

Overview table -Ancillary Own funds

Overview of responses with regard to Ancillary Own Funds (Tier 3)								
Country	Credit Institutions (CI)				Investment Firms (IF)			
	Own Funds as defined in Directive 2000/12/EC [Directive 93/6/EEC Art(13)(1)]	Own Funds as defined in Directive 93/6/EEC, only for the purposes there specified			Own Funds as defined in Directive 2000/12/EC [Directive 93/6/EEC Art(13)(1)]	Own Funds as defined in Directive 93/6/EEC, only for the purposes there specified		
		Net trading-book profits [Art(13)(2)(2 nd par)(b)]	Subordinated loan capital [Art(13)(2)(2 nd par)(c)]	Deduction of illiquid assets [Art(13)(2)(2 nd par)(d)]		Net trading-book profits [Art(13)(2)(2 nd par)(b)]	Subordinated loan capital [Art(13)(2)(2 nd par)(c)]	Deduction of illiquid assets [Art(13)(2)(2 nd par)(d)]
Austria	Y	N	Y Only item foreseen under Directive 93/6/EEC	N	Y	N	Y	N
Belgium	Y	Y	Y	N	Y	Y	Y	N
Cyprus	Y	N	Y Only item foreseen under Directive 93/6/EEC	N	Y	N	Y	Y
Czech Republic	Y	N	Y Only item foreseen under Directive 93/6/EEC	N	Y	N	Y Only item foreseen under Directive 93/6/EEC	N
Denmark	Y	N	N	N	Y	N	N	N
Estonia	Y	N	Y Only item foreseen under Directive 93/6/EEC	N	Y	N	Y Only item foreseen under Directive 93/6/EEC	N
Finland	Y	N	Y Only item foreseen under Directive 93/6/EEC	N	Y	N	Y Only item foreseen under Directive 93/6/EEC	N
France	Y	Y	Y	N	Y	Y	Y	N
Germany	Y	Y	Y	Y	Y	Y	Y	Y
Greece (1)	Y	N	N	N	Y	N	N	N
Hungary	Y	N	Y Only item foreseen under Directive 93/6/EEC	N	Y	N	Y Only item foreseen under Directive 93/6/EEC	N
Ireland	Y	Y	Y	N	Y	Y	Y	Y
Italy	Y	N	Y	N	Y	Y Only for IF which take own risks	Y	Y Only for IF not included in banking groups supervised at consolidated level
Latvia	Y	N	Y Only item foreseen under Directive 93/6/EEC	N	Y	N	Y Only item foreseen under Directive 93/6/EEC	N
Lithuania	Y	N	Y Only item foreseen under Directive 93/6/EEC	N	IF not supervised by Bank of Lithuania, however all relevant provisions of Directives 93/6/EEC and Directive 2000/12/EC are implemented			
Luxembourg	Y	Y	Y	N	Y	Y	Y	Y Only for those IF exempted from consolidated-basis supervision
Malta	Y	Y	Y	N	Y	Y	Y	N
Netherlands	Y	Y	Y	N	Y	Y	Y	Y
Norway	Y	N	N	N	Y	N	N	N
Poland	Y	Y	Y	N	IF not supervised by the Commission for Banking Supervision			
Portugal	Y	Y	Y	N	Y	Y	Y	N
Slovakia	Y	N	Y Only item foreseen under Directive 93/6/EEC	N	Y	N	Y Only item foreseen under Directive 93/6/EEC	N
Slovenia	Y	Y	Y	N	Y With some adjustments	Y	Y	Y
Spain	Y	N	N	N	Y	N	Y	Y (when the subordinated loan capital excess 150% of original own funds)
Sweden	Y	Y	Y	Y	Y	Y	Y	Y
United Kingdom	Y	Y	Y	N	Y	Y	Y	Y

Note: See details for each item of own funds as defined in Directive 93/6/EEC in the specific tables

- (1) The rules applicable to own funds of investment firms in Greece are those which apply to non-IFRS banks. The most important differences compared to the rules applied to IFRS banks are
- (i) the prudential filters are not applicable to investment firms
 - and (ii) interim profits are taken into consideration only if they verified or at least reviewed by external auditors.

Ancillary own funds
Short term subordinated loan capital - Articles 13 and 14 of Directive 93/6/EEC

Provisions of Directive 93/6/EEC	Austria	Belgium	Cyprus	Czech Republic	Germany	Denmark	Greece	Spain	Estonia	France	Finland	Hungary	Italy		
Art 13(3)^{1st} paragraph The subordinated loan capital shall have an initial maturity of at least two years shall be fully paid up	Y	Y	Y	Y	Y		The own funds of investment firms are determined in the same way as for credit institutions. No Tier 3 (blank reply) In Greece the alternative definition of own funds as provided in Directive 93/6/EEC is not applied. No Tier 3	In Spain the alternative definition					Y		
the loan agreement shall not include any clause providing that in specified circumstances other than the winding up of the institution the debt will become repayable before the agreed repayment date, unless the competent authorities approve the repayment	Y application of Lower Tier 2 rules	Y	Y	Y application of Tier 2 rules	Y					Y	Y	Y	Y	Y	application of Lower Tier 2 rules
neither the principal nor the interest may be repaid if such repayment would mean that the own funds of the institution would then amount to less than 100 % of that institution's overall requirements	Y	Y	Y	Y	Y					Y	Y	Y	Y	Y	Y
														(but only the repayment of the principal is mentioned in the regulation)	
Art 13(3)^{2nd} paragraph The competent authorities shall be notified of all repayments on such subordinated loan capital as soon as an institution's own funds fall below 120 % of its overall capital requirements	N	Y	Y	N	Y			Y	Y	Y	Y	Y	N		
Art 13(4) The subordinated loan capital may not exceed a maximum of 150 % of the original own funds left to meet the requirements calculated in accordance with Articles 21 and 28 to 32 and Annexes I to VI [of Directive 93/6/EEC] and may approach that maximum only in particular circumstances acceptable to the relevant authorities	N (see Art 14(1))	N	Y	Y after CRD implementation (Tier 3 shall not exceed 150 % of Tier 1 minus the sum of the capital requirements for credit risk and dilution risk of the banking portfolio and the capital requirements for operational risk) (see Art 14(2))	N (see Art 14)			Y	Y	see articles 14.1 et 14.2	N	Y, but the limit is 200%. The limit refers not only to short term subordinated loan capital (Tier 3) but includes other additional own funds elements, as well.	Y The subordinated loans capital are eligible up to the limit of 150% without a special approval of the competent authority		
Art 13(5) The competent authorities may permit institutions to replace the subordinated loan capital with points (d) to (h) of Article 57 of Directive [2000/12/EC]	Y	Y	N	N (No specific reference in the reply)	Y			Y	N currently Y after CRD implementation	Y	N	Implicit	Y		
Art 14(1) The competent authorities may permit investment firms to exceed the ceiling for subordinated loan capital set out in Article 13(4) if they judge it prudentially adequate and provided that the total of such subordinated loan capital and the items referred to in Article 13(5) does not exceed 200% of the original own funds left to meet the requirements calculated in accordance with Articles 21, 28 to 32 and Annexes I and III to VI [of Directive 93/6/EEC] or 250% of the same amount where investment firms deduct the item set out in point (d) of Article 13(2) when calculating own funds	Y for CI (200%)	Y for CI and IF (200%)	The supervisory authority of investment firms has not yet decided	N	Y, as described			Y	The 150% limit may be exceeded provided that Tier 2 and Tier 3 own funds together do not exceed 200% of the Tier 1 own funds available for covering trading portfolio risks	Y	N	Supervisory discretion is not allowed (see Art 13(4))	N		
Art 14(2) The competent authorities may permit the ceiling for subordinated loan capital set out in Article 13(4) to be exceeded by a credit institution if they judge it prudentially adequate and provided that the total of such subordinated loan capital and points (d) to (h) of Article 57 of Directive [2000/12/EC] does not exceed 250% of the original own funds left to meet the requirements calculated in accordance with Articles 28 to 32 and Annexes I and III to VI [of Directive 93/6/EEC]	N	N	N	Y currently (Used Tier 3 is limited to 0.714 times the capital requirements according to Directive 93/6/EEC, although not higher than available Tier 3 - i.e. it cannot exceed 250% of the own funds minus the capital requirement for credit risk of the banking portfolio)	Y, as described			Y	N	Y	N	N (see Art 13(4))	Y After prior approval on a case by case basis		
Other information (explicit reference in the replies)															
Prior authorisation at issuance		Y	N	Y application of Tier 2 rules				Y			N	N	Y application of Tier 2 rules		
Early redemption with prior supervisory authorisation			Y	Y application of Tier 2 rules				Y	Y	Y	Y	Y	Y application of Tier 2 rules		
Direct issue			Y					Y			Y		Y		
SPV structures								Y			Y				
Moderate interest rate step-up			N/A					Y			Y	N			
Unsecured, no collateral	Y		Y	Y application of Tier 2 rules	Yes The German Banking Act explicitly forbids the collateralization of the short term subordinated loan capital			Y			Y				
No off setting	Y		Y	Y application of Tier 2 rules	Y			Y			Y	Y			
Explicit reference as if the same rules apply to Investment Firms	N	Y application of the same rules	No - (investment firms are supervised by a separate, independent authority). In general, however, the same rules apply	N	Y			these rules only apply to investment firms	Use of article 12(1) Assumed the same rules apply to IF	Y	Y	Y	Y, alternative determination allowed to IF. Therefore assumed information also refers to them		

Ancillary own funds

Short term subordinated loan capital - Articles 13 and 14 of Directive 93/6/EEC

Provisions of Directive 93/6/EEC	Austria	Belgium	Cyprus	Czech Republic	Germany	Denmark	Greece	Spain	Estonia	France	Finland	Hungary	Italy
Other comments	Subordinated deposits, bonds or global certificates as well as subscription and purchase orders have expressly contain the conditions of subordination foreseen in the Civil Code		No application has been submitted seeking approval as Ancillary Own Funds (Tier 3)	Generally, the eligibility criteria of Tier 2 applies	Specific rules for the purchase of securitised subordinated liabilities (market-smoothing purposes)						Tier 3 instruments in Finland are: 1. short term subordinated loans; and 2. excess of upper Tier 2 perpetual subordinated loans. The Finnish supervised entities do not in practice have Tier 3 capital instruments	Supplementary capital (Tier 3) shall comprise the part of additional capital (Tier 2) that cannot be used for other purposes and short term subordinated loan capital.	Application of all requirements provided for Lower Tier 2 instruments

Ancillary own funds
Short term subordinated loan capital - Articles 13 and 14 of Directive 93/6/EEC

Provisions of Directive 93/6/EEC	Ireland	Lithuania	Luxembourg	Latvia	Malta	Netherlands	Norway	Poland	Portugal	Slovakia	Slovenia	Sweden	United Kingdom	
Art 13(3)^{1st} paragraph The subordinated loan capital shall have an initial maturity of at least two years shall be fully paid up	Y	Y	Y	Minimum maturity of 3 years	Y	Y	In Norway the alternative definition of own funds as provided in Directive 93/6/EEC is not applied No Tier 3	Y	Y	Minimum maturity of 3 years	Y	Y	Y	
the loan agreement shall not include any clause providing that in specified circumstances other than the winding up of the institution the debt will become repayable before the agreed repayment date, unless the competent authorities approve the repayment	Y	application of Tier 2 rules	Y	Y	Y	Y		Y	Y	Y	Y	Y	Y	Y
neither the principal nor the interest may be repaid if such repayment would mean that the own funds of the institution would then amount to less than 100 % of that institution's overall requirements	Y	Y	Y	Y	Y	Y			Y	Y	Y	Y	Y	Y
Art 13(3) 2nd paragraph The competent authorities shall be notified of all repayments on such subordinated loan capital as soon as an institution' own funds fall below 120 % of its overall capital requirements	N	N	Y	Y	N	Y		Y	Y	N (No specific reference in the reply)	Y	Y	Y	
Art 13(4) The subordinated loan capital may not exceed a maximum of 150 % of the original own funds left to meet the requirements calculated in accordance with Articles 21 and 28 to 32 and Annexes I to VI [of Directive 93/6/EEC] and may approach that maximum only in particular circumstances acceptable to the relevant authorities	N	Tier 2 and Tier 3 capital used to meet trading book requirements must not exceed 200% of Tier 1 capital used to meet those requirements (upon deductions)	N (See Art 14(1) and (2))	Y (200%)	N	N		Y Short term subordinated loan capital shall not exceed 150% of the amount in which the core capital exceeds the higher of the following amounts: (a) half of the capital requirements against credit risk; (b) the difference between the capital requirements against credit risk and the supplementary capital.	N (see Art 14(1))	Y (The value of complementary own funds included in a bank's own funds may not be higher than one-and-a-half times the value of a bank's basic own funds used to cover market risks less the value of the bank's additional own funds used to cover these risks)	N	Y	Y	
Art 13(5) The competent authorities may permit institutions to replace the subordinated loan capital with points (d) to (h) of Article 57 of Directive [2000/12/EC]	Implicit, via reference to unutilised Tier 2	Implicit, via reference to unutilised Tier 2	Y	N	N	Y Only after permission by the competent authority		N (No specific reference in the reply)	Y	N	N	N	Y	
Art 14(1) The competent authorities may permit investment firms to exceed the ceiling for subordinated loan capital set out in Article 13(4) if they judge it prudentially adequate and provided that the total of such subordinated loan capital and the items referred to in Article 13(5) does not exceed 200% of the original own funds left to meet the requirements calculated in accordance with Articles 21, 28 to 32 and Annexes I, and III to VI [of Directive 93/6/EEC], or 250% of the same amount where investment firms deduct the item set out in point (d) of Article 13(2) when calculating own funds	Not applicable to CI	See Art 13(4)	Y for IF (200%)	(See Art 13(4))	N	N		N (No specific reference in the reply)	Y for IF and CI (200%)	N	N	Y	Y, as described	
Art 14(2) The competent authorities may permit the ceiling for subordinated loan capital set out in Article 13(4) to be exceeded by a credit institution if they judge it prudentially adequate and provided that the total of such subordinated loan capital and points (d) to (h) of Article 57 of Directive [2000/12/EC] does not exceed 250% of the original own funds left to meet the requirements calculated in accordance with Articles 28 to 32 and Annexes I, and III to VI [of Directive 93/6/EEC]	Tier 3 subordinated loan capital and unutilised eligible Tier 2 items may not exceed a maximum of 250% of unutilised Tier 1 own funds available to meet trading book requirements	See Art 13(4)	Y for CI	Y (See Art 13(4))	N	N		NA	N	Y for IF	Y for CI	N	Y, as described	
Other information (explicit reference in the replies)														
Prior authorisation at issuance		Y application of Tier 2 rules			N				Y		Cl: N	N	N	
Early redemption with prior supervisory authorisation		Y application of Tier 2 rules			Y				Y		Cl: Y		Y	
Direct issue					v				Y also indirect		Cl: Y		v	
SPV structures					v				Y		Cl: N		v	
Moderate interest rate step-up					v				Y				v	
Unsecured, no collateral					n									
No off setting					y								Y	
Explicit reference as if the same rules apply to Investment Firms	N	IF not supervised by Bank of Lithuania	Y	Y	N	N		F not supervised by the Commission for Banking Supervision	Y	N	Y, but so far have not included T3 in own funds	Y	Y	

Ancillary own funds
Short term subordinated loan capital - Articles 13 and 14 of Directive 93/6/EEC

Provisions of Directive 93/6/EEC	Ireland	Lithuania	Luxembourg	Latvia	Malta	Netherlands	Norway	Poland	Portugal	Slovakia	Slovenia	Sweden	United Kingdom
Other comments	Existing policy at overall consolidated group level (or at solo level if a credit institution is not part of a consolidated group) the sum of Tier 2 and Tier 3 own funds cannot normally exceed 100% of the credit institution's Tier 1 own funds. This limit cannot be exceeded without the Bank's express permission, which will only normally be granted where a credit institution's trading book accounts for a substantial part of its business.	Application of all requirements provided for Tier 2 Instruments	Some of the clauses have to be subject to Luxembourg law and have to recognize the competence of Luxembourg Courts		This item has never been utilised. Amortisation plan for the last 2 years before repayment.								

Ancillary own funds

Net trading book profits - Article 13 (2)(b) of Directive 93/6/EEC															
Provision of Directive 93/6/EEC	Belgium	France	Germany	Ireland	Italy	Luxembourg	Malta	Netherlands	Poland	Portugal	Slovakia	Slovenia	Sweden	United Kingdom	
The institution's net trading-book profits net of any foreseeable charges or dividends, less net losses on its other business provided that none of those amounts has already been included in item (a) of this paragraph under the items set out in points (b) or (k) of Article 57 of Directive [2000/12/EC]	Net trading book profit net of any foreseeable charges or dividends is taken into account in the own funds on solo basis. On consolidated basis, net interim profit (net of any foreseeable charges or dividends) is included in own funds	The interim profits derived from the trading book calculated according to valuation rules set by the Comité de la Réglementation Bancaire et Financière, net of any foreseeable expenses or dividends and less any net losses on other business, provided that none of those amounts has already been taken into account in the calculation of the own funds may be used to cover market risks	Implemented in section 10 paragraph 2c sentence 1 Nr. 1 (regular tier 3 capital constituent). „Regular“ means, that these tier 3 capital constituents are also available for other institutions. There is no different treatment for those investment firms referred to in Art. 13 paragraph 2 CAD according to the German Banking Act	Net trading book profits net of any foreseeable charges or dividends, subject to the Financial Regulator being satisfied that they have been calculated using appropriate techniques. Credit institutions must submit the basis on which the trading book profit is calculated and formally apply to the Financial Regulator to use the trading book profit net of any foreseeable charges or dividends.	Yes, only for investment firms which take own risks	Credit institutions Net trading-book profits net of any foreseeable charges, taxes, directors fees and dividends, less any net losses on its other non-trading-book business, provided that none of these amounts has already been included for the purposes of point 6.3. f) or of the last subparagraph of point 6.4. of part VII of CSSF circular 2000/10. (b) of point 8 of chapter 2 of part VII of CSSF circular 2000/10).	Investment firms Net trading-book profits net of any foreseeable charges, taxes, directors fees and dividends, less any net losses on its other non-trading-book business, provided that none of these amounts has already been included for the purposes of point 6.3. e) or of the last subparagraph of point 6.4. of part VII of CSSF circular 2000/12. (b) of point 8 of chapter 2 of part VII of CSSF circular 2000/12).	Implemented. Net trading book profits is included as Supplementary Own Funds. However, to-date such clause has never been utilised	No specific precision provided. Assume that the provision of the CRD is transposed and implemented with similar wording	The market profit — accrued until the reporting day, reduced by known charges, including dividends, to the extent it was not included in the regulatory capital or distributed otherwise and the loss (with the minus sign) on all operations included in the banking book, accrued until the reporting day, exclusive of the losses on changes in exchange rates and commodity prices, to the extent it was not included in the regulatory capital or covered otherwise	net trading portfolio profits, deducted from any foreseeable charges and dividends and deducted from the net losses from the remaining activity, provided that none of these amounts has already been included in the original own funds calculation	Not applied yet	Banks: Net trading-book profit/loss is already included within item reserves and profits and losses brought forward or within item material losses in the calculation of own funds Investment Firms: Valid slovenian legislation, on which calculating own funds for investment firms is based, does not treat net trading-book profit separately but as a part of overall net profit	Net profits attributable to the institutions trading account	Implemented as described

Ancillary own funds

Deduction of illiquid assets - Articles 13(2)(d) and 15 of Directive 93/6/EEC							
Article 15 of the Directive 93/6	Germany	Italy	Luxembourg	Netherlands	Slovenia	Sweden	Spain
The deduction of illiquid assets is left to the discretion of the competent authorities		Deduction provided only for investment firms not included in banking group supervised at consolidated level	The deduction of illiquid assets is not applicable to credit institutions. Investment undertakings which have been exempted from consolidated-basis supervision by the CSSF pursuant to Article 51-3 (5) of the Law of 5 April 1993 on the financial sector (as amended) shall be required to deduct the following illiquid assets from the amount of their own funds in addition to those assets listed in point 10 of chapter 2 of part VII of CSSF circular 2000/12. (point 12 of chapter 2 of part VII of CSSF circular 2000/12)			Deduct illiquid assets without providing a definition in the regulation	Y (when the subordinated loan capital excess 150% of original own funds)
Illiquid assets as referred to in point (d) of Article 13(2) shall include the following:							
Art 15(1st par)(a) tangible fixed assets, except to the extent that land and buildings may be allowed to count against the loans which they are securing	All tangible fixed assets including land and buildings are considered according to section 10 paragraph 2c sentence 4 Nr. 1 KWG. The definition of „tangible fixed assets“ according to section 247 paragraph 2 HGB („Handelsgesetzbuch“ = German Commercial Code) is applicable. All assets which are intended for serving the business operations on a constant basis.	Yes	Tangible fixed assets.	implemented			y
Art 15(1st par)(b) holdings in, including subordinated claims on, credit or financial institutions which may be included in the own funds of those institutions, unless they have been deducted under points (l) to (p) of Article 57 of Directive [2000/12/EC] or under Article 16(d) of this Directive	Part of the implementation of lit. (l) to (p) of Article 57 into section 10 paragraph 6 KWG with almost similar wording as stated in Article 57 lit. (l) to (p). According to section 10 paragraph 6 KWG these amounts are to be deducted half-and-half from core and additional own funds.	Yes	As the CRD has not been published, no implementation of this provision in Luxembourg law is available at this stage.	implemented	Investment firms: Non free tradable stocks of Ljubljana Stock Exchange and Central Securities Clearing Corporation Ljubljana, payment in Central Securities Clearing Corporation Ljubljana collateral found other untransferable stock and assets which could not be sell		y
Art 15(1st par)(c) holdings and other investments, in undertakings other than credit institutions and other financial institutions, which are not readily marketable	Implemented in section 10 paragraph 2c sentence 4 Nr. 2 KWG with reference to all holdings in non-financial institutions.	Yes. The condition of readily marketable is not required	Participating interests and other investments in undertakings other than credit and financial institutions which are not readily marketable.	implemented			n
Art 15(1st par)(d) deficiencies in subsidiaries	Implemented in section 10 paragraph 2c sentence 3 KWG with almost similar wording.	No	Deficiencies in subsidiaries.	implemented			n
Art 15(1st par)(e) deposits made, other than those which are available for repayment within 90 days, and also excluding payments in connection with margined futures or options contracts	Implemented in section 10 paragraph 2c sentence 4 Nr. 3 sentence 5 KWG with almost similar wording.	No	Deposits other than those repayable within 90 days, except margin calls for derivative instruments and options dealt in on a regulated market.	implemented			n
Art 15(1st par)(f) loans and other amounts due, other than those due to be repaid within 90 days,	Implemented in section 10 paragraph 2c sentence 4 Nr. 3 KWG with almost similar wording.	Yes	Loans and other amounts due and receivable within more than 90 days.	implemented			y

Ancillary own funds

Deduction of illiquid assets - Articles 13(2)(d) and 15 of Directive 93/6/EEC							
Article 15 of the Directive 93/6	Germany	Italy	Luxembourg	Netherlands	Slovenia	Sweden	Spain
Art 15(1st par)(g) physical stocks, unless they are already subject to capital requirements at least as stringent as those set out in Articles 18 and 20	Implemented in section 10 paragraph 2c sentence 4 Nr. 4 KWG with almost similar wording. Physical stocks are already subject to capital requirements according to section 3 paragraph 3 sentence 2 Nr. 2 new regulation on solvency. Therefore, no need for further implementation into the KWG with regard to Article 15 lit. (g) CAD.	No	As the CRD has not been published, no implementation of this provision in Luxembourg law is available at this stage.	implemented			n
Art 15(2nd par) For the purposes of point (b), where shares in a credit or financial institution are held temporarily for the purpose of a financial assistance operation designed to reorganise and save that institution, the competent authorities may waive this provision. They may also waive it in respect of those shares which are included in the investment firm's trading book	Implemented in section 10 paragraph 6 sentence 2 ff. KWG with regard to investment firms as well as other institutions.	Not applicable	CSSF <i>circular 2000/12</i> states that: where shares in another credit or financial institution are held temporarily for the purpose of a financial assistance (recovery and/or restructuring) operation, the CSSF may waive the provision contained in <i>point 10.2 of part VII of CSSF circular 2000/12</i> . (First dash of <i>point 10.2 of part VII of CSSF circular 2000/12</i>).	At the moment not implemented (not relevant for NL investment firms), but will be implemented under CRD		Not used	n

Ancillary own funds

United Kingdom
The deduction of illiquid assets is required for those investment firms which do not deduct points (l) to (p) in Article 57 of Directive 2000/12/EC. Banks are required to deduct points (l) to (p) in Article 57.
Implemented as described.
Implemented as described.
Implemented as described.
Implemented as described.
Implemented as described.
Implemented as described.

Ancillary own funds

United Kingdom
Implemented as described.
Not currently implemented

Trading book

Ref. Recast Directive 93/6/EEC Annex VII, Part CA, para 3

Competent authorities may allow institutions to treat positions that are holdings as set out in Directive 2000/12/EC Article 57 (l), (m) and (n) in the trading book as equity or debt instruments as appropriate where an institution demonstrates that it is an active market maker in these positions. In this case, the institution shall have adequate systems and controls surrounding the trading of eligible own funds instruments*
Therefore, if a bank is a market maker on equity or debt instruments, competent authorities can permit it to treat these instruments as positions in trading book even if, following the own funds rules, bank should deduct them.

Question (1) Do you intend to exercise the national discretion ?

Country	AT	BE	CY	CZ	DE	DK	EE	EL	ES	FI	FR	HU	IE	IT	LT	LU	LV	MT	NL	PL	PT	SE	SI	SK	UK	NO
Y/N	Y	Y	N	No	Y	Not yet decided		Not yet decided	n	N	y	Not decided yet.	Not decided yet.	Y	N	Not yet decided	Not decided yet	do not use the discretion	Yes		Not yet decided	Yes	Yes	Yes	No	No

(it is possible that we may decide to use it)

Answers based on the CRD, which is not yet been transposed. Therefore, they have to be considered as preliminary and might be subject to further changes.

Question (2) Which requirements do you think applying in order to define the market maker ?

Country	AT	BE	CY	CZ	DE	DK	EE	EL	ES	FI	FR	HU	IE	IT	LT	LU	LV	MT	NL	PL	PT	SE	SI	SK	UK	NO
	Market Maker is defined by Art. 56.1 Austrian Stock Exchange Act (bid/offer price mandatory)	volume and frequency of the activity.		Generally speaking a market maker is an undertaking which is obliged to set bid/offer prices during trading, Prague Stock Exchange says: "an Exchange member which has concluded a contract with the Exchange to act as a market maker and which is obliged to set purchase and sale prices of a security during trading"	In the context of the provision which will transpose CAD, Annex VII, Part CA, par. 3 into national law, an institution is considered to be a market maker if it holds instruments only temporarily in order to trade in these equity or debt instruments for its own account on the capital markets on a continuing basis by setting quotes.	The concept of market making is not defined in danish laws or executive orders. We think that the definition embodied in the MiFID Directive, art. 4, number 8, is useful.		see above			banking authorities are currently addressing the question	In Hungary the concept of "market maker" is not defined in laws or regulations. However it can be found in the internal regulation (Code of Trading) of the Hungarian Stock Exchange which says: A Market Maker is a Section Member with the right to trade in the particular Section (Equities, Debt Securities, Derivatives), selected under a procedure specified and announced in advance by the Exchange, and with the right and the obligation to act as a market maker under this Code and as provided in a Market-Maker Agreement concluded with the Exchange. Primary Dealers in government securities are obliged to quote two-way prices for government bonds and discount treasury bill+M13ls with maturities longer than 90 days. Each Primary Dealer is obliged to quote prices for benchmark (on-the-run) bonds and T-Bills. Please note that Hungary is applying the concentration rule except for government securities and securities guaranteed by the	Not decided yet.	The preliminary view is that it will be made use of existing definition for recognised market (for example, gross market of Government Bonds) or other definitions embodied in other Directives (cf. MiFID, Art. 4, number 8).		Not yet decided	see above	Not applicable	Existing definition of market maker at the national level	As the CRD does not include a definition of "market maker", the preliminary view is that it will be made use of existing definition at National level (e.g. in the Securities field regulations' which, in its turn, implement EU Directives – e.g. MiFID includes such definition).	To be decided	to be decided	market maker is defined as a member of exchange that has concluded a contract with the stock exchange on creation of a market for a certain security	Not applicable	Not applicable	

Answers based on the CRD, which is not yet been transposed. Therefore, they have to be considered as preliminary and might be subject to further changes.

Deduction art 154-1b

Article 154 (1b) states that 'until 31 December 2012, the competent authorities of each MS may allow credit institutions to continue to apply to participations of the type set out in Article 57(o) acquired before the entry into force of the CRD the treatment set out in Article 38 of the Directive 2000/12/EC as that Article stood prior to the date referred to in Article 157 (1)

Question: Do you intend to allow credit institutions to continue to apply to participants referred to in Art 57(o) acquired before the entry into force of the CRD the treatment set out in Article 38 of the Directive 2000/12/EC ?

AT	BE	CY	CZ	DE	DK	EE	EL	ES	FI	FR	HU	IE	IT	LT	LU	LV	MT	NL	PL	PT	SE	SI	
Not decided yet	Y	Not yet decided	NO. According to the current CZ regulation capital investments of banking portfolio (i.e. shares and other ownership interests and subordinated debt) in insurance and reinsurance undertakings is deducted from the own funds, if such capital investments exceed 10% of the capital of the individual undertakings; also it is required to deduct from the own funds the sum of capital investments of the banking portfolio in insurance and reinsurance undertakings exceeding 10% of the funds before deduction of the items mentioned above, if the individual capital investments represent a share of up to 10% inclusive of the equity capital of insurance and reinsurance undertakings in which they are invested. The waiver allowed in Article 38 has not been implemented.	N	Not decided yet		Not yet decided	N (we do not intend to use the discretion because Spanish regulation already establishes the deduction of insurance shares and similar instruments)	Y The waiver allowed in Article 38 has not been implemented. We have even before the FCD (2002/87/EC) had the obligation of deducting either holdings in shares in an insurance institution which exceeds 10 % of the total amount of the insurance institution's shares and guarantee shares or alternatively the relative share of the insurance institution's solvency margin at the unconsolidated level of the credit institution. As, the choice has been left to the credit institution and if it chooses to deduct only the relative share of the insurance institution's solvency margin (if CI owns 25 % of the insurance company, the same amount from the solvency margin is deducted). That deduction will be less than what the Article 57 (o) requires. This has not taken into account in the bill for new Credit Institution Act which has been given to the Parliament	Y	No-in Hungary. These types of deductions are slightly stricter than in the CRD.	N This grandfathering provision is irrelevant in Ireland as the provision it grandfatherers (the option to risk weight (rather than deduct) participations in insurance companies) is not currently exercised	Y	N	Not yet decided	N	do not intend to use the discretion	N			Not yet decided-but possibly	Y	Not yet decided

We intend to continue applying the current treatment - item 57 (o) is deductible.

Answers based on the CRD, which is not yet been transposed. Therefore, they have to be considered as preliminary and might be subject to further changes.

SK	UK	NO
Not yet decided	Y	Probably no, but not yet decided

National-specific deductions

DE

- exposures resulting from transactions entered into with principal managers or the board of credit or financial institutions, rule which may also be extended to transactions with the headquarters and managers of the institution or persons holding more than one tenth of the voting rights of the legal entity;
the deduction applies on the total of original and additional own funds

EL

- cross participations in non-financial entities amounting to the latter entities' holdings of the credit institution's capital and other own funds items;
- outstanding loans to holders of the credit institution's own funds items provided that the holders are not financial entities subject to supervision on a consolidated basis;

ES

- The excess of qualifying holdings in non-financial undertaking referred to in Article 10 of Law 13/1985 of May 25, Article 24 of the Royal Decree and the following rule of this circular (provision that transpose art 51 Directive 2000/12/EC).
- the deficits existing in the mandatory provisions or specific funds in respect of those required under accounting rules, unless they are authorised by virtue of a general or specific schedule of coverage;
- other assets or risks which the institution decides to deduct;

FR

- exposures resulting from transactions entered into with principal managers or shareholders of credit or financial institutions, rule which may also be extended to transactions with the headquarters and managers of the institution or persons holding more than one tenth of the voting rights of the legal entity;
the deduction applies on the total of original and additional own funds

HU

- capital requirement hold against country risk;

IT

- country risk provisions;
- Registered shares of Investment Companies exceeding 20.000 units;
- Participation on Capital of Bank of Italy

PT

-Tangible fixed assets (real estate) in the possession of credit institutions as a result of acquisitions in repayment of the institution's own credit (in the terms specified by Notices and Instructions of Banco of Portugal) and other fixed assets exceeding certain limits (determined with reference to own funds)

SL

- other illiquid assets (e.g. investments in shares of a brokerage house or a clearing and depository company, claims deriving from payments into the guarantee fund of a clearing and depository company, claims deriving from payments into other funds intended for mutual guarantees for the fulfilment of the liabilities of several persons, and other assets which cannot be converted into cash within the time needed for the timely performance of due financial liabilities)

UK

- the amount of aggregate holdings in non-trading book of capital and subordinated debt issued by credit and financial institutions, not previously deducted, that exceed 10% of the holder's total capital must be deducted;
-the amount of aggregate holdings in trading book of capital and subordinated debt, not previously deducted, that exceeds 25% of the holder's total capital must be deducted
(this deduction will apply to credit institutions but not investment firms);
- reciprocal cross holdings;
- investments in subsidiary undertakings and participations which are not credit institutions or financial institutions and have not been deducted as material holdings qualifying holdings.

Deductions not related to specific layers of own funds

Overview of responses with regard to Deductions according to the recast Directive 2000/12/EC															
Country	Article 57							Article 58	Article 59	Article 60	Article 66				
	Item l)	Item m)	Item n)	Item o)	Item p)	Item q)	Item r)				Para. 1(a)	Para. 1(b)	Para. 2	Para. 2a	Para. 3
Austria	Implemented	Implemented	Implemented	Implemented	Implemented	To be implemented	To be implemented	No intention to implement	Implemented	Implemented	Implemented	Implemented	To be implemented	To be implemented	
Belgium	Implemented	Implemented	Implemented	Implemented	Implemented	To be implemented	To be implemented	Implemented (provision applied on a case by case basis)	Implemented (provision applied on a case by case basis)	Intention to implement from 2007 on (for participation interests in subsidiaries included in the prudential consolidated scope of the institution, for which the institution has more than 50 % of the voting rights and if there is no restriction to the prompt transfer of own funds)	Implemented	Implemented	To be implemented	To be implemented	Not implemented
Cyprus	Implemented	Implemented	Implemented	Holdings in unconsolidated subsidiaries and associates. These include holdings in insurance and other non-banking related activities subsidiaries and associates		Not yet decided	To be implemented	Intention to implement (on condition that prior approval of supervisor is obtained for the acquisition of such shares)	No intention to implement	No intention to implement	Implemented	Implemented	Implemented (Items l) to r) of article 57 are being deducted half from Tier 1 and half from Tier 2)	To be implemented	Not implemented
Czech Republic	Implemented	Implemented	Implemented	Implemented (application of the rules of items l) to n) - capital investments of banking portfolio (i.e. shares and other ownership interests and subordinated debt) in insurance and reinsurance undertakings, if such capital investments exceed 10% of the capital of the individual undertakings, the sum of capital investments of the banking portfolio in insurance and reinsurance undertakings exceeding 10% of the funds before deduction of the items mentioned above, if the individual capital investments represent a share of up to 10% inclusive of the equity capital of insurance and reinsurance undertakings in which they are invested)		To be implemented	To be implemented	Not implemented	Not implemented	Implemented	Implemented	Implemented (only subordinated debt is acceptable and limit 50 % is applied)	To be implemented	To be implemented	Not implemented
Denmark	Implemented	Implemented	Implemented	Implemented	Implemented, except for indent (ii) of item p)	To be implemented	To be implemented (securitisation positions will be risk-weighted 1250%)	Implemented	Not implemented	Implemented	Implemented	Not implemented	To be implemented	To be implemented	Not implemented
Estonia	Implemented	Implemented	Implemented	Implemented	Implemented	To be implemented	To be implemented	Implemented	To be implemented	To be implemented	Implemented	Implemented (The total amount of subordinated liabilities and preferred shares included in Tier 2 shall not exceed 50% of Tier 1)	To be implemented	To be implemented	To be implemented
Finland	Implemented	Implemented	Implemented (Includes loan claims in respect of the Deposit Bank's Security Fund)	Implemented (Deduction starts on holdings exceeding 10% of the total amount of the insurance institution's shares and guarantee shares. As an alternative, the institution may choose to deduct institution's relative share of the insurance institution's solvency margin)		To be implemented	In the future an institution may choose between a deduction from own funds or risk-weighting. Currently retained subordinated tranche or first loss position arrangement of securitised assets are deducted	Implemented	Not implemented	Implemented (at the level of consolidated supervision in accordance with Directive 2000/12/EC but not at level of the supplementary supervision in accordance with Directive 2002/87/EC)	Implemented	Implemented	To be implemented	To be implemented	Not implemented

Deductions not related to specific layers of own funds

Overview of responses with regard to Deductions according to the recast Directive 2000/12/EC

Country	Article 57							Article 58	Article 59	Article 60	Article 66				
	Item l)	Item m)	Item n)	Item o)	Item p)	Item q)	Item r)				Para. 1(a)	Para. 1(b)	Para. 2	Para. 2a	Para. 3
France	Implemented	Implemented	Implemented	Implemented	Implemented	To be implemented	To be implemented	Implemented	Implemented (however deduction may be required by the supervisor)	Implemented	Implemented	Implemented	To be implemented	To be implemented	Implemented
Germany	Implemented	Implemented	Implemented	To be implemented	Implemented	To be implemented	To be implemented	Implemented	Implemented	Implemented	Implemented	Implemented	Implemented	Implemented	Implemented
Greece	Implemented	Implemented	Implemented	Possibly will be implemented (see article 59)		To be implemented (on a solo and consolidated basis)	To be implemented (on a solo and consolidated basis)	Possibly will be implemented	Possibly will be implemented	Possibly will be implemented	Implemented (Items related to double gearing are also deducted from the total of Tier 1 and Tier 2 capital for the calculation of capital ratio but not for the application of the limits referred to in art. 66.1)		To be implemented	To be implemented	Implemented
Hungary	Implemented	Implemented	Implemented	Implemented (the same rules are applicable as for credit and financial institutions - above the 10% limits and concerning the items defined in l) to n) should be deducted)	Implemented (only holdings and subordinated claims are deductible items)	To be implemented	To be implemented	Not implemented	Not implemented	Not implemented	Implemented	Implemented (The amount of subordinated loan, excluding fixed term cumulative preferential shares, capital shall not exceed the amount of eligible core capital elements)	To be implemented	To be implemented	Not implemented
Ireland	Implemented	Implemented	Implemented	Implemented (insurance undertakings and holding companies currently included under the definition of financial institution and hence deducted under letters l) to n). Provision not implemented for reinsurance undertakings)	To be implemented	To be implemented	To be implemented	Implemented	To be implemented	To be implemented	Implemented	Implemented	To be implemented	To be implemented	Not implemented (future implementation under consideration)
Italy	Implemented	Implemented	Implemented	Implemented		To be implemented	To be implemented	Implemented	Not implemented	Implemented	Implemented	Implemented	To be implemented	To be implemented	Implemented
Latvia	Implemented	Implemented	Implemented	Implemented	Implemented	To be implemented	To be implemented	Implemented	Implemented	Implemented	Implemented	Implemented	To be implemented	To be implemented	Not implemented
Lithuania	Implemented	Implemented	Implemented	Implemented (application of the same rules of items l) to n))		To be implemented	To be implemented	Implemented	Not implemented	This provision could be used	Implemented	Implemented	To be implemented	To be implemented	Not implemented
Luxembourg	Implemented	Implemented	Implemented	Not yet implemented	Not yet implemented	Not yet implemented	No yet implemented	Implemented (will be updated in accordance with CRD)	Not yet implemented	Implemented (will be updated in accordance with CRD)	Implemented	Implemented	To be implemented	To be implemented	Implemented
Malta	Implemented	Implemented	Implemented	Implemented	Implemented	Implemented	Implemented	Implemented	Implemented	Not implemented	Implemented	Implemented	To be implemented	Implemented	Implemented
Netherlands	Implemented	Implemented	Implemented	Deduction of the required solvency margin of the insurer (indent (i)) or of the insurer group (indent (iii)). Reinsurance undertakings should be risk-weighted at 100%	The items foreseen in this provision should be risk-weighted at 100%	To be implemented	To be implemented	Implemented	Implemented	Not implemented	Implemented	Implemented	To be implemented	To be implemented	Not implemented

Deductions not related to specific layers of own funds

Overview of responses with regard to Deductions according to the recast Directive 2000/12/EC															
Country	Article 57							Article 58	Article 59	Article 60	Article 66				
	Item l)	Item m)	Item n)	Item o)	Item p)	Item q)	Item r)				Para. 1(a)	Para. 1(b)	Para. 2	Para. 2a	Para. 3
Norway	Implemented (but threshold is 2%)	Implemented (but threshold is 2%)	Implemented	Implemented (application of the same rules of items l) and m))		To be implemented	Partially implemented. The remainder to be implemented	Not implemented	Implemented	Implemented	Implemented	Implemented	To be implemented	To be implemented	Not implemented
Poland	Implemented	Implemented	Implemented	Implemented		To be implemented (planning to do adjustments)	To be implemented (planning to do adjustments)	Implemented	NA	NA	Implemented		To be implemented	To be implemented	
Portugal	Implemented	Implemented	Implemented	To be implemented	To be implemented	To be implemented	To be implemented	Not implemented	To be implemented (provision applied upon prior supervisory authorisation)	Not implemented (no intention to change it)	Implemented	Implemented	To be implemented	To be implemented	Implemented
Slovakia	Implemented	Implemented	Implemented	Implemented	Implemented	To be implemented	To be implemented	Not yet implemented	Not yet implemented	Not yet implemented	Implemented	Implemented	Implemented	To be implemented	Not yet implemented
Slovenia	Implemented	Implemented	Implemented	Implemented (application of the same rules of items l) to n). However, the intention is to transpose separately this clause)		To be implemented	To be implemented	Implemented (items under this provision are not deductible for the period of the first three years after acquisition)	No intention to implement	No intention to implement	Implemented	Implemented	To be implemented	To be implemented	Not implemented (but intention to implement it)
Spain	Implemented	Implemented	Implemented	Implemented (exclusively the participation which exceeds 20% of the undertaking's capital)		To be implemented	To be implemented	Intention to implement	No intention to implement	Intention to implement	Implemented	Implemented	To be implemented	To be implemented	Implemented
Sweden	Implemented (but threshold is 5%)	Implemented (but threshold is 5%)	Implemented	Indents (ii) not implemented at this stage	Indents (ii) and (iii) not implemented at this stage	To be implemented	To be implemented	Not implemented	Not implemented	Not implemented	Implemented	Implemented	To be implemented	To be implemented	Not implemented
United Kingdom	Implemented	Implemented	Implemented	Implemented (The amount to be deducted is the higher of: (a) the book value of the holding or (b) the proportionate share of the solo capital resources requirement of the participation in question, as permitted in Article 59)	Implemented	Implemented	Implemented	Will be implemented	Will be implemented	No intention to implement at this stage	Implemented	Implemented	Implemented	Implemented	Not implemented

With regard to the answers provided on the basis of the CRD, which is not yet been transposed, they should be considered as preliminary and might be subject to further changes.