KPMG

FINMA-Ordinance on the Leverage Ratio and Operational Risks of Banks and Securities Firms

(LROO-FINMA)

SR 952.033.11
Dated 6 March 2024 (Status as of January 2025)

KPMG

FINANCIAL SERVICES

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Unofficial translation by KPMG

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The Swiss Financial Market Supervisory Authority (FINMA),
based on Articles 42a(2) and 90(3) of the Capital Adequacy Ordinance of 1 June 2012[1] (CAO)
decrees:

Chapter 1: Object and Definitions

ARTICLE 1 Subject

This Ordinance governs the total exposure relevant for calculating the leverage ratio and the minimum capital requirements for operational risk.

ARTICLE 2 Definitions

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

a. Securities Financing Transactions: Loans, Repo and Repo-like Transactions with Securities;

b. Margin Lending: Securities loans with regular remargining (margin lending);

c. Loans, Repo and Repo-like Transactions with Securities: repurchase and reverse repurchase agreements and securities lending and borrowing;

d. Written Credit Derivatives: the following credit derivatives by which the bank provides credit protection:

   1. total return swaps on debt instruments,

   2. derivatives referencing a credit event,

   3. Options on instruments as per (1) and (2);

e. Derivative transactions with remargining: Derivative transactions in which margin payments are calculated and made or received at regular intervals on the basis of a margin agreement based on the net market value of the derivative contracts included in the margin agreement, subject to any thresholds and minimum transfer amounts; transactions with unilateral margin agreements in which the bank only provides collateral but does not receive it are excluded;

[1] SR **952.03**

Chapter 2: Total exposure

Section 1: General provisions

ARTICLE 3 Composition

The total exposure consists of the following positions:

a. the balance sheet positions (section 2);

b. the derivatives (section 3);

c. the securities financing transactions (section 4);

d. the off-balance sheet positions (section 5).

ARTICLE 4 Calculation principles

1 Subject to the following provisions, the following are not permitted for calculating the total exposure:

a. offsetting assets and liabilities against each other;

b. taking into account risk-mitigating measures in accordance with Article 61 CAO, including physical or financial collateral and guarantees.

2 Where a bank's transactions or structures are not adequately reflected in the total exposure, FINMA may order corresponding adjustments in individual cases in accordance with number 30.6 of the Basel minimum standard on the leverage ratio (LEV) in the version set out in Annex 1 CAO.

3 With FINMA's approval, the bank may calculate the leverage ratio based on average values of the total exposure over the quarter. In this case, this calculation method must be used over the long term.

ARTICLE 5 Exclusion of positions

The following need not be taken into account when calculating the total exposure:

a. deductions from Tier 1 capital that are not linked to liabilities, in particular deductions related to:

1. Investments in the equity of companies outside the scope of consolidation,

2. the value adjustment deficit in accordance with Article 32(3) CAO when using the internal ratings-based approach (IRB approach), as well as with other value adjustments of assets;

3. prudential valuation adjustments for less liquid assets in accordance with Articles 16–24 of

the FINMA Ordinance of 6 March 2024[2] on the Trading Book and Banking Book and Eligible Capital of Banks and Securities Firms;

b. securitized positions that meet the criteria set out in number 30.5 LEV in the version set out in Annex 1 of the CAO;

c. recognized fiduciary investments that meet the criteria for derecognition under International Financial Reporting Standard 9 (IFRS 9) of the International Accounting Standards Board[3] and the criteria for de-consolidation under IFRS 10[4], as amended.

Section 2: Balance sheet items

ARTICLE 6 Balance sheet items to be included

The following must be included in the calculation of the total exposure:

a. all assets at carrying amounts, including all collateral recognized in connection with derivatives and securities financing transactions, with the exception of receivables and positive replacement values recognized in accordance with sections 3 and 4 in connection with such transactions and derivatives;

b. assets used under operating leases, including rights of use under rental agreements that were not capitalized in accordance with Article 21(5) of the FINMA Accounting Ordinance of 31 October 2019[5] (AO-FINMA), in the amount of the off-balance sheet leasing obligations;

c. by banks that apply a recognized international accounting standard: the respective rights of use from leasing transactions as reported in the balance sheet.

ARTICLE 7 Unsettled transactions cleared in accordance with the trade date accounting principle

1 Any netting of cash receivables and payables that is undertaken in accordance with the accounting rules on trade date accounting for unsettled regular purchases and sales of financial assets must be reversed when calculating the total exposure.

2 Netting of such cash receivables and payables is only permitted under the following conditions, irrespective of any netting under the accounting rules:

a. the corresponding sold or purchased position is part of the trading book and is valued at fair value through profit or loss

2 SR **952.031.11**

3 The standard can be accessed on the internet for a fee at: www.ifrs.org > Issued Accounting Standards > IFRS Accounting Standards Navigator.

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5 SR **952.024.1**

b. the transaction is settled on a delivery versus payment basis.

3 Regular purchases and sales of financial assets are purchases and sales for which the settlement date is determined by regulation or by the rules of the exchange.

ARTICLE 8 Collective account for cash and liquidity management

1 Where the bank, as part of its cash and liquidity management services, transfers the credit and debit holdings of participating customer accounts to a collective account by means of cash pooling, the balance of the collective account determined by netting may be used to calculate the total exposure instead of the balances of the individual customer accounts, provided that:

a. the transfer occurs at least daily; and

b. the bank is not liable for the individual balances after the transfer.

2 Netting is also permitted if the transfer does not occur daily, provided that:

a. the bank has the right at any time to transfer the balances of the participating customer accounts to the collective account and is not liable for the individual balances after the transfer;

b. the transfer occurs at least twice a week;

c. there are no different maturities between the balances of the individual customers or all balances are either on call or overnight only; and

d. interest or fees are calculated based on the balance of the collective account.

Section 3: Derivatives

ARTICLE 9 Derivatives to be included and their calculation

1 All derivatives are to be included in the calculation of the total exposure. Derivatives whose replacement value:

a. cannot become positive; or

b. is not listed in the balance sheet in accordance with the applicable accounting standard, are also to be included.

2 The derivatives are to be included in the amount of 1.4 times the sum of:

a. the regulatory replacement costs (RC) (Article 10); and

b. the add-on (Article 11).

3 Derogations for the treatment of collateral in accordance with Article 12, for positions in connection with clearing services in accordance with Articles 13 and 14 and for written credit derivatives in accordance with Articles 15 and 16 remain reserved.

ARTICLE 10 Regulatory replacement costs

1 The regulatory replacement costs must be calculated using the formula in Annex 1.

2 For derivatives in accordance with Article 9(1)(b), the regulatory replacement costs correspond to the sum of the positive replacement values.

ARTICLE 11 Add-on

1 The add-on must be calculated in accordance with the Standardized Approach for Measuring Counterparty Credit Risk (SA-CCR), the Simplified Standardized Approach for Measuring Counterparty Credit Risk (VSA-CCR) or the Current Exposure Approach, as well as the implementing provisions in the FINMA Ordinance of 6 March 2024[6] on the Credit Risks of Banks and Securities Firms (CreO-FINMA) must be calculated, whereby the multiplier in Article 10 of the CreO-FINMA is one.

2 Banks that use the Expected Positive Exposure model approach (EPE model approach) to calculate risk-weighted positions must use the Standardized Approach to calculate the add-on. All other banks must use the same approach for calculating the add-on that they use for calculating the risk-weighted positions.

3 In the case of written credit derivatives (Articles 15 and 16), the add-on must be calculated only on the portion whose actual nominal value is not included in the calculation of the total exposure or has been reduced in accordance with Article 16(1)(b).

4 In the case of derivatives transactions with remargining, the maturity factor may be capped by the corresponding maturity factor for derivatives transactions without remargining. As an alternative, derivative transactions with remargining may be treated as transactions without remargining.

ARTICLE 12 Netting of collateral

1 Where derivatives are netted with collateral under the accounting rules, the gross values must be taken into account for calculating the total exposure rather than the netting result, subject to the following paragraphs.

2 The bank may:

a. net the cash portion of the margin payments received with the regulatory replacement costs in accordance with Article 10;

b. deduct the cash portion of margin payments made to the counterparty from the total exposure, provided that it

6 SR **952.033.21**

1. reports this component as an asset in accordance with the applied accounting rules, and

2. includes it in the calculation of the regulatory replacement costs in accordance with Article 10.

3 The procedure set out in (2) is permissible under the following conditions:

a. The party receiving the cash does not hold it separately from its own assets; this requirement does not apply to collateral in connection with contracts cleared by a qualifying central counterparty (QCCP) in accordance with Article 77a(2) CAO.

b. The margin payments must be calculated and paid or received at least daily either on the basis of the current market value of the derivative contracts or each morning based on the end-of-day prices of the previous day.

c. The amount of the margin payments made is equal to the full market value of the derivative contracts, taking into account any threshold values and minimum transfer amounts.

d. The margin payments and the derivative contracts are subject to a netting agreement between the two counterparties, which:

1. explicitly states that payment obligations under the netting agreement are to be settled net, taking into account the margin payments received and paid, if either party is affected by a credit event, and

2. is legally enforceable in all relevant jurisdictions, including in the event of a payment default, bankruptcy or insolvency.

e. The cash portion of the variation margin payments received is in a currency that is listed as a settlement currency either in the derivatives contract, in the netting agreement, in the Credit Support Annex to the netting agreement, or in a netting agreement with a QCCP.

4 Where the conditions set out in (3)(b) and (c) are temporarily not met due to margin disputes, but the undisputed amount is calculated and paid or received by both counterparties on a daily basis, this amount may be netted or deducted in accordance with (2).

ARTICLE 13 Clearing services: Positions towards a clearing client

1 By way of derogation from Articles 9–12, the bank may use the credit equivalent in accordance with the SA-CCR, the VSA-CCR or the current exposure approach in accordance with Article 56 CAO to calculate the derivative exposure towards a clearing client in connection with clearing services. In doing so, the bank is only permitted to take into account initial margin payments made by the clearing client if these are held separately from the bank's own assets.

2 Where a clearing client enters directly into a derivatives transaction with a central counterparty (CCP) and the bank, as a clearing member, provides a guarantee to the CCP that the clearing client will perform its obligations, the bank must calculate its derivatives exposure to the clearing client, taking into account collateral received and provided, either in accordance with (1) or in accordance with Articles 9–12.

3 (1) and (2) apply by analogy to multi-level client relationships in accordance with Article 138 of the CreO-FINMA[7].

ARTICLE 14 Clearing services: Positions towards a central counterparty

1 Where a bank, as a clearing member of a CCP, guarantees to its clearing clients that the CCP will fulfil its obligations, it must, in addition to the derivatives exposures to the clearing clients in accordance with Article 13, include the following positions for the calculation of the overall exposure:

a. the derivatives exposures to the CCP;

b. the claims arising from collateral that it provides to the CCP in connection with these client transactions, according to the same rules as for all other derivative exposures.

2 Where a bank, as a clearing member of a QCCP, does not guarantee to its clearing clients that the QCCP will fulfil its obligations, it does not have to include the following positions for the calculation of the overall exposure:

a. their derivative exposures to the QCCP;

b. the claims arising from collateral that they provide to the QCCP in connection with these client transactions.

3 For banks that are not clearing members of a QCCP, (2) applies by analogy, provided that:

a. the clearing services are offered within a multi-level client relationship in accordance with Article 138 CreO-FINMAN [8]; and

b. the conditions set out in Article 150(1) of the CreO-FINMA are met.

4 Where a bank acts as a clearing member towards a clearing client that is within the scope of consolidation, it may not take advantage of the simplifications set out in (2) and (3).

ARTICLE 15 Written credit derivatives: effective notional amount

1 For written credit derivatives, the effective notional amount must be taken into account in addition to the value calculated in accordance with Articles 9–12 for the calculation of the total exposure. An exception is made for credit derivatives processed for a clearing client as a clearing service where the simplifications in Article 14(2) or (3) are applicable.

2 The effective notional amount corresponds to the notional amount of a contract with a leverage effect or with other effects that increase the transaction effect, reflecting the actual risk.

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7 SR **952.033.21**
8 SR **952.033.21**

ARTICLE 16 Written Credit Derivatives: Deductions from the effective notional value

1 The following may be deducted from the effective notional value of a written credit derivative:

a. where applicable, the negative replacement value of the credit derivative, provided that this has led to a reduction in the Tier 1 capital;

b. the effective notional value of the opposite credit derivatives, if the credit protection purchased is at least equivalent to the credit protection of the written credit derivative and the following conditions are met:

1. The residual maturity of the purchased credit protection is at least as long as the residual maturity of the written credit derivative.

2. The credit quality of the counterparty providing the protection is not highly positively correlated with the value of the written credit derivative, meaning that there is no undue reduction in the credit protection.

3. The written credit derivative and the opposite credit derivative are for the same reference name; two reference names are only deemed to be the same if they refer to the same legal entity.

2 If the negative replacement value is deducted from the effective notional amount of the written credit derivative specified in (1)(a), then any positive replacement value that was included in the Tier 1 capital must be deducted from the effective notional amount of the opposite credit derivative.

3 In the case of credit protection purchased for a single reference name (single name credit derivative), the deduction in accordance with (1)(b) is only permissible if the following conditions are met:

a. the credit protection is for a reference obligation that is equal to or junior to the reference obligation of the written credit derivative;

b. a credit event in the written credit derivative must necessarily lead to a credit event in the purchased credit protection.

4 For credit protection purchased in the form of an option, the deduction in (1)(b) is only permitted if the protection purchased has a strike price no higher than the protection sold.

5 For credit protection purchased on a pool of reference names, the deduction in (1)(b) is only permitted if the credit protection purchased is equivalent to having purchased credit protection on each reference name in the pool separately.

6 For credit protection purchased for a tranche of a pool, the deduction in paragraph (1)(b) is only permitted if the purchased credit protection references the same tranche of the same pool as the sold credit protection.

7 For credit protection purchased in the form of a total return swap, the deduction in (1)(b) is only permitted if the bank records the net payments received as income and simultaneously records the offsetting impairments on the written credit derivative in Tier 1 capital.

Section 4: Securities financing transactions

ARTICLE 17 Sum to be included

1 For the purpose of calculating the total exposure, the securities financing transactions must be included as the sum of:

a. the gross assets underlying them (Article 18); and

b. the exposures to the counterparties (Article 19).

2 The rule set out in Article 21 for the bank as commission agent remains reserved.

ARTICLE 18 Gross assets

1 For the calculation of the total exposure, the gross assets of securities financing transactions recorded in the accounts must be included.

2 Cash payables and receivables arising from securities financing transactions with the same counterparty may be netted under the following conditions:

a. the transactions have the same explicit final settlement date.

b. The netting right is legally enforceable both in the ordinary course of business and in the event of a counterparty default, insolvency or bankruptcy.

c. The offsetting transactions are settled net or simultaneously, or are subject to a settlement mechanism that is equivalent to net settlement.

3 An equivalent settlement mechanism exists if:

a. both transactions are settled through the same settlement system;

b. cash or intraday overdraft facilities ensure that both transactions are settled by the end of the business day; and

c. a failed settlement of a single security only delays the settlement of the cash amount associated with that security or creates an obligation to the settlement system.

4 Securities financing transactions where the settlement of a security has failed at the end of the designated settlement period must be excluded from the settlement and recorded on a gross basis in the overall exposure.

5 Securities financing transactions on the asset side that are settled via a QCCP and where new legal obligations have replaced existing contracts (novation) must be recorded at the value of the contractual obligations after novation.

6 Securities received by the bank under a securities financing transaction must be excluded from the calculation of the total exposure.

ARTICLE 19 Exposure to the counterparty

1 Where contractual netting is permitted under Article 100 of the CreO-FINMA[9], the exposure to the counterparty is to be calculated as the total market value of the cash and securities lent to the counterparty for all transactions covered by the netting agreement, less the total market value of the cash and securities received for these transactions; haircuts are not taken into account in this calculation. However, the exposure to the counterparty must be at least zero.

2 Where netting is not permitted by contract, the exposure with a counterparty for each transaction must be calculated as the market value of the cash or securities lent for this transaction to the counterparty less the market value of the cash or securities received for this transaction. However, the exposure to the counterparty must be at least zero.

3 For individual transactions, the exposure to the counterparty may be set to zero if:

a. the transaction results in a cash claim for the bank;

b. the transaction is not netted elsewhere; and

c. the cash claim associated with the transaction may not be netted in accordance with Article 18(2).

4 Securities that the bank has deposited with the triparty repo agent as part of triparty repo transactions and that have been lent to a counterparty must be included in the calculation of the exposure to the counterparty in accordance with (1) or (2) above up to the amount actually lent. Excess securities deposited with the third party that are not lent to a repo counterparty do not need to be taken into account.

ARTICLE 20 Transactions recognized as sales

Where a securities financing transaction has been recorded as a sale in accordance with the applicable accounting standard, all bookings relating to the sale must be reversed and the transaction must be treated as if it had been recorded as a securities financing transaction for the purposes of calculating the overall exposure.

[9] SR **952.033.21**

ARTICLE 21 Bank as commission agent

1 Where a bank acts as commission agent for one of the counterparties in a securities financing transaction, it may refrain from taking the underlying gross assets into account (Article 18) when calculating the total exposure, insofar as it:

a. only guarantees any difference between the value of the securities or cash lent by the client and the value of the collateral provided by the borrower;

b. is not the owner of the underlying cash or securities and cannot otherwise dispose of them; and

c. the bank holds the collateral separately from its own assets and calculates the exposure per client if it maintains omnibus client accounts as a commission agent.

2 In cases where the conditions set out in (1) are not met, the bank must take into account the gross assets, in particular if the bank holds the collateral received in its own name or on its own account rather than on the account of the client or the debtor, or if the bank lends this collateral.

3 Where the bank acts as a principal and provides a guarantee to one counterparty to the transaction, it must take the exposure into account with respect to the other counterparty.

4 Where it provides a guarantee to both counterparties to the transaction, it must calculate the exposure separately for each counterparty and include both exposures in the total exposure.

5 In the event that it does not provide any guarantee, it need not take the securities financing transaction into account for the purpose of calculating the overall exposure, provided that it meets the conditions set out in (1)(b) and (c).

6 The treatment of failed securities financing transactions of a bank as a commission agent is governed by Articles 18(4) and 19.

Section 5: Off-balance-sheet positions

ARTICLE 22

1 To calculate the total exposure, the positions from off-balance sheet transactions as per Article 53 CAO must be converted into credit equivalents based on their notional value or, if there is no notional value, based on their present value. Securitization positions from off-balance sheet transactions must be treated in accordance with the version of number 40.20 paragraph 2 of the Basel minimum standard for calculating risk-weighted assets for credit risks (CRE) in the version set out in Annex 1 CAO. A credit conversion factor of 10% instead of 0% must be applied to positions in accordance with Article 53(5) CAO.

2 Where an off-balance sheet item is deemed to be a derivative for the purposes of the applicable accounting standard, it must be included in the total exposure in accordance with Article 9(2).

3 General and specific provisions relating to off-balance sheet items may be deducted from the corresponding credit equivalents provided that the provisions have been deducted from the core capital. However, the credit equivalent must equal at least zero.

4 Unsettled transactions of banks that apply settlement date accounting receive a credit conversion factor of 1 for payment commitments for outstanding regular purchases in accordance with Article 7(3). Netting of such payment commitments with expected incoming payments from outstanding regular sales is permitted under the following conditions:

a. the corresponding sold or purchased position is part of the trading book and is valued at fair value through profit or loss.

b. the transaction is settled on a delivery versus payment basis.

5 The lower of the associated conversion factors must be applied to a contingent liability relating to an item from off-balance-sheet transactions.

Chapter 3: Operational risks

ARTICLE 23 Business indicator

(Articles 92 and 92a(1) CAO)

1 Where a bank applies a recognized international accounting standard in accordance with Article 3(1) AO-FINMA[10] instead of the Swiss accounting rules for calculating the minimum capital requirements for operational risk, the calculation of the business indicator is governed by Section 10 of the Basel minimum standard for the calculation of risk-weighted assets for operational risk (OPE) in the version set out in Annex 1 CAO.

2 When notifying FINMA of the exclusion of discontinued business activities from the calculation of the business indicator in accordance with Article 92a(1) CAO, the bank must state the impact on the minimum capital required for operational risks and on the total capital ratio, and must demonstrate that the discontinued business activities no longer expose the bank to any legal risks or rights of recourse. The notification must be made at least six weeks before the exclusion.

ARTICLE 24 Interest, leases and dividend component

(Article 92(2) and Annex 5a CAO)

The four elements that make up the interest, leases and dividend component are calculated as follows:

a. Interest revenue equals the sum of the following:

1. Interest and discount income in accordance with Annex 1, letter B, number 1.1 of the Banking Ordinance of 30 April 2014[11] (BO),

[10] SR **952.024.1**
[11] SR **952.02**

2. interest income that is a component of interest, leases and dividend income from trading operations in accordance with Annex 1, letter B, number 1.2 BO,

3. interest income that is a component of interest and dividend income from financial investments in accordance with Annex 1, letter B, number 1.3 BO,

4. interest income on loans deemed to be equity, which is a component of income from participations in accordance with Annex 1, letter B, number 4.2 BO;

5. profits from leasing transactions generated by the sale of leased assets, which are a component of extraordinary income in accordance with Annex 1, letter B, number 9 BO; and

6. interest income and other ordinary income from the leasing business.

b. Interest expense is the sum of the following items:

1. interest expense in accordance with Annex 1, letter B, number 1.4 BO,

2. interest expense for operating leasing, which is a component of general expenditure in accordance with Annex 1, letter B, number 5.2 BO,

3. Depreciation by the lessor of assets under operating leases that are included in the value adjustments on participations and depreciation of tangible fixed assets and intangible assets in accordance with Annex 1, letter B, number 6 BO, and

4. losses from the leasing business arising from the sale of leased assets that are included in extraordinary expenses in accordance with Annex 1, letter B, number 10 BO.

c. Interest-bearing assets equal the sum of the following asset positions before deduction of value adjustments:

1. claims against banks in accordance with Annex 1, letter A, number 1.2 BO,

2. claims from securities financing transactions in accordance with Annex 1, letter A, number 1.3 BO,

3. claims against customers in accordance with Annex 1, letter A, number 1.4 BO,

4. mortgage claims in accordance with Annex 1, letter A, number 1.5 BO,

5. debt securities that are included in the trading book business under Annex 1 letter A number 1.6 BO,

6. debt securities that are included in the financial investments under Annex 1 letter A number 1.9 BO, and

7. lessor's operating lease assets that are included in property, plant and equipment under Annex 1 letter A number 1.12 BO.

8. Dividend income equals the sum of:

9. Dividend income from trading and from financial investments, both of which are components of the items under Annex 1, letter B, numbers 1.2 and 1.3 BO, and

10. dividend income from participations, which is a component of income from participations under Annex 1, letter B, number 4.2 BO.

ARTICLE 25 Service component

(Article 92(3) and Annex 5a CAO)

The four elements comprising the services component are calculated as follows:

a. Income from commission and service business equals the sum of the following positions:

   1. Commission income from securities and investment business in accordance with Annex 1, letter B, number 2.1 BO[12],

   2. commission income from the lending business in accordance with Annex 1, letter B, number 2.2 BO, and

   3. commission income from the remaining service business in accordance with Annex 1, letter B, number 2.3 BO.

b. Expenses from the commission and service business correspond to the commission expenses in accordance with Annex 1, letter B, number 2.4 BO.

c. Other operating income equals the sum of the following items:

   1. Income from participations recorded using the equity method, which is part of the income from participations in accordance with Annex 1, letter B, number 4.2 BO;

   2. real estate income, which is part of the real estate profit in accordance with Annex 1, letter B, number 4.3 BO; and

   3. realized gains from the sale of participations, property, plant and equipment and intangible assets, which are included in extraordinary income in accordance with Annex 1, letter B, number 9 BO, less profits earned from the leasing business as per Article 24(a) (5).

d. Other operating expenses are equal to the sum of the following items:

   1. Realized losses from the sale of participations, property, plant and equipment and intangible assets that are included in extraordinary expenses in accordance with Annex 1, letter B, number 10 BO, less losses from the leasing business as per Article 24(b)(4),

[12] SR **952.02**

2. losses arising from operational risks for which no provisions were created in the past under the item "Changes in provisions, other value adjustments and losses" in accordance with Annex 1, letter B, number 7 BO, and

3. expenses for the creation of provisions for losses from operational risks that are recognized in the item "Changes in provisions, other value adjustments and losses" in accordance with Annex 1, letter B, number 7 BO.

ARTICLE 26 Financial component

(Article 92(4) and Annex 5a CAO)

The four elements comprising the financial component are calculated as follows:

a. The net income of the trading book equals the position as per Annex 1 letter B number 3 BO less the income from the fair value option.

b. The net income of the parts of the banking book that are relevant for the calculation of minimum capital requirements for operational risks equals the sum of the following items:

1. Net income from the fair value option, which is included in the position as per Annex 1 letter B number 3 BO,

2. income from the sale of financial assets as per Annex 1 letter B number 4.1 BO,

3. other ordinary income as per Annex 1 letter B number 4.4 BO, and

4. other ordinary expenses as per Annex 1 letter B number 4.5 BO.

ARTICLE 27 Loss Component: Requirements for internal loss data

(Article 93 CAO)

1 For calculating the loss component, the following must be recorded for each loss event arising from operational risks:

a. At least the level 1 category as defined in Annex 2 to which the cause of the loss event is assigned;

b. the business activity that caused the loss event;

c. the resulting gross loss in accordance with Article 94 CAO;

d. the date on which the loss event first occurred (date of occurrence);

e. date on which the loss event was discovered (date of discovery);

f. date on which the gross loss was recognized (date of posting);

g. if applicable, the amount of a loss reduction, its date of posting and a description;

h. for losses deemed material by the bank: a description of the loss event in accordance with Article 93(1)(e) CAO and its cause, whereby the level of detail must reflect the significance of the loss event for the bank.

2 The bank may use a categorization system other than that set out in Annex 2. In this case, it must provide documentation showing the mapping of its own categories to the categories set out in Annex 2.

3 Where a loss event results in several gross losses, the information in accordance with (1) must be recorded individually for each of these gross losses.

ARTICLE 28 Loss component: Recording data with different currencies

(Article 93 CAO)

1 Where the bank uses different currencies for posting losses and for reporting, the gross loss and loss reduction amounts must be recorded in both currencies.

2 The exchange rate to be used for translation is the exchange rate on the date of posting. For losses and loss reductions of foreign subsidiaries posted in foreign currencies, the exchange rate used for the preparation of the consolidated financial statements in the year in which the loss was posted is to be used.

ARTICLE 29 Loss component: Calculation

(Articles 92d–94 CAO)

1 A loss event is only taken into account for determining the average annual losses as per Article 93a(1) CAO if the net loss from the loss event exceeds CHF 25,000.

2 The net loss as per Article 94(1) CAO from a loss event equals the sum of the gross losses posted in the period as per Article 93(1)(b) CAO from this loss event, less the loss reductions posted in this period. It is calculated using the formula in Annex 3.

3 The average annual loss relevant for the calculation of the loss component in accordance with Article 93a(1) CAO is calculated based on the net losses in the relevant years. The net loss in a year equals the sum of the gross losses recognized in that year from all loss events less the corresponding loss reductions recognized in that year. It is calculated using the formula in Annex 4.

4 The loss component as per Article 93a CAO is calculated using the formula in Annex 5.

ARTICLE 30 Exclusion of loss events

(Article 93a(3) and (4) CAO)

1 A loss event is no longer relevant for the bank's risk profile if:

a. No further losses are expected from the circumstances underlying the loss event; and

b. no comparable event can occur again due to the bank's inherent risk profile.

2 A loss event that is no longer relevant to the bank's risk profile may be excluded from the calculation of the loss component three years after the last loss from this loss event was posted. However, this period may be shortened if the bank no longer conducts the business activity that caused the loss event or any similar business activities in other business areas.

3 When notifying FINMA of the exclusion of a loss event, the bank must prove in particular that the conditions set out in (1) and (2) have been met. The notification must be made at least six weeks before the exclusion.

Chapter 4: Entry into force

ARTICLE 31

This Ordinance shall enter into force on 1 January 2025.

Annex 1 (Article 10)

Supervisory replacement costs

$$RC = max\,(0:V - C_r + C_p)$$

RC regulatory replacement costs (Replacement Costs)

V current positive or negative net market value of all derivative contracts in the netting set (Article 3(4) CreO[13]) after taking into account valuation adjustments after accounting and valuation adjustments in accordance with Article 5b(3) CAO, with the exception of credit valuation adjustments due to the risk of counterparty default (credit valuation adjustment in accordance with Article 48(3) CAO) or due to own credit risk (debit valuation adjustment)

C_r the cash portion of margin payments received by the bank that meet the requirements of Article 12(3) and are not included in the net market value V

Cp the cash portion of margin payments made by the bank that meet the requirements of Article 12(3)

[13] SR **952.033.21**

Annex 2 (Article 27)

Categorization of loss events by cause

Level 1: Category of loss event	Definition	Level 2: Sub-categories
Internal fraud	Losses resulting from acts of fraud, misappropriation of property or circumvention of laws, regulations or internal rules involving at least one internal party	Unauthorized activities
		Theft and fraud
		Information security, cyber attacks by internal hacking, misuse by privileged authorized persons
External fraud	Losses resulting from acts of fraudulent intent, misappropriation of property or circumvention of laws or regulations without the involvement of an internal party	Theft and fraud
		Information security, cyber attacks through external hacking
Workplace	Losses resulting from breaches of labor, safety or health regulations or agreements, including any payments in connection with such breaches	Employees
		Occupational safety
		Discrimination
Customers, products and business practices	Losses resulting from unintentional or negligent failure to meet obligations to customers and losses due to the nature or structure of certain products	Appropriateness and suitability of financial services, disclosure and fiduciary duties
		Improper business or market practices
		Problems with products
		Client selection, inappropriate business placement & credit exposure
		Advisory activities
Damage to physical assets	Losses resulting from damage to physical assets due to natural disasters or other events	Catastrophes or other events
Business interruptions and system failures	Losses resulting from business disruptions or problems with information and communication technology	Availability of information and communication technology
		Integrity of data
		Availability of personnel and buildings
		Availability of suppliers and partners

Level 1: Category of loss event	Definition	Level 2: Sub-categories
Processing, sales and process management	Losses resulting from errors in business processing or process management; losses from relationships with business partners, suppliers and the like	Recording, processing and management of transactions
		Monitoring and reporting
		Onboarding and documentation of customers
		Account management for customers
		business partners
		Vendor and suppliers

Annex 3 (Article 29(2))

Net loss from a loss event

The net loss from a loss event is calculated as follows

$$L_{\epsilon} = \sum_{j,j'=N-9}^{N} \sum_{v} \left(B_{j,\epsilon,v} - M_{j',\epsilon,v} \right)$$

L_{ϵ} Net loss from a loss event ε

N Year of the reference date considered for the calculation of minimum capital requirements

j and j' Years of accounting data corresponding to one of the ten years $N\text{-}9$ to N and one of the five years $N\text{-}4$ to N respectively (Article 93(1)(b) CAO)

$B_{j,\varepsilon,v}$ Gross loss amount of a loss v caused by the loss event ε and recognized in year j

$M_{j',\varepsilon,v}$ a loss reduction recognized in year j' that reduces the gross loss amount of the loss v caused by the loss event ε

Annex 4 (Article 29(3))

Net loss in one year

The net loss in a year is calculated as follows:

$$L_j = \sum_{\epsilon} \sum_{v} \left(B_{j,\epsilon,v} - M_{j,\epsilon,v} \right)$$

L_j Net loss in year j

ε those loss events for which the net loss calculated in accordance with Annex 3 $V\varepsilon$ > CHF 25,000 (Article 93(1)(d) CAO)

$B_{j,\varepsilon,v}$ Gross loss amount of a loss v caused by the loss event ε and recognized in year j

$M_{j,\varepsilon,v}$ a loss reduction recognized in year j that reduces the gross loss amount of the loss v caused by the loss event ε

Annex 5 (Article 29(4))

Loss component

The loss component is to be calculated as follows:

$$LC = LC_N = 15 \cdot \left(\frac{\sum_{j=N-9}^{N} L_j}{10} \right)$$

LC Loss component

LC_N Loss component for the reference year N

N Year of the reference date considered for the calculation of minimum capital requirements

L_j Net loss in year j in accordance with Annex 4

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