threshold limits shall also apply to debt instruments held for loss absorbency in case of the insolvency of internationally active, systemically important banks as per Article 33(1bis).[27]

2 The bank shall deduct the sum of the total carrying value of all directly and indirectly held interests in Common Equity Tier 1 capital of such entities not in the consolidation scope which exceed threshold 2, for both single-entity and consolidated calculations.

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24 Version according to Annex 2 Section 4 of the Banking Ordinance of 30 April 2014, in force since 1 January 2015 (AS **2014** 1269).

25 Version according to Annex 2 Section 4 of the Banking Ordinance of 30 April 2014, in force since 1 January 2015 (AS **2014** 1269).

26 Inserted by Section I of the Ordinance of 27 November 2019, in force since 1 January 2020 (AS **2019** 4623).

27 Version according to Section I of the Ordinance of 27 November 2019, in force since 1 January 2020 (AS **2019** 4623).

3 Any amount calculated as per (2) that is below the threshold shall be treated according to Article 40.

ARTICLE 39 Further deductions based on threshold 2

1 The bank shall deduct separately from its Common Equity Tier 1 capital the following amounts that exceed threshold 2:

a. Mortgage servicing rights; and

b. Deferred tax assets (DTAs) caused by temporary differences.

2 Amounts below the threshold shall be treated according to Article 40.

ARTICLE 40 Further deductions based on threshold 3

1 The carrying values calculated as per the procedures described in Articles 38(2) and (3) and 39 that are below threshold 2 shall be aggregated and measured against threshold 3. The bank shall deduct the amount exceeding threshold 3 from its Common Equity Tier 1 capital.

2 Amounts below threshold 3 must be risk-weighted at 250%.

Title 3: Required Capital

Chapter 1: General aspects

ARTICLE 41 Composition of Capital

The required capital shall be composed of:

a. the minimum required capital;

b. the capital buffer;

c.[28] the countercyclical buffer;

c.bis [29] the extended countercyclical buffer; and

c. additional capital.

[28] Version according to Section I of the Ordinance of 11 May 2016, in force since 1 July 2016 (AS **2016** 1725).

[29] Inserted with Section I of the Ordinance of 11 May 2016, in force since 1 July 2016 (AS **2016** 1725).

ARTICLE 42 Minimum required capital

1 After the deductions in accordance with Articles 31-40, banks must hold total capital in the amount of 8.0% of the risk-weighted exposures as minimum capital. Thereof, a minimum of 4.5% of the risk-weighted exposures must be held in the form of Common Equity Tier 1 capital and a minimum of 6.0% must be held in the form of Tier 1 capital.[30]

2 The risk-weighted exposures shall be composed of:

a. exposures weighted according to their credit risk (Article 49) and the risk-weighted exposures from unsettled transactions (Article 76);

b. non-counterparty-related risks weighted according to Article 79;

c. the minimum capital required for market risks (Articles 80– 88) multiplied by a factor of 12.5;

d. the minimum capital required for operational risks (Article 89-94) multiplied by a factor of 12.5;

e. the minimum capital required for risks from guarantee obligations to central counterparties (Article 70) multiplied by a factor of 12.5; and

f. the minimum required capital held for exposures from possible credit value adjustments (CVAs) caused by the counterparty credit risk of derivatives (Article 55) multiplied by a factor of 12.5.

3 A bank shall inform the FINMA and its audit firm as soon as its capital falls below the minimum capital required as per (1).

4 A bank holding less than the minimum required capital stipulated in (1) and (2) shall be considered to be non-compliant with the capital adequacy requirements set out in Article 25(1) BA.

ARTICLE 43 Capital buffers

1 On top of the minimum capital, banks must also constantly hold a capital buffer of up to the amount of the total capital ratio in accordance with the requirements of Annex 8. The more stringent special requirements for systemically important banks pursuant to Title 5[31] shall remain applicable.

2 A bank whose capital buffer temporarily falls below the requirements due to exceptional and unpredictable circumstances, such as a Swiss-wide or international financial crisis, is not considered to be breaching capital requirements.

3 In case of a shortfall, the FINMA shall set a bank-specific grace period for restoring the capital buffer.

[30] Inserted according to Section I of the Ordinance of 11 May 2016, in force since 1 July 2016 (AS **2016** 1725).
[31] Version according to Section I of the Ordinance of 11 May 2016, in force since 1 July 2016 (AS **2016** 1725).

ARTICLE 44 Countercyclical buffer

1 Upon the Swiss National Bank's request, the Swiss Federal Council may require that banks hold a countercyclical buffer of a maximum of 2.5% of their risk-weighted exposures in Switzerland in the form of Common Equity Tier 1 capital, if this is necessary to:

a. strengthen the resilience of the banking sector against the risks of excessive credit growth or to counteract an excessive credit growth; or

b. counteract excessive credit growth.

2 The Swiss National Bank shall consult the FINMA prior to issuing such a request and simultaneously inform the Federal Department of Finance. If the Swiss Federal Council approves the request, this ordinance shall be amended with a corresponding annex.

3 The countercyclical buffer may be limited to cover only certain credit exposures. Should the prevailing criteria for the buffer no longer apply, it shall be abolished or adjusted to reflect the changed conditions. This procedure is based on (1) and (2).

4 Article 43(2) and (3) shall also apply to the counter-cyclical buffer.

ARTICLE 44a[32] Extended countercyclical buffer

1 Banks with total assets of at least 250 billion Swiss francs, of which the total foreign commitment amounts to at least 10 billion Swiss francs, or with a total foreign commitment of at least 25 billion Swiss francs shall be required to hold an extended countercyclical buffer in the form of Common Equity Tier 1 capital.

2 For such banks, the amount of the extended countercyclical buffer shall correspond to the weighted average level of the countercyclical buffers, which, in accordance with the published list by the Basel Committee, shall apply in those member states where the Bank's relevant receivables from the private sector are located; however, it shall not exceed 2.5 percent of the weighted exposures. Amounts due from banks or the public sector shall not be considered to be amounts due from the private sector.

3 The weighting of the ratios for each member state shall correspond to the total capital requirement for credit exposures towards the private sector in that country divided by the Bank's total capital requirement for credit exposures towards the private sector.

4 The reference level for the extended countercyclical buffer for Switzerland shall correspond to the countercyclical buffer stipulated for all exposures as per Article 44. A buffer as per Article 44 shall be eligible to be included in the extended countercyclical buffer.

5 Any countercyclical buffer limited to certain credit exposures as per Article 44(3) shall not be included in the extended countercyclical buffer.

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32 Version according to Section I of the Ordinance of 11 May 2016, in force since 1 July 2016 (AS **2016** 1725).

6 Article 43(2) and (3) shall be applicable in analogy.

ARTICLE 45[33] Additional capital

In special circumstances and depending on the case, FINMA may demand that certain banks hold additional capital, namely if the minimum required capital as per Article 42 and the capital buffer as per Article 43 do not ensure an appropriate level of security in view of the bank's:

a. business activities;

b. its risks taken;

c. its business strategy;

d. the quality of its risk management; or

e. the sophistication of the techniques used.

ARTICLE 46[34] Leverage Ratio

1 After the deductions according to Articles 31-40, banks must hold Tier 1 capital in the amount of 3.0% of the unweighted exposures (total exposure).

2 The total exposure shall be equivalent to the denominator of the leverage ratio calculated as per the specifications of the Basel Minimum Standards. FINMA shall enact technical implementing provisions. For this, it shall refer to the Basel Minimum Standards.

ARTICLE 47 Parallel calculations when using model approaches

For banks using a FINMA-approved model to determine the required capital (IRB, EPE model methodology[35], market risk approach or AMA[36]), the FINMA may demand a parallel calculation to determine the required capital according to a standard approach deemed appropriate by the FINMA.

[33] Version according to Section I of the Ordinance of 11 May 2016, in force since 1 July 2016 (AS **2016** 1725).

[34] Version according to Section I of the Ordinance of 22 November 2017, in force since 1 January 2018 (AS **2017** 7625).

[35] Stands for: Expected-Positive-Exposure (EPE) modeling method.

[36] Stands for: Advanced Measurement Approaches.

Chapter 1a:[37] Simplifications for particularly liquid and well capitalized banks in categories 4 and 5

ARTICLE 47a Simplifications

Banks in categories 4 and 5 as per Annex 3 BO[38] may apply to FINMA to be exempted from complying with regulations relating to required equity capital in accordance with Articles 41–46.

ARTICLE 47b Prerequisites

1 Banks in categories 4 and 5 may use the simplifications if they fulfill the following conditions at all times both at the level of the individual institution and at the level of the financial group:

a. The required equity capital shall amount to a simplified leverage ratio of at least 8 percent.

b. The average liquidity coverage ratio (LCR) shall amount to at least 110%.

c. The refinancing rate shall amount to at least 100 percent.

2 The simplified leverage ratio shall be equal to the quotient of the following:

a. Tier 1 capital; and

b. the total of all balance sheet assets, less goodwill and equity interests, and all off-balance-sheet items.

3 The average liquidity coverage ratio shall be equal to the quotient of the following:

a. the average of the last twelve months' High Quality Liquid Assets (HQLA) pursuant to Article 15 Liquidity Ordinance of 30 November 2012[39] (LiqO); and

b. the average value of the net cash outflow by month's end over the last twelve months pursuant to Article 16 LiqO to be expected according to the LCR stress scenario over a 30-day horizon.

4 The refinancing rate shall be equal to the quotient of the following:

a. the total of obligations arising from customer deposits, medium-term bonds, bonds with a residual maturity of more than a year and mortgage-backed bonds with a residual maturity of more than a year as well as equity capital; and

b. receivables due from customers and mortgage-secured receivables.

5 FINMA may issue technical implementing provisions for (2)–(4).

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[37] Inserted with Section I of the Ordinance of 27 November 2019, in force since 1 January 2020 (AS **2019** 4623).

[38] SR **952.02**

[39] SR **952.06**

ARTICLE 47c Rejection of the application

The FINMA may reject applications for simplifications, if:

a. the requirements of Articles 47a and 47b are not fulfilled;

b. it has taken regulatory measures against the relevant bank, if legal proceedings have been initiated in accordance with Article 30 of the Financial Market Supervision Act (FINMASA) of 22 June 2007[40] or if the bank has failed to implement measures to restore compliance in accordance with Article 31 FINMASA in the following areas:

   1. rules of conduct in accordance with the Financial Services Act (FinSA) of 15 June 2018[41],

   2. market conduct rules in accordance with the Financial Market Infrastructure Act (FMIA) of 19 June 2015[42],

   3. anti-money laundering and combating terrorist financing in accordance with the Anti-Money Laundering Act (AMLA) of 10 October 1997[43],

   4. cross-border transactions;

c. the interest risk management is insufficient or if the interest risk is unreasonably high in relation to Tier 1 capital, the result from interest operations or the risk-bearing capacity in consideration of all risks.

ARTICLE 47d Non-compliance with requirements

1 Banks that no longer meet the requirements in accordance with Article 47b shall inform FINMA of this immediately.

2 If FINMA finds that a bank no longer belongs in categories 4 or 5 or that there are grounds for refusal in accordance with Article 47c, it shall inform the bank accordingly.

3 In case of notifications in relation to (1) and (2), FINMA shall grant a time limit by which the institution has to restore compliance. This time limit is normally a year; however, in individual cases, it may be shorter or longer. If compliance is not restored within the time limit, the bank may no longer benefit from the simplified procedures as per Article 47a.

ARTICLE 47e Renunciation of simplifications

Banks that no longer wish to use the simplifications as per Article 47a shall inform FINMA and their audit firm accordingly.

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[40] SR **956.1**
[41] SR **950.1**
[42] SR **958.1**
[43] SR **955.0**

Chapter 2: Credit risk

Section 1: General aspects

ARTICLE 48 Definition

1 When calculating the required capital, the term "credit risk" shall denote the risk of a loss arising as a result of:

a. a counterparty's failure to meet its contractual obligations; or

b. the reduction in value of financial instruments issued by a third party, namely equity shares, interest rate instruments or units of collective investment schemes.

2 In the case of derivatives, repos and repo-like transactions, it is the credit risk of the counterparty that shall be deemed the counterparty risk, not the credit risk of the underlying financial instruments.[44]

ARTICLE 49 Risk-Weighted Exposures

1 Exposures must be weighted according to their risk if they show a credit risk and no deduction from the capital according to Articles 31-40 is foreseen.

2 The considered exposures shall include:

a. receivables, including any claims arising from loan commitments not reported as assets in the balance sheet;

b. liabilities related to securitizations;

c. other off-balance sheet items converted into credit equivalents;

d. net positions in equity shares and interest rate instruments not held in the trading book;

e. net positions in equity shares and interest rate instruments held in the trading book, provided the de minimis approach (Article 82 (1)(a)) is applied;

f. net positions in treasury shares and qualified interests held in the trading book.

3 Any exposure to a group of related counterparties as defined in Article 109 that is not broken down by counterparty shall be weighted according to the highest risk weight assigned to any of the individual counterparties within the group.

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[44] Inserted with Section I of the Ordinance of 22 November 2017, in force since 1 January 2019 (AS **2017** 7625).

ARTICLE 50 Approaches

1 One of the following approaches shall be used to risk-weight individual exposures to determine the minimum capital required for credit risks in accordance with Article 42(2)(a):

a. a) SA-BIS[45] (Articles 63-75); or

b. IRB (Article 77).

2 The IRB and SA-BIS approaches may be combined.

3 Using the IRB approach shall require approval from the FINMA. It shall determine the conditions for approval.

4 FINMA shall issue implementing provisions in regard to credit risks and securitizations.

Section 2: Calculating the exposures

ARTICLE 51 Net exposures

1 Net exposures shall be calculated as follows:

physical holdings plus outstanding securities from securities lending transactions less securities owed from securities borrowing transactions

\+ unsettled spot and forward purchases (including financial futures and swaps)
unsettled spot and forward sales (including financial futures and swaps).

\+ firm underwriting commitments, less sub-participations and firm subscriptions, if these eliminate the price risk for the bank

\+ delivery claims from call purchases, delta-weighted.

./. delivery commitments from written calls, delta-weighted

\+ underwriting commitments from written puts, delta-weighted.

./. delivery rights from put purchases, delta-weighted

2 Amounts already posted to the balance sheet as liabilities for individual value adjustments and provisions shall be deducted from the net position.

3 Positive net positions shall be referred to as net long positions, and the absolute amounts of negative net positions shall be referred to as net short positions.

[45] Stands for the so-called international standard approach.

ARTICLE 52 Net exposure in investments in equity instruments of financial sector entities

1 The net exposures of investments in the equity instruments of financial sector entities (taking into consideration the additional requirements in (2) and (3) below) shall be calculated as follows:

physical holdings plus synthetic positions as well as outstanding securities arising from securities lending transactions less securities owed arising from securities borrowing

+ unsettled spot and forward purchases (including financial futures and swaps)
unsettled spot and forward sales (including financial futures and swaps).

./. underwriting positions held for five working days or less

+ delivery claims from call purchases, delta-weighted.

./. delivery commitments from written calls, delta-weighted

+ underwriting commitments from written puts, delta-weighted.

./. delivery rights from put purchases, delta-weighted

2 For directly held instruments that are equity instruments or where equity instruments are held indirectly or synthetically, with the exception of treasury shares, the netting of long and short positions in investments in an entity's equity instruments shall only be permissible, if:[46]

a. the long and short positions shall refer to the same equity instrument; and

b. the maturity of the short position of the instrument either matches the maturity of the long position or has a residual maturity of at least one year.

3 In the case of treasury shares, the following net exposures must be determined for each component (CET1, AT1 and T2) and deducted from that component as per Articles 32–34:

a. net exposure to treasury shares held directly or synthetically; however, netting is only possible if the long and short positions refer to the same equity instrument and the short position is not subject to any counterparty risk.

b. net exposure to treasury shares held indirectly through a financial instrument such as an index or an option on an index; however, netting is only possible if the long and short positions refer to the same underlying; the short position's counterparty risk must be covered.

[46] Version according to Annex 2 Section 4 of the Banking Ordinance of 30 April 2014, in force since 1 January 2015 (AS **2014** 1269).

ARTICLE 53 Exposures in off-balance sheet transactions

1 Off-balance sheet transactions must be converted into a credit equivalent using credit conversion factors. This shall determine their risk-weighting.

2 Banks using the IRB approach shall calculate the credit equivalent for contingent liabilities and irrevocable commitments according to the SA-BIS provisions where the IRB has no corresponding provision.

ARTICLE 54 Contingent Liabilities and Irrevocable Commitments

1 For contingent liabilities and irrevocable commitments, the credit equivalent under SA-BIS must be calculated by multiplying the nominal or present value of the transaction by the corresponding credit conversion factor in accordance with Annex 1.

2 For contingent liabilities where the bank has ceded sub-participations, it may treat these as if they were direct claims against each sub-participant.

ARTICLE 55 Risk of potential credit value adjustments (CVAs) on derivatives

1 Apart from credit default risks of derivative counterparties according to Articles 50 and 56, banks must also dispose of minimum required capital to cover the risk of a loss due to credit value adjustments (CVAs) of derivatives based on counterparty credit risks.

2 The FINMA shall define the method to calculate the minimum required capital in view of the calculation method chosen for credit equivalents (Article 56) and for market risks (Article 82). For this, it shall refer to the Basel Minimum Standards.

3 The FINMA shall provide banks that have chosen neither a model approach as per Article 56 nor as per Article 82 with a conservative simplified approach.

ARTICLE 56 Calculation Methods for Derivatives

1 Credit equivalents for derivatives may be calculated using one of the following methods:

a. according to the standard approach;

b. using the Expected-Positive-Exposure (EPE)[47] modeling method.

2 The use of the EPE model shall require approval from FINMA, which specifies the conditions for granting approval. It shall determine the conditions for approval.

3 FINMA shall specify on how to calculate credit equivalents in the event of a legally or contractually required netting arrangement as per Article 61 that involves more than two parties.

[47] Version according to Section I of the Ordinance of 23 November 2016, in force since 1 January 2017 (AS **2016** 4683).

4 These calculation methods shall apply to all types of derivatives, regardless of whether they are traded on an exchange or over the counter.

ARTICLE 57[48] Standard Approach

1 In order to calculate the credit equivalent of derivatives according to the standard approach, the sum of the replacement values defined in regulatory provisions and the amount of the potential future increase in value shall be multiplied by a factor of 1.4.

2 The FINMA shall issue technical implementing measures in accordance with the Basel Minimum Standards.

ARTICLE 58[49]

ARTICLE 59 EPE modeling method

1 The FINMA shall define how credit equivalents of derivatives are calculated according to the EPE modeling method. For this, it shall refer to the Basel Minimum Standards.

2 The credit equivalents shall be multiplied by the EPE factor. The FINMA shall specify the EPE factor on a case-by-case basis. The EPE factor shall amount to at least 1.2.

ARTICLE 60 Interest-rate instruments and equity shares

1 The net exposure shall be determined in accordance with Article 52 if the interest rate instruments or equity shares in question are investments in the equity instruments of financial sector entities.

2 Net exposure to interest-rate instruments and equity shares from the same issuer that have the same risk weighting but are not held in the trading book shall be calculated pursuant to Article 51.

3 For positions not held in the trading book, physical inventory shall be valued at book value.

4 (1) and (2) shall also apply to interest-rate instruments and equity shares held in the trading book, provided the de minimis approach (Article 82(1)(a)) is applied.

ARTICLE 61 Risk-mitigating measures

1 The following risk-mitigating measures may be taken into account when calculating exposures:

a. legal and contractual netting;

b. guarantees;

c. credit derivatives; and

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[48] Version according to Section I of the Ordinance of 23 November 2016, in force since 1 January 2017 (AS **2016** 4683).

[49] Repealed by Section I of the Ordinance of 23 November 2016, with effect from 1 January 2017 (AS **2016** 4683).

d. other collateral.

2 If required, banks must demonstrate to their external auditors or the FINMA that the risk-mitigating measures are legally enforceable in the jurisdictions concerned.

3 FINMA shall specify these risk-mitigating measures.

ARTICLE 62 Collateralized transactions

1 A bank may choose to adopt one the following approaches to handle collateral as defined in Article 61(1)(d):

a. the simplified approach;

b. the comprehensive approach.

2 In the simplified approach, the collateralized portion of the exposure shall be allocated to the protection provider's exposure category.

3 In the comprehensive approach, the exposure shall be netted against the collateralized portion of the exposure. The net exposure shall remain in the original category of the exposure.

4 FINMA shall specify these approaches in more detail.

5 When calculating the credit equivalents according to Articles 56-59, all securities provided by the bank to collateralize derivatives as well as all securities received by the bank that are eligible shall be taken into account.[50]

Section 3: Exposure Categories and their Risk Weightings under SA-BIS

ARTICLE 63 Exposure categories

1 Banks shall assign individual exposures to exposure categories.

2 Exposures in the following exposure categories may be risk-weighted using external ratings:

a. Central governments and central banks;

b. public-law entities;

c. Bank for International Settlements (BIS), International Monetary Fund (IMF) and multilateral development banks;

[50] Inserted with Section I of the Ordinance of 23 November 2016, in force since 1 January 2017 (AS **2016** 4683).

d. Banks and securities firms;

e. grouped pension schemes;

f. stock exchanges and clearing houses;

g. corporations.

3 No external ratings may be used for the following exposure categories:

a. natural persons and small businesses (retail exposures);

b. domestic mortgage bonds;

c. directly or indirectly mortgage-backed exposures;

d. subordinated claims;

e. overdue exposures;

f.[51] equity shares;

fbis.[52] units in managed funds;

g. other exposures.

ARTICLE 64 Use of external ratings

1 Banks using the SA-BIS approach may use ratings supplied by rating agencies to risk-weight exposures, provided such agencies are recognized by the FINMA for that purpose.

2 The FINMA shall assign the ratings of recognized rating agencies to rating categories and determine the risk weighting for each category.

3 The use of external ratings shall be based on a concrete, institution-specific methodology that must be strictly adhered to. It must be used consistently.

4 If a bank risk-weights exposures using the ratings of external rating agencies, it shall risk-weight all exposures except the exposure category "corporations" according to external ratings. Where a bank also risk-weights exposures in the exposure category 'corporations' according to external ratings, it must, as a principle, risk-weight all exposures in this category according to external ratings.

5 If a bank does not use external ratings to risk-weight exposures, or no external ratings from a recognized rating agency are available, the risk weights of the category "unrated" have to be used.

[51] Version according to Section I of the Ordinance of 23 November 2016, in force since 1 January 2017 (AS **2016** 4683).

[52] Inserted with Section I of the Ordinance of 23 November 2016, in force since 1 January 2017 (AS **2016** 4683).

ARTICLE 65 Use of external ratings at group level

The ratings used in the companies to be consolidated can be used at group level.

ARTICLE 66 Calculation of the exposures to be risk-weighted

1 For SA-BIS purposes, exposures in the exposures categories specified in Article 63(2) shall be risk-weighted according to Annex 2.

2 Exposures in the exposure categories specified in Article 63(3)(a)-(e) and (g) shall be risk-weighted according to Annex 3.

3 Exposures in the exposure category specified in Article 63(3)(f) shall be risk-weighted according to Annex 3.

3bis Exposures in the exposure category as specified in Article 63(3)(fbis) shall be risk-weighted according to FINMA's technical implementing regulations issued. For this, the FINMA shall refer to the Basel Minimum Standards.[53]

4 Net exposures in interest-rate instruments as defined in Article 60 have to be assigned to the issuer's exposure category and risk-weighted accordingly.

5 For positions in the form of investments in the equity instruments of financial sector entities, the risk-weighting as per (3) and (4) shall apply to the portion of the net position as per Article 52 that was not deducted from the capital using the corresponding deduction approach (Article 33).

ARTICLE 67 Local Currency Exposures to Central Governments or Central Banks

If the supervisory authority of a country other than Switzerland provides a lower risk weighting than the one stipulated in Article 66(1) for local currency exposures to the central government or central bank of that country, then banks may risk-weight such exposures accordingly, provided that these exposures are refinanced in the local currency of that country and the banking supervision of that country is adequate. Such risk-weighting shall be applicable to the portion of that exposure refinanced in the local currency.

ARTICLE 68 Banks and securities firms

1 Securities firms may only be assigned to the exposure category "banks and securities firms" (Article 63(2)(d)) if they are subject to a supervision equivalent to that of banks.

2 Netted exposures arising from off-balance-sheet transactions shall be assigned to the maturity band of the shortest of the netted exposures.

3 Exposures to banks without external rating, with the exception of short-term, self-liquidating letters of credit for trade financing, may not be assigned a risk weight which is lower than the risk weight

[53] Inserted with Section I of the Ordinance of 23 November 2016, in force since 1 January 2017 (AS **2016** 4683).

for exposures to the banks' country of incorporation.[54]

ARTICLE 69 Stock exchanges and clearing houses

1 Clearing houses are institutions through which contractual obligations of traded contracts shall be settled.

2 The 0% or 2% weighting for credit risks in accordance with Annex 2 shall only apply if a regulated central counterparty directly enters into the transaction between two market participants, and an adequate, comprehensive collateralization system is established as a basis for the functions exercised by this central counterparty.

3 This collateralization system shall be in particular regarded as adequate and comprehensive if:

a. contracts are marked to market daily with daily margin calls;

b. the expected changes in value for the day ahead are collateralized on an ongoing basis with a high confidence level; and

c. unexpected losses are secured.

4 The FINMA shall stipulate the additional criteria for central counterparties in connection with derivatives and repo or repo-like transactions based on the Basel Minimum Standards.

ARTICLE 70 Credit risks and guarantees to central counterparties

1 For banks acting as clearing members for a central counterparty for derivatives traded on an exchange or over the counter and repo and repo-similar transactions, the FINMA shall define how to calculate the minimum required capital for risks that derive from explicit and implicit guarantees to the central counterparty. For this, the FINMA shall refer to the Basel Minimum Standards.

2 Central counterparties shall be deemed to be clearing houses that act as a contracting party between counterparties of contracts, guaranteeing the delivery of the contracts during their entire lifetime.

3 Clearing members shall be authorized to enter into a direct transaction with the central counterparty as a party, regardless of whether they act on their own behalf or as an intermediary between the central counterparty and other market participants.

ARTICLE 71 Unrated corporate exposures

If a bank risk-weights corporate exposures using ratings, any unrated exposures shall be assigned the risk weight of 100% or that of the relevant central government, if the latter is higher than 100%.

[54] Inserted with Annex 2 Section 4 of the Banking Ordinance of 30 April 2014, in force since 1 January 2015 (AS **2014** 1269).

ARTICLE 72 Exposures in directly or indirectly held mortgage-backed loans

1 Residential property shall be deemed to be real estate occupied or rented out by the borrower itself.

2 Construction loans and loans for land shall be assigned to the real estate categories specified in Annex 3 depending on the future use of the financed property.

3 The risk weight of 35% for foreign residential properties may be applied only where an adequate risk management equivalent to the one applied to Swiss residential properties is ensured.

4 Pledged pension assets and pledged pension benefit entitlements as per Article 30b of the Swiss Federal Law on Occupational Old Age, Survivors' and Invalidity Pension Provision (OPA) of 25 June 1982[55] and Article 4 of the Federal Ordinance on the Tax Deduction of Contributions to Recognized Pension Plans of 13 November 1985[56] shall be considered as the borrower's capital when calculating the risk-weighted position as per Annex 3, if:

a. the pledge represents additional security for a mortgage-backed debt;

b. the property in question is used by the borrowers themselves; and

c. the minimum requirements of (5) are fulfilled.

5 If the credit business does not comply with one of the self-regulation standards recognized by the FINMA as a minimum standard (Article 7(3) pursuant to the Financial Market Supervision Act of 22 June 2007) the risk weight for mortgage-backed exposures according to Annex 3 shall be 100% [57]. The minimum requirements shall foresee:

a. that the borrower has contributed a reasonable amount of minimum capital to finance the property originating neither from a pledge nor from an advance withdrawal as per Articles 30b or 30c OPA, respectively;

b. the amortization of the loan is reasonable in regard to timeframe and amount.

ARTICLE 73 Equity shares

Net positions in equity shares shall be risk-weighted in accordance with Annex 4. Net positions as follows below shall be excluded:

a. are to be deducted from the capital components in accordance with Articles 31-40; or

b. are to be risk-weighted in accordance with Article 40(2).

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55 SR **831.40**

56 SR **831.461**.3

57 SR **956.1**

ARTICLE 74 Lombard loans

Lombard loans may be risk-weighted separately within the corresponding exposure category using the simplified approach (Article 62(1)(a)) or the comprehensive approach (Article 62(1)(b)).

ARTICLE 75 Loans, repo and repo-like transactions with securities

Within their relevant exposure category, loans, repo and repo-like transactions with securities may be risk-weighted separately using the simplified, the comprehensive or the EPE modeling approach.

ARTICLE 76 Exposures due to non-settled transactions

1 Positive replacement values for exposures from unsettled currency, securities and commodity transactions with a risk of loss due to late or erroneous processing (exposures from unsettled transactions) and which should be settled on a "delivery against payment" or "payment against payment" basis via a payment or securities clearing system must be risk-weighted as follows:

Number of bank working days after the agreed settlement date	Risk Weighting
5 – 15	100%
16 – 30	625%
31 – 45	937,5%
46 or more	1250%

2 Exposures from unsettled transactions that are to be settled in another way must be treated as follows:

a. The bank that has made the initial payment/delivery shall treat the exposure as a loan until the second leg has been received. In the case of immaterial exposures, banks may choose to apply a 100% risk weight instead of a rating-based risk weight.

b. If the second leg has not been received by five business days after the agreed settlement date, the value transferred plus any positive replacement value shall be risk-weighted at 1250 %.

3 Repurchase agreements, reverse repurchase agreements and securities lending and borrowing transactions shall be treated exclusively in accordance with Article 75.

Section 4: IRB

ARTICLE 77

1 Banks using the IRB approach for determining the risk-weighted exposures and the capital required for credit risk may choose from the following approaches:

a. the simplified IRB approach (F-IRB[58]); or

b. the advanced IRB approach (A-IRB[59]).

2 The FINMA shall specify the calculation in more detail. For this, it shall refer to the Basel Minimum Standards.

3 In the absence of specific guidelines under the IRB approach, the SA-BIS provisions shall apply accordingly.

Chapter 3: Non-counterparty risk

ARTICLE 78 Definition

The term "non-counterparty-related risks" shall denote the risk of a loss as a result of changes in value or liquidation of non-counterparty-related assets such as real estate and other tangible assets.

ARTICLE 79 Risk-weighting

1 In order to account for non-counterparty-related risks, the following exposures must be risk-weighted at 100%:

a. Properties;

b. other tangible assets and assets recorded in the balance sheet under "other assets", that are subject to depreciation, unless they are deducted from the Common Equity Tier 1 capital as per Article 32(c).

2 A credit balance of the equalization account shall be risk-weighted at 0%.

[58] Stands for: Foundation IRB
[59] Stands for: Advanced IRB

Chapter 4: Market risk

Section 1: General aspects

ARTICLE 80 Principle

1 Banks shall provide sufficient capital to cover the market risk inherent to interest rate instruments and equity shares held in the trading book as well as currency, gold and commodity exposures across the entire bank.

2 The FINMA shall issue technical implementing provisions on market risk.

ARTICLE 81 Definition

The term "market risk" shall denote the risk of a loss as a result of changes in value of a position due to changes in price-determining factors, such as share or commodity prices, exchange rates and interest rates and their corresponding volatilities.

ARTICLE 82 Calculation approaches

1 The minimum required capital for market risk may be calculated using the following approaches:

a. de minimis approach;

b. standardized approach to market risk; or

c. model approach to market risk.

2 Where several of these approaches are used, the minimum required capital shall be the sum of the minimum required capital calculated according to each approach.

Section 2: De minimis approach;

ARTICLE 83

1 Banks that do not exceed certain thresholds may calculate the minimum required capital for interest rate instruments and equity shares held in the trading book in accordance with Articles 66-76. They shall apply the provisions of the same approach used to cover credit risk.

2 The FINMA shall determine the thresholds.

Section 3: Standardized approach for market risk

ARTICLE 84 Interest-rate instruments in the trading book

1 The minimum capital required to cover the specific risk associated with interest-rate instruments shall be determined by multiplying the net exposure for each issue by the factors specified in Annex 5.

2 The FINMA shall issue implementing provisions to calculate the minimum required capital to cover the specific risks associated with interest-rate instruments from securitizations where tranches are divided according to risks.

3 The minimum capital required to cover the general market risk associated with interest-rate instruments shall equal the total value calculated for each currency using the maturity method or the duration method.

ARTICLE 85 Equity instruments in the trading book

1 The minimum capital required to cover the specific risks associated with equity instruments shall equal 8% of the total net exposure for each issuer.

2 The minimum capital required to cover general market risks associated with equity instruments shall equal 8% of the total net exposures for each national market.

ARTICLE 86 Foreign-exchange exposures

The minimum required capital that needs to be available to cover market risk arising from currency exposures shall amount to 8% of the sum of the net long positions or the sum of the net short positions. The relevant amount shall be the higher one.

ARTICLE 87 Gold and commodity exposures

1 The minimum required capital to cover the market risk associated with gold exposures shall equal 8% of the net exposure.

2 The minimum required capital to cover the commodity risks shall be determined by the maturity band approach or by the simplified approach.

Section 4: Model-based approach for market risk

ARTICLE 88

1 Using the market risk model approach requires approval from the FINMA, which specifies the conditions for granting approval. It shall determine the conditions for approval.

2 The FINMA shall specify how to calculate the minimum capital according to the market risk model approach. For this, it shall refer to the Basel Minimum Standards.

3 The FINMA shall define the multipliers for the market risk model approach on a case-by-case basis, taking into account the institute's compliance with the approval requirements and the accuracy of the estimates of the institute's risk aggregation model. The multipliers shall always be at least 3.0.

Chapter 5: Operational risks

Section 1: General aspects

ARTICLE 89 Definition

Operational risk shall denote the risk of a loss resulting from the inadequacy or failure of internal processes, people or systems, or from external events. This shall include legal risks, but excludes strategic and reputational risks.

ARTICLE 90 Calculation approaches

1 Banks may choose from the following methods to determine the minimum capital required to cover operational risk:

a. the basis indicator approach;

b. the standard approach;

c. institution-specific approaches (advanced measurement approach, AMA)

2 Using an AMA shall require approval from FINMA.

3 The FINMA shall issue implementing provisions in regard to the approaches.

ARTICLE 91 Earnings indicator

1 Banks using the basic indicator or standardized approach to determine the minimum capital for operational risk must determine an earnings indicator for each of the three previous years. This value shall be equal to the sum of the following income statement items:

a.[60] Gross interest income;

b. Net results from commission business and services;

c.[61] Net results from trading operations and from the fair-value option;

d. direct investment income from non-consolidated equity interest; and

[60] Version according to Annex 2 Section 4 of the Banking Ordinance of 30 April 2014, in force since 1 January 2015 (AS **2014** 1269).

[61] Version according to Annex 2 Section 4 of the Banking Ordinance of 30 April 2014, in force since 1 January 2015 (AS **2014** 1269).

e. Results from real estate.

2 All income generated from outsourcing agreements where the bank acts as service provider shall be considered as a component of the earnings indicator.

3 If the bank acts as a client for an outsourced service, the corresponding expenses may only be deducted from the earnings indicator if the services are outsourced within the same financial group and are accounted for on a consolidated basis.

4 When determining the earnings indicator, banks may apply internationally recognized accounting standards instead of Swiss accounting standards, provided the FINMA approves this.

Section 2: Approaches

ARTICLE 92 Basic indicator approach

1 The minimum required capital shall correspond to 15% of the average of the income indicators of the three previous years. Only years with positive earnings indicators shall be taken into account.

2 The FINMA may subject the use of the basic indicator approach to additional qualitative risk management requirements.

ARTICLE 93 Standardized approach

1 The minimum required capital shall be calculated as follows:

a. For each business line and for each of the three previous years an earning indicator has to be determined and multiplied by the factor specified in (2).

b. The resulting values shall be added up for each year. In doing so, negative values from certain business lines may be netted with positive values of other business lines.

c. The minimum required capital shall correspond to a three-year average. When calculating the average, any negative sum shall be set to zero.

2 Business activities shall be assigned to the following business lines and multiplied by the following rates:

a. Corporate finance / advisory	18 %
b. Trading and sales	18 %
c. Retail banking	12 %
d. Corporate banking	15 %

e. Payment operations / securities clearing and settlement operations 18 %

f. Custodial and fiduciary transactions 15 %

g. Institutional asset management 12 %

h. Retail brokerage 12 %

3 The FINMA may subject the use of the standardized approach to additional qualitative risk management requirements.

ARTICLE 94 Advanced Measurement Approaches (AMA)

1 Banks may use an institution-specific approach (AMA) to determine the minimum required capital.

2 The FINMA shall approve the use of the AMA if the bank has a model allowing it to quantify operational risks using internal and external loss data, scenario analyses as well as key factors of the business environment and of the internal control framework.

Title 4: Risk Diversification

Chapter 1: General provisions

Section 1: Subject matter

ARTICLE 95[62] Large exposures and other large credit risks

1 A large exposure shall exist if the total exposure to a single counterparty or a group of related counterparties reaches or exceeds 10% of the bank's Tier 1 capital adjusted as per Articles 31-40.

2 Banks shall identify, monitor and observe the relevant notification duties related to large exposures and other large credit risks held towards a single counterparty or a group of related counterparties.

ARTICLE 96[63] Exposures to be captured and total exposure

1 When identifying and monitoring large exposures, all on and off the balance sheet items in the banking book and the trading book related to credit risk or counterparty credit risk toward an individual counterparty or a group of affiliated counterparties must be captured.

2 The recorded items must be aggregated to a total exposure.

[62] Version according to Section I of the Ordinance of 22 November 2017, in force since 1 January 2019 (AS **2017** 7625).
[63] Version according to Section I of the Ordinance of 22 November 2017, in force since 1 January 2019 (AS **2017** 7625).

3 When calculating the total exposure, the following does not have to be taken into account:

a. Positions that are deducted from the Tier 1 capital in accordance with Articles 31-40: in the amount of the deduction;

b. Intraday exposures towards banks.

4 Exposures subject to a risk-weighting of 1250% when determining the minimum capital shall be included in the total exposure.

5 The total exposure to a group of related counterparties shall be equal to the sum of the total exposures to the relevant individual counterparties.

Section 2: Limits of large exposures

ARTICLE 97[64] Limits on individual large exposures

1 A large exposure may make up no more than 25% of the adjusted eligible Tier 1 capital adjusted according to Articles 31-40.

2 This limit shall not apply to:

a. Exposures towards central banks or central governments;

b. Exposures covered by an explicit guarantee from the counterparties as per (a);

c. Exposures covered by financial guarantees of counterparties as per (a);

d. Exposures towards qualified central counterparties arising from services in connection with settlements (clearing services).

3 The calculation of exposures shall be subject to Article 119(3).

ARTICLE 98[65] Limit on large exposures held towards banks and securities firms

In derogation from the provisions of Article 97(1), the limit for large exposures to banks and securities firms for banks in categories 4 and 5 (according to Annex 3 of the BO[66]) not designated as systemically important banks or financial groups according to Article 8(3) BA or Article 136(2)(b), shall be: 100% of the eligible Tier 1 capital adjusted according to Articles 31-40.

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[64] Version according to Section I of the Ordinance of 22 November 2017, in force since 1 January 2019 (AS **2017** 7625).
[65] Version according to Section I of the Ordinance of 22 November 2017, in force since 1 January 2019 (AS **2017** 7625).
[66] SR **952.02**

ARTICLE 99[67] Exceeding the limit

1 Except for cases stipulated in (2) and (3), the large exposure limit may not be exceeded.

2 Exceeding the limit shall be permitted if it is related to the settlement of client payment operations and does not last longer than five bank working days.

3 Moreover, exceeding the limit shall be permitted if it is solely due to the affiliation of previously unrelated counterparties, or an affiliation between the bank and other financial entities.

4 The amount by which the limit is being exceeded due to an affiliation as per (3) may not be actively increased further. The exceedance shall be eliminated within two years after the legal implementation of the affiliation.

Section 3:[68] Notification duties related to large exposures and other large credit risks

ARTICLE 100 Reporting large exposures and other large credit risks

1 The bank shall report all of its existing large exposures and other large credit risks to its body responsible for direction, supervision and control:

a. Every quarter on a single-entity basis;

b. Every six months on a consolidated basis.

2 The reports shall be sent to the Banking Act audit firm and the Swiss National Bank within six weeks after the end of the quarter or half-year closing using the form provided by the FINMA.

3 The reports shall have the following key dates:

a. Total exposure: last day of the current quarter and half-year;

b. Tier 1 capital: last day of the current or past quarter and half-year;

4 In particular, the following must be reported:

a. all large exposures;

b. all exposures that, without applying risk-mitigation measures as per Article 119(1), amount to at least 10% of the eligible Tier 1 capital;

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[67] Version according to Section I of the Ordinance of 22 November 2017, in force since 1 January 2019 (AS **2017** 7625).

[68] Version according to Section I of the Ordinance of 22 November 2017, in force since 1 January 2019 (AS **2017** 7625).

c. all total exposures for which no limit applies and that amount to at least 10% of the eligible Tier 1 capital.

5 In addition, the institution shall report annually the twenty largest total exposures, irrespective of whether these represent large exposures or not; total exposures to central banks and central governments shall be excluded.

6 The exposures as per (4) and (5) shall be reported as values both before and after applying risk-mitigating measures as per Article 119(1).

7 If a large exposure involves a member of the bank's corporate bodies or a qualified shareholder as per Article 3(2)(c^{bis}) of the Swiss Banking Act or an individual or company related to them, the large exposure must be flagged in the reports with the general term "transactions with related parties (Organgeschäft)".

8 If the large exposure is to another group company, this large exposure shall be flagged in the reports with the general term "group business". An institution shall report also those portions of the item "group business" which have been excluded from the limit in accordance with Articles 111a(1) and 112(2)(d).

9 The audit firm shall assess the bank-internal controls used to ensure the correct calculation and reporting of risks and appraise the risk development.

ARTICLE 101 Notification of non-permissible exceedances

Should a bank determine that a large exposure exceeds the limit without being subject to an exception according to Article 99, it shall immediately inform its audit firm and the FINMA, and remediate the exceedance within a short time frame. This time frame shall be subject to FINMA approval. Exceedances of the limit due to trade date accounting, which consists of transactions that will be settled with a value date within the subsequent two bank working days, shall be exempted from the notification duty.

ARTICLE 102 Notification of intra-group exposures

A bank shall prepare a quarterly report on intra-group exposures in accordance with Article 111a and submit it to the audit firm, the Swiss National Bank and the body for the direction, supervision and control, together with a list of current large exposures as per Article 100. In doing so, it must distinguish between group companies as defined in Article 111a(1) and (3).

Section 4: Calculation principles

ARTICLE 103 Firm commitments to underwrite securities

Issuer-specific exposures for firm underwriting commitments from issuances shall be calculated as follows:

a. A bank may deduct sub-participations and firm subscriptions from firm commitments to underwrite debt and equity shares if this eliminates the bank's related market risk.

b. The resulting amount is to be multiplied by one of the following credit conversion factors:

1. 0.05 as of the date on which the firm underwriting commitment was irrevocably entered into;

2. 0.1 on the issuance's payment date;

3. 0.25 on the second and third bank working day after the subscription payment date;

4. 0.5 on the fourth bank working day after the issuance's payment date;

5. 0.75 on the fifth bank working day after the issuance's payment date;

6. 1 from and including the sixth bank working day after the issuance's payment date.

ARTICLES 104 and 105[69]

ARTICLE 106 Exposures due to non-settled transactions

Transactions that remain unsettled after the fifth bank working day (Article 76) shall be included in the total exposure amount in the amount of the full exposure.

ARTICLES 107 and 108[70]

ARTICLE 109[71] Groups of related counterparties

1 1 The following shall be deemed to be a group of related counterparties:

a. counterparties between which a control relationship or a financial dependence exists;

b. counterparties that are held by the same individual or legal entity via equity interests or are directly or indirectly controlled by it; or

c. counterparties that form a syndicate.

[69] Repealed by Section I of the Ordinance of 22 November 2017, with effect from 1 January 2019 (AS **2017** 7625).

[70] Repealed by Section I of the Ordinance of 22 November 2017, with effect from 1 January 2019 (AS **2017** 7625).

[71] Version according to Section I of the Ordinance of 22 November 2017, in force since 1 January 2019 (AS **2017** 7625).

2 Groups of related counterparties shall be treated as one unit.

3 Should the total exposure with a single counterparty exceed 5% of the eligible Tier 1 capital, the institution must verify within 3 months (and going forward in an appropriate frequency) whether the counterparties involved in this exposure are economically dependent on each other.

4 Central counterparties are not considered to be a group of related counterparties if the existing exposures towards them are related to clearing services.

5 Legally independent public-sector companies are not considered to be a group of related counterparties together with its controlling public authorities, if:

a. the public authority is not legally liable for the liabilities of the company; or

b. the company is a bank.

ARTICLE 110 Exposures to a syndicate

1 Exposures to a syndicate shall be attributed to the individual syndicates according to their ratio.

2 In the case of joint and several liability, the bank shall attribute the entire exposure to the particular member of the syndicate that had the highest credit rating at the time of the credit approval.

ARTICLE 111 Exposures of group companies

From any bank in a financial group or conglomerate's perspective, group companies shall be deemed to be related counterparties.

ARTICLE 111a[72] Intra-group exposures

1 If a bank is part of a financial group or financial conglomerate subject to an adequate consolidated supervision, intra-group exposures to group companies fully integrated into the capital and consolidated risk diversification (fully consolidated) may be excluded from the upper limit specified in Article 97, if the group companies:

a. are subject to supervision at single entity level; or

b. have on their part as counterparties solely group companies that are themselves subject to an adequate supervision.

2 The FINMA is authorized to restrict a comprehensive exclusion of intra-group exposures according to (1) in its implementing provisions.

3 Intra-group exposures to other group companies shall, on an aggregate basis, be subject to the regular limit of 25% of the eligible Tier 1 capital adjusted in accordance with Articles 31-40.

[72] Inserted with Section I of the Ordinance of 22 November 2017, in force since 1 January 2019 (AS **2017** 7625).

Section 5: Alleviating or tightening provisions

ARTICLE 112[73]

1 The FINMA shall regulate to what extent banks in categories 4 and 5 according to Annex 3 BO[74] may benefit from alleviations regarding the fulfillment of the risk diversification rules.

2 In special cases, it may further alleviate or tighten the regulations. In particular, it may:

a. lower reporting thresholds or limits for specific total exposure amounts;

b. prescribe limits for real estate held directly or indirectly by a bank;

c. approve short-term exceedances of the limits if a request was filed beforehand;

d. stipulate that the exemption for the limits as per Article 111a(1) does not apply for some or all group companies or also applies to specific group companies that do not comply with the prerequisites described in Article 111a(1);

e. exempt specific group companies not operating in the financial sector from being included in the aggregated exposures pursuant to Article 111a(1) and (3);

f. exempt equity interests that are not to be consolidated according to Article 9(1)(a) from inclusion in the aggregate position according to 111a(1) and (3);

g. reduce or increase the applicable risk-weighting rates for a specific counterparty;

h. set a time limit other than the one provided for in Article 99(4);

i. opt, in special circumstances that the bank shall substantiate, not to deem the parties concerned as a group of related counterparties, even though these fulfill the prerequisites as per Article 109(1);

j. allow not to deem counterparties as a group of related counterparties, provided the bank proves that one counterparty is able to absorb the financial problems or default of a financially closely related counterparty and find other business partners or funders within an adequate time frame.

[73] Version according to Section I of the Ordinance of 22 November 2017, in force since 1 January 2019 (AS **2017** 7625).

[74] SR **952.02**

Chapter 2:[75] Calculating the total exposure

Section 1: Weighting

ARTICLE 113

1 Exposures to a counterparty shall generally be risk-weighted with a rate of 100%.

2 In derogation to this stipulation, the following exposures shall be risk-weighted as follows:

a. Cantons with a rating of 1 or 2: with a rate of 20%;

b. Domestic mortgage bonds (Pfandbriefe) issued according to the Mortgage Bond Act of 25 June 1930[76]: with a rate of 10%;

c. Covered bonds as stipulated in Article 118(1)(c): with a rate of at least 20%.

Section 2: Aggregation

ARTICLE 114

To determine the total exposure to a counterparty, the corresponding exposures in the trading book and in the banking book must be aggregated. Netting short positions in the trading book with long positions in the banking book is not permitted.

Section 3: Exposure calculation in general

ARTICLE 115 Risk weighting, derivatives, loans, repos and repo-like trans–actions with securities and other instruments with a counterparty credit risk

1 The counterparty credit risk of exposures related to derivatives listed in the banking book and in the trading book shall be calculated pursuant to Article 57.

2 For non-linear derivatives in the trading book, the calculated exposure value shall also include the credit risk of the underlyings, assuming a full loss in value.

3 The exposures for loans, repos and repo-like transactions with securities listed in the banking and in the trading book shall be calculated according to the simple or the comprehensive approach when calculating minimum capital; model approaches are not permitted. The FINMA shall enact implementing provisions.

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[75] Version according to Section I of the Ordinance of 22 November 2017, in force since 1 January 2019 (AS **2017** 7625).

[76] SR **211.423.4**

ARTICLE 116 Further balance sheet items

For balance sheet items that are listed in the banking book and are not subject to Article 115, the carrying values as per the accounting are authoritative. Individual valuation adjustments and specific provisions created for balance-sheet items may be deducted. Alternatively, the bank may also use the gross value without deducting individual value adjustments or value adjustments.

ARTICLE 117 Off-balance-sheet items

1 Off-balance sheet items that are listed in the banking book shall be converted into their credit equivalent using the credit conversion factors listed in Annex 1. Individual value adjustments and specific provisions created for off-balance-sheet items may be deducted. If these are items as per Annex 1, Section 1.3, a credit conversion factor of 0.1 instead of 0.0 shall be applied.

2 The following credit conversion factors shall apply to irrevocable loan commitments in the context of a syndicated loan:

a. 0.1 at the time when the bank commits to the credit until it is accepted and confirmed by the counterparty;

b. 0.5 as of and including the moment the counterparty accepts the bank's commitment until the syndication phase starts;

c. 0.5 for the non-syndicated tranche during the syndication phase, as well as 1.0 for the planned own tranche;

d. 1.0 for all non-syndicated tranches after a period of 90 days (residual risk).

ARTICLE 118 FINMA's implementing provisions on the calculation of the different exposures

1 FINMA shall specify the following calculations:

a. of exposures in the trading book;

b. of exposures to central counterparties;

c. of exposures with respect to covered bonds;

d. of exposures with respect to collective investment schemes, securitizations and other investment structures;

e. other exposures.

2 For this, it shall refer to the Basel Minimum Standards.

Section 4: Risk mitigation

ARTICLE 119

1 When calculating the total exposure, the following shall be taken into account:

a. balance sheet (netting);

b. guarantees;

c. credit derivatives;

d. collateral that is recognized under the SA-BIS.

2 If requested, banks must demonstrate to their audit firm or the FINMA that these risk-mitigating instruments are legally enforceable in the jurisdictions concerned.

3 FINMA shall enact technical implementing provisions. For this, it shall refer to the Basel Minimum Standards.

ARTICLES 120 – 123

Repealed

Title 5: Provisions for systemically important banks

Chapter 1: General provisions

ARTICLE 124[77] Principle

1 In addition to the capital adequacy and risk diversification requirements applicable to all banks under Titles 2–4 of this Ordinance, systemically important banks shall also be subject to the particular requirements of this Title.

2 The degree of special requirements that have to be fulfilled shall be determined at the highest level of the financial group.

3 The special requirements shall be fulfilled on the level of financial groups, on the level of every individual institution licensed in accordance with the BA[78] and on the level of every securities firm licensed in accordance with the Financial Institutions Act, by:

a. entities that exercise system-relevant functions;

[77] Version according to Section I of the Ordinance of 21 November 2018, in force since 1 January 2019 (AS **2018** 5241).
[78] SR **952.0**

b. the top-level entity in a financial group if one of the entities of the consolidated companies is in accordance with (a);

c. entities heading important financial sub-groups, if one of the entities of the consolidated companies is in accordance with (a); and

d. entities that are important to the financial group because of their central function or their relative size. [79]

4 FINMA may make an exception for entities that in fact carry out systemically important functions but whose direct share in the domestic systemically important functions of the consolidated group does not exceed a total of five percent or whose importance for the continuance of the consolidated group's domestic systemically important functions is otherwise low.[80]

ARTICLE 124a[81] Internationally and not internationally active, systemically important banks

1 Banks identified by the "Financial Stability Board" and referred to as "Global Systemically Important Banks" shall be deemed to be internationally active, systemically important banks.

2 If a bank no longer qualifies pursuant to (1), FINMA may continue to deem systemically important banks to be internationally active, where this proves to be necessary due to their intense commitment abroad.

3 All other systemically important banks are not considered to be internationally active.

ARTICLE 125[82]

ARTICLE 125a[83]

[79] Version according to Section I of the Ordinance of 27 November 2019, in force since 1 January 2020 (AS 2019 4623).

[80] Inserted with Section I of the Ordinance of 27 November 2019, in force since 1 January 2020 (AS **2019** 4623).

[81] Inserted according to Section I of the Ordinance of 11 May 2016, in force since 1 July 2016 (AS **2016** 1725).

[82] Repealed by Section I of the Ordinance of 21 November 2018, with effect from 1 January 2019 (AS **2018** 5241).

[83] Version according to Section I of the Ordinance of 11 May 2016 (AS **2014** 1725). Repealed by Section I of the Ordinance of 22 November 2017, with effect from 1 January 2018 (AS **2017** 7625).

Chapter 2: Conversion capital and debt instruments for loss absorbency in the case of insolvency measures[84]

ARTICLE 126 Conversion capital[85]

1 Conversion capital shall be defined as capital pursuant to Article 11(1)(b) in conjunction with Article 13 BA as well as capital from bonds with a debt waiver pursuant to Article 11(2) BA that satisfies the requirements of this chapter.

2 Conversion capital must be issued to investors outside the financial group by either:

a. the ultimate parent company;

b. a group company that was specifically created for this purpose by financial groups and financial conglomerates made up mainly of banks; or

c. another group company, subject to the FINMA's approval.

ARTICLE 126a[86] Debt instruments for loss absorbency in the course of insolvency measures

1 Debt instruments used for loss absorbency in the case of insolvency (bail-in bonds) may only be included in additional loss-absorbing capital in accordance with Chapter 4 if they:[87]

a. are paid-in in full;

b. are issued by a Swiss entity;

c. are subject to Swiss law and feature a Swiss place of jurisdiction; in substantiated cases, FINMA may grant exceptions if it is evidenced that a FINMA-ordered conversion or debt write-down is enforceable in the jurisdictions concerned;

d. are issued by the ultimate parent company or, within the limits of international standards with FINMA approval, by a group company established solely for this purpose, if it is ensured that they can be used for loss absorbency in restructuring proceedings;

e. are legally or contractually subordinate to the issuer's other liabilities, or structurally subordinate to other group companies' liabilities;

84 Version according to Section I of the Ordinance of 11 May 2016, in force since 1 July 2016 (AS **2016** 1725).
85 Version according to Section I of the Ordinance of 11 May 2016, in force since 1 July 2016 (AS **2016** 1725).
86 Inserted with Section I of the Ordinance of 11 May 2016, in force since 1 July 2016 (AS **2016** 1725).
87 Version according to Section I of the Ordinance of 27 November 2019, in force since 1 January 2020 (AS **2019** 4623).

f. do not include an option for early termination for creditors;

g. are not subject to netting or secured or guaranteed in a manner that would limit the loss absorbency in the case of insolvency measures;

h. contain in their terms and conditions an unconditional and irrevocable clause in which the creditors agree to a potential conversion or debt write-down ordered by a supervisory authority in case of restructuring proceedings;

i. do not include any derivatives transactions and are not , with the exception of hedging transactions, linked to derivatives transactions;

j. have not been acquired directly or indirectly through funding from the issuing bank or any of its group companies;

k.[88] were issued with the authorization by FINMA or if they were part of an annual issue program authorized by FINMA and if they can only be paid back before maturity if the quantitative requirements regarding additional loss-absorbing capital are not met.

2 FINMA may deem loans that meet the criteria as per (1) equivalent to bail-in bonds.

3 The redemption of any bail-in bonds or loans pursuant to (1) and (2) that had been issued with FINMA's approval and which are redeemed early without FINMA's approval shall be reported to FINMA.[89]

ARTICLE 126b[90] Intragroup debt instruments used for loss absorbency in case of insolvency measures

1 At Swiss units of systemically important banks subordinated to the group parent company, intragroup debt instruments used for loss absorbency in case of insolvency measures may be included in additional loss-absorbing capital in accordance with Chapter 4, if they:

a. meet the requirements in accordance with Article 126a(1)(a)–(c) and (f)–(i);

b. are contractually defined as subordinate in relation to other obligations of the issuer;

c. can only be repaid prior to maturity with the approval of FINMA if the repayment would cause the quantitative requirements for the additional loss-absorbing funds to fall short of the requirements.

2 FINMA may deem loans that meet the criteria of (1) equivalent to bail-in bonds.

3 The debt instruments referred to in (1) may only be credited to the exposure as long as they have a residual maturity of at least one year.

[88] Version according to Section I of the Ordinance of 27 November 2019, in force since 1 January 2020 (AS **2019** 4623).
[89] Version according to Section I of the Ordinance of 21 November 2018, in force since 1 January 2019 (AS **2018** 5241).
[90] Inserted by Section I of the Ordinance of 27 November 2019, in force since 1 January 2020 (AS **2019** 4623).

ARTICLE 127 Eligibility of conversion capitalty of conversion capital[91]

1 Conversion capital may be attributed to certain capital components as far as it contributes to the loss absorbency in case of a trigger event ("trigger"). The loss absorbency shall take on the following forms:

a. debt reduction because of a debt waiver;

b. conversion into Common Equity Tier 1 capital of the bank.

2 FINMA shall approve eligibility in accordance with Article 11(4) BA only if the bank can prove that the effects according to the BA and its implementing ordinances and the requirements according to company law and capital law have been fulfilled.

3 Before its conversion, the conversion capital must fulfill at least the requirements for Tier 2 capital as per Article 30 of this ordinance.

ARTICLE 127a[92] Eligibility of bail-in bonds

1 Bail-in bonds which fulfill the requirements of Article 126a may be eligible as additional loss absorbent funds according to Chapter 4 in the amount of the debt, provided their residual maturity is at least a year.[93]

2 The additional loss-absorbing funds shall have staggered maturities so that the requirements regarding the amount of such funds can be met even in the event of temporarily impaired borrowing conditions. A maximum of 25 percent of the requirements for additional loss-absorbing funds may be met by funds with residual terms of between one and two years.[94]

3 If (in application of Article 30(2)) Tier 2 capital can no longer be included as regulatory capital in the five-to-one-year period prior to maturity, it may, within the limits of international standards, be included in the same manner as bail-in bonds if it is ensured that these financial instruments absorb losses prior to bail-in bonds.

4 Systemically important banks shall be prohibited from holding capital instruments with a conversion trigger or debt write-off of other banks or bail-in bonds in accordance with Swiss law or corresponding laws of foreign jurisdictions of other Swiss or foreign systemically important banks at their own risk. The following shall be exceptions:

a. positions held for the purpose of providing bid/ask prices in market-making and short-term positions held in connection with issuing activities; and

b. holding bail-in bonds in the bank's trading book in accordance with Articles 37 and 38, provided these bail-in bonds are resold within 30 business days after their purchase.[95]

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91 Version according to Section I of the Ordinance of 11 May 2016, in force since 1 July 2016 (AS **2016** 1725).

92 Inserted with Section I of the Ordinance of 11 May 2016, in force since 1 July 2016 (AS **2016** 1725).

93 Version according to Section I of the Ordinance of 27 November 2019, in force since 1 January 2020 (AS **2019** 4623).

94 Version according to Section I of the Ordinance of 27 November 2019, in force since 1 January 2020 (AS **2019** 4623).

95 Version according to Section I of the Ordinance of 27 November 2019, in force since 1 January 2020 (AS **2019** 4623).

Chapter 3:[96] Going-concern capital of banks

ARTICLE 128 Principle

1 Systemically important banks shall hold sufficient regulatory capital to continue their operations even if they incur large losses.

2 The required capital shall be determined based on:

a. the leverage ratio; and

b. the amount relative to the risk-weighted assets (RWA ratio).

ARTICLE 129 Total capital requirement

1 The total capital requirement shall be the result of a base requirement plus surcharges for both the bank's market share and its size as measured by its total exposure.

2 The base requirement shall amount to:

a. 4.5 percent for the leverage ratio;

b. 12.86 percent for the RWA ratio.

3 In order to determine the surcharges, the FINMA shall periodically allocate the banks to different buckets, based on their market share and total exposure. Annex 9 shall define the applicable values and surcharges. The surcharges shall be calculated annually as at the end of the second quarter.

4 The overall market share shall be the higher of the average market shares of the domestic credit business and the domestic deposit business based on the statistical survey of the Swiss National Bank as at the end of the previous calendar year.

5 The Federal Department of Finance (FDF) shall regularly review the values and surcharges defined in Annex 9 in connection with the system stability and competitiveness of systemically important banks and, if necessary, demand that the Swiss Federal Council make adjustments.[97]

ARTICLE 130 Minimum capital and capital buffer

1 Systemically important banks must permanently hold minimum capital in the amount of:

a. 3 percent for the leverage ratio;

b. 8 percent for the RWA ratio.

[96] Version according to Section I of the Ordinance of 11 May 2016, in force since 1 July 2016 (AS **2016** 1725).

[97] Inserted with Section I of the Ordinance of 27 November 2019, in force since 1 January 2020 (AS **2019** 4623).

2 In addition, they must hold a capital buffer in the amount necessary to meet the total capital requirement.

3 The capital buffer shall be available at all times. If the bank incurs losses it may temporarily fall short of the required amount.

4 If the buffer falls below the required amount, the bank must indicate the measures and the time frame in which it plans to replace it. FINMA shall approve this deadline. If the bank fails to fulfill capital requirements once this deadline has passed, the FINMA may order any further measures necessary.

ARTICLE 131 Capital quality

In order to meet the requirements, the regulatory capital shall be at least of the following quality:

a. Requirements in regard to the leverage ratio:

   1. Minimum required capital: Common Equity Tier 1; a maximum of 1.5% may be used as Additional Tier 1 Capital in form of conversion capital to fulfill minimum capital requirements where the trigger takes place if the eligible Common Equity Tier 1 falls below 7% in the RWA ratio (conversion capital with high trigger),

   2. Capital buffer: Common Equity Tier 1;

b. Requirements for the RWA ratio:

   1. Minimum capital: Common Equity Tier 1; a maximum of 3.5% may be used as Additional Tier 1 Capital in form of conversion capital with high trigger in order to fulfill the minimum capital requirement,

   2. Capital buffer: Common Equity Tier 1; a maximum of 0.8% may be used as Additional Tier 1 Capital in form of conversion capital with high trigger in order to fulfill the capital buffer requirement.

ARTICLE 131a Countercyclical capital buffers

The countercyclical buffers as per Articles 44 and 44a must be satisfied in addition to the capital requirements regarding the risk-weighted assets stipulated in this title.

ARTICLE 131b Additional capital

In special circumstances, FINMA may demand that certain banks hold additional capital or capital of a higher quality, in view of the criteria outlined in Article 45.

Chapter 4:[98] Additional loss-absorbing funds

ARTICLE 132[99] Principle

1 Systemically important banks shall permanently hold additional funds in order to ensure a potential restructuring and resolution pursuant to Sections 11 and 12 of the Banking Act.

2 The amount of these additional funds shall correspond to the total capital requirements consisting of the base requirements and the surcharges in accordance with Article 129. It shall amount to the following

a. for international, systemically important banks:

1. for entities that carry out systemically important functions (Article 124(3)(a)): 62% of the total capital requirements at both the level of the financial group and that of the individual entities,

2. at the level of the highest entity in a financial group (Article 124(3)(b)) and of significant financial sub-groups (Article 124(3)(c)), provided the requirement in (1) does not apply: 100% of the total capital requirement less the discount possible pursuant to Article 133,

3. at the level of the individual entities of a bank in accordance with Article 124(3)(c) or (d), the total of the following:

– the nominal amounts of additional loss-absorbing funds which are passed on to subsidiaries

– 100% of the total capital requirement less the discount possible pursuant to Article 133, except for equity interests to be consolidated, including regulatory capital captured in the same way and risks arising from group-internal relationships, and

– 30% of the consolidated requirements applicable to this entity;

b. In the case of a bank that is not international and systemically important, it shall amount to the following: 40% of the total capital requirements.[100]

3 The additional funds shall be held in the form of bail-in bonds that meet the requirements set out in Article 126a. Article 132a and (4)-(7) below shall remain applicable.

4 Should a systemically important bank hold additional funds in the form of Common Equity Tier 1 capital or conversion capital that also fulfills the requirements of Additional Tier 1 capital, the requirements of this article shall be reduced by a factor of 0.5 to the extent of the additional capital held.

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[98] Originally before Article 133. Version according to Section I of the Ordinance of 11 May 2016, in force since 1 July 2016 (AS **2016** 1725).

[99] Version according to Section I of the Ordinance of 21 November 2018, in force since 1 January 2019 (AS **2018** 5241).

[100] Version according to Section I of the Ordinance of 27 November 2019, in force since 1 January 2020 (AS **2019** 4623).

The maximum reduction of the requirements shall amount to one third.

5 If an internationally active, systemically important bank holds additional funds in the form of capital pursuant to (5), this capital shall receive preferential treatment for eligibility for up to 2% for the leverage ratio and up to 5.8% for the RWA ratio. The requirements for the Total Loss-Absorbing Capacity requirements as per the Financial Stability Board's[101] recommendations must be complied with.

6 Capital that a bank holds to fulfill requirements in accordance with this chapter may not be used to simultaneously fulfill the requirements of Articles 128-131b.

7 If the bank held capital to meet the requirements of this Chapter at a prior point in time, it may then only use these to fulfill the requirements set out under Articles 128–131b as long as the requirements of this Article continue to be fulfilled by the remaining capital

ARTICLE 132a[102] Banks with a state guarantee or a similar mechanism

If a systemically important bank that is not active internationally has an explicit state guarantee provided by a canton or a similar mechanism, the requirement pursuant to Article 132(2)(b) shall be considered in the scope of the guaranteed amount:

a. as fulfilled in respect of the guaranteed amount up to a maximum of half of the required 40%;

b. wholly fulfilled in respect of the guaranteed amount if, in the event of a crisis, the corresponding funds are irrevocably available to FINMA on an unencumbered basis within a short period of time; FINMA shall decide on an individual basis whether these conditions have been met.

ARTICLE 133 Discounts for systemically important banks active internationally[103]

1 Following a consultation with the Swiss National Bank, the FINMA shall determine the discounts granted for measures taken to improve the financial group's resolvability as per the provisions of Articles 65 and 66 BO[104], based on:

a. the effectiveness of the measures to improve the consolidated group's global resolvability; and

b. the interdependencies between the different discount groups.

2 For entities as per Article 124(3)(b)–(d), the requirement for additional capital in consideration of the discounts and the reduction of requirements in view of a preferred recognition of conversion capital in accordance with Article 132(4) shall amount to at least 3.75% for the leverage ratio and to at least 10% for the RWA ratio.[105]

[101] Total Loss-Absorbing Capacity Term Sheet of 9 November 2015
[102] Inserted with Section I of the Ordinance of 21 November 2018, in force since 1 January 2019 (AS **2018** 5241).
[103] Version according to Section I of the Ordinance of 21 November 2018, in force since 1 January 2019 (AS **2018** 5241).
[104] SR **952.02**
[105] Version according to Section I of the Ordinance of 27 November 2019, in force since 1 January 2020 (AS **2019** 4623).

3 The reduction of the required additional capital must not lead to:

a.[106] falling short of international standards after taking into account the eligibility of Common Equity Tier 1 capital or conversion capital pursuant to Article 132(4);

b. jeopardizing the implementation of the emergency plan.

4 No discount is granted for evidencing that the emergency plan ensures the continuity of the systemically important functions at the point of non-viability as per Article 9(2)(d) BA.

5 FINMA may consult foreign supervisory and resolution authorities regarding the bank's proposed measures and may take into account their assessment of the improvement of the consolidated group's global resolvability when lowering the required additional funds.

ARTICLES 134 and 135

Repealed

Chapter 5: Special risk diversification requirements

ARTICLE 136[107] Large exposures

1 A large exposure shall not exceed 25% of the eligible part of the Tier 1 capital adjusted according to Articles 31-40 that is not used to fulfill the requirements of additional loss-absorbing funds.

2 A large exposure may at most amount to 15% of the Tier 1 capital as per (1) for:

a. exposures to other systemically important banks as per Article 8(3) BA;

b. exposures held to foreign systemically important banks designated by the Financial Stability Board as "Global Systemically Important Banks".

3 At the latest, the limits as per (2) shall be met twelve months after if:

a. a bank has been designated systemically important as per Article 8(3) BA;

b. a foreign bank has been designated to be a "Global Systemically Important Bank" as per (2)(b).

4 In all other cases, Article 99 shall apply correspondingly.

[106] Version according to Section I of the Ordinance of 21 November 2018, in force since 1 January 2019 (AS **2018** 5241).
[107] Version according to Section I of the Ordinance of 22 November 2017, in force since 1 January 2019 (AS **2017** 7625).

Title 6: Transitional and Final Provisions

Chapter 1: Transitional provisions

Section 1: Transitional provisions of 1 June 2012[108]

ARTICLES 137 and 138[109]

ARTICLE 139 Entry into force of the capital adequacy requirements for exchange-traded derivatives and credit risks to central counterparties

FINMA shall decide on the date from which the Basel Minimum Standard provisions must be observed for exchange-traded derivatives (Article 56(4)) and credit risk to central counterparties (Articles 69 and 70).

ARTICLE 140 Eligible capital

1 Capital instruments in Additional Tier 1 capital and Tier 2 capital that were issued after 12 September 2010 and which do not meet the relevant new requirements in regard to their regulatory eligibility shall no longer be considered as capital as at 1 January 2013. (3) shall remain applicable.

2 The eligibility of capital instruments that were issued before 12 September 2010 shall decrease over a time period of ten years as per Article 141 and shall no longer be considered as capital as at 1 January 2022.

3 Capital instruments in Additional Tier 1 capital and Tier 2 capital that were issued between 12 September 2010 and 31 December 2011 and for which there are no contractual provisions in case of an impending point of non-viability (Article 29) shall be decreasingly eligible as per Article 141.

ARTICLE 141 Eligibility of core capital and supplementary capital under previous law

1 Participation capital and other components of the core capital under previous law that shall no longer be considered as Common Equity Tier 1 capital or Additional Tier 1 capital and were issued before 12 September 2010 may still be eligible over a time period of 10 years as prescribed in (6) and (7). The participation capital of banks not organized as public limited companies shall be excluded; however, the participation capital of such banks may still be attributed as Common Equity Tier 1 capital under the same approach.

2 Supplementary capital issued before 12 September 2010 under previous law that is not eligible as Tier 2 capital as per this ordinance shall be decreasingly eligible as Tier 2 capital as described in (1).

[108] Inserted with Enclosure Section I of the Ordinance of 11 May 2016, in force since 1 July 2016 (AS **2016** 1725).
[109] Repealed by Section I of the Ordinance of 22 November 2017, with effect from 1 January 2019 (AS **2017** 7625).

3 With the entry into force of this ordinance, the regulatory capital shall be divided into the following components, applicable from 1 January 2013 to 31 December 2022 at the latest:

a. Common Equity Tier 1 capital; as per the new provisions;

b. Additional Tier 1 capital; as per the new provisions;

c. Tier 1 under previous law; pursuant to (1);

d. Tier 2 capital; as per the new provisions; and

e. Tier 2 under previous law; pursuant to (2).

4 Components as per (3)(b) and (c) shall form Additional Tier 1 capital until 31 December 2021 at the latest, while the components as per (d) and (e) form Tier 2 capital.

5 All regulatory-capital components as per (1) and (2) shall be documented quantitatively at the time when this ordinance enters into force and each category will be added up.

6 The values determined as per (5) as at 1 January 2013 shall be reduced by 10% annually, beginning on 1 January 2013. These values shall make up the limit of the maximum eligible capital components in the respective year under previous law. These values shall be eligible only up to the amount in which the bank has outstanding capital instruments of the corresponding quality.

7 If an existing capital instrument no longer is eligible as Additional Tier capital as per (6) due to the increasingly limited eligibility, it may be counted as Tier 2 capital once it no longer qualifies as Additional Tier capital, provided it meets the requirements for Tier 2 capital.

ARTICLE 142 Phase-in of adjustments

1 Deductions from the Common Equity Tier 1 capital inexistent under previous law shall now be made over the course of 5 years in stages of 20% each year, ascending as follows:

a. 20% of the applicable value from 1 January 2014;

b. 40% of the applicable value from 1 January 2015;

c. 60% of the applicable value from 1 January 2016;

d. 80% of the applicable value from 1 January 2017; and

e. 100% of the applicable value from 1 January 2018.

2 The part of the exposure as per (1) that is not subject to a deduction shall be considered as required capital according to the risk weighting under previous law.

3 Deductions under previous law that were previously made from the core capital in full or in part shall

be gradually shifted to a deduction from Common Equity Tier 1 capital, according to the calculation steps of (1).

4 For the part of the exposure as per (3) that is not subject to a deduction, the deduction under previous law shall be made over the course of 5 years in steps of 20% each year, descending, as follows:

a. 100% of the applicable value from 1 January 2013;

b. 80% of the applicable value from 1 January 2014;

c. 60% of the applicable value from 1 January 2015;

d. 40% of the applicable value from 1 January 2016;

e. 20% of the applicable value from 1 January 2017.

5 As of 1 January 2018, the additional deduction pursuant to (4) shall no longer apply.

6 Up to 31 December 2017, threshold 3 (Article 35(4)) shall amount to 15% of the Common Equity Tier 1 capital after taking into consideration all regulatory adjustments with exception of the deduction from threshold 3.[110]

7 New deductions from Additional Tier 1 capital or from Tier 2 capital shall be introduced along the same gradual approach as in (1)-(5).

ARTICLES 143 – 147[111]

ARTICLE 148[112]

ARTICLE 148a[113]

[110] Version according to Annex 2 Section 4 of the Banking Ordinance of 30 April 2014, in force since 1 January 2015 (AS **2014** 1269).

[111] Repealed by Section I of the Ordinance of 11 March 2016, with effect from 1 July 2016 (AS **2016** 1725).

[112] Repealed by Section I of the Ordinance of 22 November 2017, with effect from 1 January 2019 (AS **2017** 7625).

[113] Inserted with Annex 2 Section 4 of the Banking Ordinance of 30 April 2014 (AS **2014** 1269). Repealed by Section I of the Ordinance of 31 March 2016, with effect from 1 July 2016 (AS **2016** 1725).

Section 2:[114] Transitional provision in regard to the amendment of 11 May 2016

ARTICLE 148b Quality of capital

1 With respect to the required quality of capital in accordance with Article 131, the following shall be eligible:

a. conversion capital deemed to be Tier 2 capital with a high trigger, already existing at the time these amendments enter into force: until maturity or until the date of the first possibility to call, but no longer than until 31 December 2019, as conversion capital with a high trigger in the form of Additional Tier 1 capital;

b. conversion capital deemed to be Additional Tier 1 capital with a low trigger, already existing at the time these amendments enter into force: until the date of the first possibility to call as conversion capital with a high trigger in the form of Additional Tier 1 capital;

c. conversion capital which according to (a) is no longer eligible: until one year before maturity, as funds for meeting the requirements of Articles 132 and 133;

d. conversion capital which according to (b) is no longer eligible: until termination by the bank as funds for meeting the requirements of Articles 132 and 133.

2 With respect to the required quality of capital in accordance with Article 131, conversion capital with a trigger of 5 percent issued before the effective date of the amendment of 1 July 2016 shall be eligible if:

a. it is deemed to be Tier 2 capital: until maturity or until the date of the first possibility to call, but no longer than until 31 December 2019, as conversion capital with a high trigger in the form of Additional Tier 1 capital;

b. it is in the form of Additional Tier 1 capital: until the date of the first possibility to call as conversion capital with a high trigger, in the form of Additional Tier 1 Capital;

c. according to (a) and (b), it is no longer eligible: until one year before maturity, as funds for meeting the requirements of Articles 132 and 133.

ARTICLE 148c Capital Necessary for the Bank's Going Concern

1 With the entering into force of the amendment of 1 July 2016, the requirement of Article 129 shall amount to 3 percent for the leverage ratio and 10.75 percent for the RWA ratio. Additional Tier 1 capital in the form of conversion capital with a high trigger shall be eligible for up to a maximum of 0.70 percent for the leverage ratio and 2.625 percent for the RWA ratio.

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[114] Inserted with Section I of the Ordinance of 11 May 2016, in force since 1 July 2016 (AS **2016** 1725).

2 In 2017, the requirement of Article 129 shall amount to 3.5 percent for the leverage ratio and 12.0 percent for the RWA ratio. Additional Tier 1 capital in the form of conversion capital with a high trigger shall be eligible for up to a maximum of 0.9 percent regarding the leverage ratio and 3 percent regarding the RWA ratio.

3 In 2018, the requirement of Article 129 shall amount to 4.0 percent for the leverage ratio and 12.86 percent for the RWA ratio. Additional Tier 1 capital in the form of conversion capital with a high trigger shall be eligible for up to a maximum of 1.1 percent regarding the leverage ratio and 3.4 percent regarding the RWA ratio.

4 In 2019, the base requirements pursuant to Article 129 for both the leverage ratio and the RWA ratio, as well as half of the surcharges each for the market share and the total exposure must be met. Additional Tier 1 capital in the form of conversion capital with a high trigger shall be eligible for up to a maximum of 1.3 percent for the leverage ratio and 3.9 percent for the RWA ratio.

ARTICLE 148d Additional Loss-absorbing Funds

1 With the entering into force of the amendment of 1 July 2016, the requirement of Article 132 shall amount to 1.0 percent for the leverage ratio and 3.5 percent for the RWA ratio.

2 In 2017, the requirement pursuant to Article 132 shall amount to 1.875 percent for the leverage ratio and 5.84 percent for the RWA ratio plus one quarter of each surcharge for the market share and for the total exposure.

3 In 2018, the requirement pursuant to Article 132 shall amount to 2.75 percent for the leverage ratio and 8.18 percent for the RWA ratio plus one half of each surcharge for the market share and for the total exposure.

4 In 2019, the requirement pursuant to Article 132 shall amount to 3.625 percent for the leverage ratio and 10.52 percent for the RWA ratio plus three quarter of each surcharge for the market share and for the total exposure.

5 Any reduction of requirements in accordance with (1)-(4) due to a discount as per Article 133 shall remain applicable.

ARTICLE 148e Bail-in-bonds issued before the effective date of the amendment of 11 May 2016

1 FINMA shall retroactively approve the eligibility of bail-in-bonds issued by internationally active, systemically important banks as per Article 124a before the effective date of the amendment of 1 July 2016, provided the conditions of Article 126aare met.

2 Bail-in bonds issued by a special purpose entity may also be approved until 31 December 2021.

ARTICLE 148f Extended Countercyclical Buffer

The extended counter-cyclical buffer may, as measured by the risk-weighted exposures, amount to a maximum of

a. from the taking effect of the amendment on 1 July 2016: 0.625 percent;

b. In 2017: 1.25 percent;

c. In 2018: 1.875 percent.

Section 3:[115] Transitional provision in regard to the amendment of 23 November 2016

ARTICLE 148g[116]

1 To determine the required capital, credit equivalents of derivatives shall be calculated in accordance with Articles 56-59 at the latest 36 months after the entry into force of the amendments dated 23 November 2016.

2 Exposures within the position category as per Article 63(3)(f^{bis}) shall be weighted in accordance with Article 66(3bis) at the latest 36 months after the entry into force of the amendments dated 23 November 2016.

3 Up to 31 December 2019, derivatives may also be converted into their credit equivalents as required by Title 4 using the current exposure method or the standard method in accordance with Articles 56-58 in the version dated 1 July 2016[117]. FINMA may extend this deadline.

Section 4:[118] Transitional provision in regard to the amendment of 22 November 2017

ARTICLE 148h

Banks that expect or suspect that they unlawfully exceeded the large exposure limit (Articles 97-99) on or after 1 January 2019, shall notify the FINMA of this within three months after the amendment of 22 November 2017 has entered into force.

[115] Inserted with Section I of the Ordinance of 23 November 2016, in force since 1 January 2017 (AS **2016** 4683).

[116] Version according to Section I of the Ordinance of 22 November 2017, in force since 1 January 2018 (AS **2017** 7625).

[117] AS **2012** 5441

[118] Inserted with Section I of the Ordinance of 22 November 2017, in force since 1 January 2018 (AS **2017** 7625).

Section 5:[119]

Transitional provision in regard to the amendment of 21 November 2018

ARTICLE 148i Treatment of Equity Interests

The transitional provisions on the treatment of equity interests stipulated by FINMA in individual cases prior to the entry into force of the amendment dated 21 November 2018 shall take precedence over the provisions of Article 32(j) and of Annex 4.

ARTICLE 148j Additional Funds for Systemically Important Banks Not Active Internationally

The requirement in accordance with Article 132(2)(b) shall amount to the following:

a. In 2019: 0.21% for the leverage ratio and 0.64% for the RWA ratio;

b. In 2020: 0.42% for the leverage ratio and 1.28% for the RWA ratio;

c. In 2021: 0.63% for the leverage ratio and 1.92% for the RWA ratio;

d. In 2022: 0.84% for the leverage ratio and 2.56% for the RWA ratio;

e. In 2023: 1.05% for the leverage ratio and 3.2% for the RWA ratio;

f. In 2024: 1.26% for the leverage ratio and 3.84% for the RWA ratio;

g. In 2025: 1.5% for the leverage ratio and 4.5% for the RWA ratio plus half of the surcharges each for market share and total exposure.

Section 6:[120] Transitional provision in regard to the amendment of 27 November 2019

ARTICLE 148k Calculation Methods for Derivatives

1 Until 31 December 2021, banks in categories 4 and 5 as per Annex 3 BO[121] may also use the market value method in accordance with Article 57 of the version 1 July 2016[122] for the conversion of derivatives into their credit equivalents in accordance with chapters 3 and 4.

2 This shall also apply to banks in category 3 as per Annex 3 BO that do not have significant derivative

[119] Inserted with Section I of the Ordinance of 21 November 2018, in force since 1 January 2019 (AS **2018** 5241).
[120] Inserted with Section I of the Ordinance of 27 November 2019, in force since 1 January 2020 (AS **2019** 4623).
[121] SR **952.02**
[122] AS **2012** 5441

exposures. FINMA shall enact technical implementing provisions.

ARTICLE 148l Additional funds for systemically important banks active internationally

The requirement in accordance with Article 132(2)(a)(3)(third point) shall amount to the following:

a. In 2020: 0 percent;

b. In 2021: 5 percent;

c. In 2022: 10 percent;

d. In 2023: 20 percent.

ARTICLE 148m Discounts for systemically important banks active internationally

In 2020 and 2021, the capital requirements pursuant to Article 133(2) may not drop below 3 percent for the leverage ratio or 8.6 percent for the RWA ratio, respectively.

Chapter 2: Final provisions

ARTICLE 149 Repeal of Previous Legislation

The Capital Adequacy Ordinance of 29 September 2006[123] is hereby repealed.

ARTICLE 150 Amendments to the previous law

The amendments to the previous law shall be regulated in Annex 6.

ARTICLE 151 Entry into force

1 This Ordinance shall enter into force on 1 January 2013, with the exception of (2) and (3).

2 Article 43 shall enter into force on 1 January 2016.

3 The entry into force of the provisions of Title 5, with the exception of Articles 126 and 127, shall be subject to the approval by the Swiss Federal Assembly.[124]

[123] [AS **2006** 4307, **2008** 5363 Annex Section 8, **2009** 6101, **2010** 5429 and **2012** 3539]

[124] Approved by the Swiss Federal Assembly on 18 September 2012 (BBl **2012** 8395).

Annex 1[125] (Article 54(1))

Credit Conversion Factors when Applying SA-BIS

Number	Contingent liabilities and irrevocable loan commitments	Credit conversion factors
		SA-BIS
1.	**Loan commitments**	
1.1	with firm commitment and with an agreed initial maturity of less than one year	0.20
1.2	with firm commitment and with an agreed initial maturity of more than one year	0.50
1.3	callable at any time and unconditionally, or automatically becoming invalid if the borrower's credit rating deteriorates	0.00
2.	**Builders' guarantees for building in Switzerland and abroad**	0.50
3.	**Self-liquidating guarantees from commodity trades**	
3.1	Short-term self-liquidating letters of credit for trade transactions, such as documentary letters of credit, that are secured by the underlying freight	0.20 0.20
4.	**Call commitments and additional funding commitments**	
4.1	on equity shares not recognized as equity interest	1.00
4.2	on equity shares, if they pertain to equity interests not to be consolidated	1.00
4.3	on equity shares, if they pertain to equity interests to be consolidated or equity shares in the insurance sector	1.00
5.	**Guarantees**	
5.1	Transaction-related contingent liabilities, such as performance guarantees, tender guarantees, product warranties and standby letters of credit that are related to particular transactions	0.50
5.2	Note Issuance Facilities (NIFs) and Revolving Underwriting Facilities (RUFs)	0.50

[125] Adjusted version according to Annex 2 Section 4 of the Banking Ordinance of 30 April 2014, in force since 1 January 2015 (AS 2014 1269). The correction of 10 May 2016 shall pertain only to the French text (AS **2016** 1359).

Number	Contingent liabilities and irrevocable loan commitments	Credit conversion factors
		SA-BIS
6.	**Other contingent liabilities**	
6.1	Direct credit substitutes such as general loan guarantees including standby letters of credit serving as financial guarantees for loans and securities, and acceptances, including endorsements, that have the character of acceptances	1.00 1.00
6.2	Other contingent liabilities	1.00

Remarks:

1 Other contingent liabilities (under 6.2) in particular shall include:

- Sale and repurchase agreement operations with recourse options, where the credit risk remains with the bank [§83 (ii) of the Basel Minimum Standards];
- Lending of securities and deposit of securities as collateral, as well as repurchase agreements and similar transactions, such as repos and reverse repos and securities lending [§84 of the Basel Minimum Standards];
- Forward purchases, forward deposits and only partly paid-in shares and securities, which represent irrevocable commitments with certain draw-down [§84(i) of the Basel Minimum Standards];

2 If a commitment is given to provide an off-balance-sheet position, banks may apply the lower of the two sets of applicable credit conversion factors [§86 the Basel Minimum Standards].

Annex 2[126] (Article 66(1))

Exposure Categories pursuant to SA-BIS when applying External Ratings and their Risk Weighting

Number	Exposure categories (SA-BIS) with the option to use external ratings	Rating classes								
		1	2	3	4	5	6	7	w/o rating	fixed at
1.	**Central governments and central banks**									
1.1	central governments and central banks	0%	0%	20%	50%	100%	100%	150%	100%	–
1.2	Swiss Confederation and the Swiss National Bank, provided that the debt is in the national currency and is also refinanced in it	–	–	–	–	–	–	–	–	0%
2.	**Public-law entities**									
2.1	Public-law entities	20%	20%	50%	100%	100%	150%	150%	100%	–
2.2	Unrated public-law entities, provided they have the authority to levy taxes or their liabilities are entirely and unlimitedly guaranteed by a sovereign entity	–	–	–	–	–	–	–	–	50%
2.3.	Unrated Cantons	–	–	–	–	–	–	–	–	20%
3.	**BIS, IMF and multilateral development banks**									
3.1.	Multilateral development banks	20%	20%	50%	50%	100%	100%	150%	50%	–
3.2.	Bank for International Settlements (BIS), International Monetary Fund (IMF), certain multilateral development banks as specified by the FINMA	–	–	–	–	–	–	–	–	0%

[126] Adjusted version according to Annex 2 Section 4 of the Banking Ordinance of 30 April 2014, in force since 1 January 2015 (AS **2014** 1269).

Number	Exposure categories (SA-BIS) with the option to use external ratings	Rating classes								
		1	2	3	4	5	6	7	w/o rating	fixed at
4.	**Banks and securities dealers**									
4.1	Bank and securities dealers, initial maturity of debt ≤ 3 months	20%	20%	20%	20%	50%	50%	150%	20%	–
4.2	Bank and securities dealers, initial maturity of debt > 3 months	20%	20%	50%	50%	100%	100%	150%	50%	–
5.	**Joint institutions**									
5.1	Joint institutions of the banks, recognized by the FINMA	20%	20%	50%	100%	100%	150%	150%	100%	–
5.2	Deposit liabilities to the holders of the deposit protection fund	–	–	–	–	–	–	–	–	20%
6.	**Stock exchanges, clearing houses and central counterparties**									
6.1	Stock exchanges, clearing houses and central counterparties	20%	20%	50%	100%	100%	150%	150%	100%	–
6.2	Central counterparties, if credit risks are directly related to the performance of exchange-traded or OTC contracts guaranteed by the central counterparty (in particular derivatives, repo or repo-like transactions where the Central Counterparty guarantees the servicing of the debt over the entire term).	–	–	–	–	–	–	–	–	2%
6.3	Stock exchanges and clearing houses, if credit risks are directly related to the performance of transactions guaranteed by a central counterparty, where the central counterparty only guarantees settlement (particularly spot transactions).	–	–	–	–	–	–	–	–	0%
7	**Corporations**	20%	20%	50%	100%	100%	150%	150%	100%	–

Annex 3[127] (Article 66(2))

Exposure Categories according to SA-BIS without Using External Ratings and their Risk Weighting

	Position categories (SA-BIS) without external ratings	Risk weights
		SA-BIS
1.	**Natural persons and small businesses (retail exposures)**	
1.1	Retail positions, if the total exposure to a single counterparty as per Article 49(1), excluding residential mortgage-backed security, does not exceed CHF 1.5m or 1% of all retail exposures.	75%
1.2	Other retail positions	100%
2.	**Mortgage bonds**	
2.1	Swiss mortgage bonds (Pfandbrief)	20%
3.	**Direct or indirect mortgage-backed exposures**	
3.1	Residential properties in Switzerland and abroad, up to two-thirds of the current market value.	35%
3.2	Residential properties in Switzerland and abroad, above two thirds and up to 80% of the current market value	75%
3.3	Residential properties in Switzerland and abroad, above 80% of the current market value	100%
3.4	Other properties and real estate	100%
4.	**Subordinated exposures**	are weighted like non-subordinated positions
4.1	Subordinated positions to public-law entities with a risk weight of a maximum of 50%, as per Appendix 2 (SA-BIS)	
4.2	Other subordinated exposures	

[127] The correction of 9 April 20 The 19 pertains only to the Italian text (AS **2019** 1203).

	Position categories (SA-BIS) without external ratings	Risk weights
		SA-BIS
5.	**Overdue positions**	
5.1	Exposures adjusted with individual value adjustments pursuant to no. 3.1, whereby claims secured by real estate liens pursuant to nos. 3.2 - 3.4 count as unsecured	100%
5.2	Non-secured parts of the exposure adjusted with individual value adjustments, if these amount to at least 20 % of the outstanding amount	100%
5.3	Non-secured parts of the exposure adjusted with individual value adjustments, if these amount to less than 20 % of the outstanding amount	150%
6.	**Other exposures**	
6.1	Liquid assets excluding the exposures that fall under Annex 2, no. 6.2	0%
6.2	Credit equivalents from call commitments and additional funding commitments	100%
6.3	Other exposures (incl. accruals and deferrals)	100%

Annex 4[128] (Articles 32(j) and 66(3))

Risk Weighting of Equity Shares and Units in Collective Investment Schemes according to SA-BIS

	Exposure categories equity securities as well as units in collective investment schemes			Risk weights
				SA-BIS
1.1	Equity shares held as financial investments, or – if the bank applies the de minimis approach – in the trading book		They are traded on a regulated exchange.	
			Yes	100%
			No	150%
1.2	…			
1.3	…			
1.4	Equity interests in industries other than banking, financial and insurance	They are traded on a regulated stock exchange.		
		Yes		100%
		No		150%
1.5	Equity interests in the banking, financial and insurance sector, provided they are not deducted from Common Equity Tier 1 or from Additional Tier 1 capital or risk-weighted at 250% pursuant to Article 40(2).			150%
1.6	In the single-entity calculation, the net long positions (calculated in accordance Article 52) of directly or indirectly held interests in companies active in the financial sector that must be consolidated, and domiciled:			in Switzerland: 250%
				Abroad 400%
1.7	In the single-entity calculation, the net long positions (calculated in accordance with Article 52) of directly or indirectly held interests in companies active in the financial sector that must be consolidated, and domiciled:			in Switzerland: 250%
				Abroad 400%

[128] Adjusted as per Section I of the Ordinance of 23 Nov 2016 (AS **2016** 4683) and as Section II of the Anti-Money Laundering Ordinance of 21 November 2018, in force since 1 January 2019 (AS **2018** 5241).

Annex 5 (Article 84(1))

Rates for Calculating Capital Adequacy Requirements for the Specific Risk of Interest Rate Instruments according to the Standardized Approach to Market Risk

Category	Rating class	Rate
Central governments and central banks	1 or 2	0.00%
	3 or 4	0.25% (residual maturity ≤ 6 months) 1.00% (residual term to maturity > 6 months and ≤ 24 months) 1.60% (residual maturity > 24 months)
	5 or 6	8.00%
	7	12.00%
	Not rated	8.00%
Qualifying interest rate instruments (Article 4(g))		0.25% (residual term to maturity ≤ 6 months) 1.00% (residual term to maturity > 6 months and ≤ 24 months) 1.60% (residual maturity > 24 months)
Other	5	8.00%
	6 or 7	12.00%
	without rating	8.00%

Annex 6 (Article 150)

Amendments to the current law

…[129]

[129] Amendments may be seen in AS **2012** 5441.

Annex 7[130] (Article 44(2))

[130] Inserted with Section I of the Ordinance of 13 February 2013 (AS 2013 693). Repealed by Section I of the Ordinance of 27 March 2020, with effect from 28 March 2020 (AS **2020** 1105).

Annex 8[131] (Article 43(1))

Minimum regulatory capital, capital buffer and total capital ratio

(in % of the risk-weighted exposures)

Category as per Appendix 3 BO1[132]	1 and 2	3	4	5
Minimum required capital			8.0%	
– of which CET1			4.5%	
– of which AT1 or higher			1.5%	
– of which T2 or higher			2.0%	
Capital Buffer	4.8%	4.0%	3.2%	2.5%
– of which CET1	3.7%	3.3%	2.9%	2.5%
– of which AT1 or higher	0.5%	0.3%	0.1%	–
– of which T2 or higher	0.6%	0.4%	0.2%	–
Total capital ratio	12.8%	12.0%	11.2%	10.5%

[131] Inserted with Section II of the ordinance of 11 May 2016, in force since 1 July 2016 (AS **2016** 1725).
[132] SR **952.02**

Annex 9[133] (Article 129)

Surcharges

1 Surcharges for market share

1.1 For a market share up to 27 percent

Bucket	Market share	Surcharge on Leverage Ratio	Surcharge on RWA ratio
M1	< 12%	0%	0%
M2	< 17%	0.125%	0.36%
M3	< 22%	0.25%	0.72%
M4	< 27%	0.375%	1.08%

1.2 For a market share of 27 percent and higher

For each additional 5 percentage points of market share the requirement regarding the leverage ratio shall increase by 0.125 percentage points and regarding the RWA ratio by 0.36 percentage points.

2 Surcharge for the total exposure

2.1 For a total exposure of up to CHF 1,341 billion

Bucket	Total exposure	Surcharge on Leverage Ratio	Surcharge on RWA ratio
G1	< CHF 697bn	0%	0%
G2	< CHF 912bn	0.125%	0.36%
G3	< CHF 1,127bn	0.25%	0.72%
G4	< CHF 1,341bn	0.375%	1.08%

2.2 For a total exposure of more than CHF 1,341 billion

For each additional CHF 215bn of total exposure the requirement for the leverage ratio shall increase by 0.125 percentage points and for the RWA ratio by 0.36 percentage points.

[133] Inserted with Section II of the Ordinance of 11 May 2016, in force since 1 July 2016 (AS **2016** 1725).

Contacts

Philipp Rickert
Partner, Head of Financial Services,
Member of the Executive Committee
Zurich
Tel. +41 58 249 42 13
prickert@kpmg.com

Helen Campbell
Partner, Banking Transformation
Tel. +41 58 249 35 01
hcampbell@kpmg.com

Thomas Dorst
Partner, Assurance & Regulation
Tel. + 41 58 249 54 44
tdorst@kpmg.com

Nicolas Moser
Partner, Geneva Office
Tel. +41 58 249 37 87
nmoser@kpmg.com

www.kpmg.ch

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