

**Resolution No. 369/2010 of the Polish
Financial Supervision Authority
of 12 October 2010**

**amending the Resolution of the Polish Financial Supervision Authority on the scope and
detailed procedures for determining capital requirements for specific types of risk**

Pursuant to Art. 128 (6)(1, 3, 4, 5 and 7) and Art. 141j of the Act of 29 August 1997 r. — The Banking Act (Journal of Laws of 2002 No. 72, item 665, as amended) it is resolved as follows:

§ 1. In the Resolution No. 76/2010 of the Polish Financial Supervision Authority of 10 March 2010 on the scope and detailed procedures for determining capital requirements for specific types of risk (Journal of Laws PFSA No. 2, item 11):

1) § 12 shall read as follows:

"§ 12. The bank is obliged, within the scope necessary to observe the provisions of the Resolution, to develop an internal procedure in a written form, approved by the Management Board of the bank, stipulating detailed principles regarding: isolation of a trading book and bank book, determination of underlying positions, determination of the market result, determination of loss on operations included in bank book, application of estimation methods, classification of exposures to individual classes of exposures for the purpose of calculating the capital requirement for credit risk (stipulating in particular the principles based on which segmentation is performed), assignment of credit risk weights to exposures, carrying out the capital adequacy account, and application of the capital adequacy standard on consolidated basis.";

2) § 13 shall read as follows:

"§ 13.1. In respect of the period of observation referred to in § 197 par. 1 Annex no. 5 to the Resolution, the bank that is not granted the consent to use its own estimations of the loss given default (LGD) and conversion factors can, upon implementation of the internal ratings based approach, use the data regarding the events of default covering a period of at least three years, and the period shall be prolonged every year by another year, until it is at least a five-year long period.

2. In respect of the period of observation referred to in § 203 par. 1 of Annex no. 5 to the resolution, at the moment of implementation of the internal ratings based method, the bank may use the data regarding the events of default covering the period of at least three years, and this period shall be prolonged every year by another year, until it is at least a five-year long period.

3. In respect of the period of observation referred to in § 218 of Annex no. 5 to the Resolution, at the moment of implementation of the internal ratings based approach, the bank may use the data regarding the event of default covering the period of at least three years, and the period shall be prolonged every year by another year, until it is at least a five-year long period.

4. In respect of the period referred to in § 227 of Annex no. 5 to the Act, at the moment of the implementation of the internal ratings based approach, the bank may use the data regarding the events of default covering the period of at least three years, and the period shall be prolonged every year by another year until it is at least a five-year period.";

3) § 15 shall read as follows:

"§ 15. Until 31 December 2015, while calculating the amounts of risk-weighted exposures

for the purposes specified in § 4 of Annex no. 4 to the resolution:

- 1) in relation to exposures to the State Treasury and the National Bank of Poland denominated and funded in the national currency of a Member State the same risk weight shall be applied that would be assigned to the exposures denominated and funded in Polish zloty,
- 2) in relation to exposures to governments or central banks of Member States denominated and funded in Polish zloty or the national currency of another Member State, the same risk weight shall be applied that would be assigned to such exposures denominated and funded in their national currency.";

4) in Annex no. 2 § 4(1) shall read as follows:

"§ 4. 1. Options for: interest rates, debt instruments, equity instruments, stock exchange indices, goods, commodity derivative transactions, future stock broking contracts on financial instruments, foreign exchange transactions and subscribed guarantees (warrants) on: debt instruments, equity instruments and goods, it is included in an account of primary positions in the amount of its delta equivalents, equal to nominal amount of options multiplied by the corresponding delta coefficient, whereas:

- 1) delta coefficient of options is understood as the quotient of option value change and infinitesimal (converging to zero) change of the option underlying instrument value that implies such change;
- 2) in case of options offered in exchange trading the delta coefficient established for these transactions by stock exchange shall be applied;
- 3) in case of options offered in OTC trading delta coefficient calculated based on own models of options pricing shall be applied.

5) in Annex no. 2 § 4(3)(7) shall read as follows:

"7) if a typical range of prices variation of option underlying instrument is considered, the value of the underlying instrument of options influences significantly the calculation of delta coefficients, bank adjusts values of the calculated delta coefficient that is increasing or decreasing accordingly or provides compliance of the indicated delta equivalent with the exposure amount otherwise;"

6) in Annex No. 2, § 5 shall read as follows:

"§ 5. A bank that concludes option future transactions is required to control and limit the risk resulting from an influence of factors other than current price parameters affecting the options value and making adjustments increasing or decreasing the value of calculated delta coefficient accordingly.

7) in Annex no. 2, § 19 shall read as follows:

"§ 19. The bank that transfers credit risk ("security buyer") determines underlying positions based on the symmetrical opposition to the method specified in § 18 to the position of a security seller, excluding a debt instrument associated with credit events (CLN - *credit linked note*) that does not generate the short position of the issuer, where:

- 1) if at a given moment there is a valid call option (*call*) combined with the increase of interest value of a particular instrument (*step-up*), such moment is considered as the maturity date of the credit protection;
- 2) in the case of a first-to-default credit derivative and an n-th-to-default credit derivative, instead of determining the position based on the symmetrical opposition, the following principle shall be applied:
 - a) first-to-default credit derivatives — when the bank receives a credit protection for a specific number of reference entities constituting the underlying credit derivative, conditioned by the fact that the first default regarding these assets shall activate payment and that this credit event terminates/causes to terminate the agreement, the bank may compensate for the specific risk for the reference

entity for which the lowest percentage surcharge for specific risk among basis reference entities is applied, according to the table from Annex no. 9 to the resolution;

- b) n-th-to-default credit derivatives — if the n-th default launches payment for credit protection, the security buyer may compensate for the specific risk only if the protection covered also the default from the first to n-1 liability or when the failure to perform the n-1 liability has already occurred. In this case the method specified above shall be applied, relating to first-to-default credit derivatives, adjusted according to the n-th-to-default products.

8) in Annex no. 3, § 6(4) shall read as follows:

- 1) "4. In the event when the bank hedges the position included in the bank book against the credit risk using a credit derivative booked in its trading book (using an internal hedge), for the purposes of calculating capital requirements, the position from the bank book is not deemed to be hedged, unless the bank purchases from an eligible third party provider of credit protection the security resulting from the conclusion of a credit derivative contract that fulfils the requirements specified in § 42 (1) of Annex 17 to the resolution with regard to the bank book exposure. Subject to § 8 sentence 2 of Annex 11 to the resolution, if such protection is purchased and is recognised as a hedge of a bank book for the purposes of calculating capital requirements, neither the internal nor external credit derivative hedge shall be included in the trading book for the purposes of calculating capital requirements.";

9) in Annex no. 4, § 20(1)(14) shall read as follows:

"14. Exposures to institutions and entrepreneurs with the short-term credit assessment;"

10) in Annex no. 4, § 20(4) shall read as follows:

"4. Exposure secured with real estate property means an exposure for which the real estate collateral was established, up to the value to which the amount of exposure without taking into account the reduction by special-purpose reserves, obtained discounts and premiums and write-offs for permanent impairment is not higher than the value of such collateral.";

11) in Annex no. 4, § 23a shall be added to read as follows:

"§ 23a. Apart from those listed in § 91—99, the bank shall classify as other exposures these exposures which cannot be classified to any other exposure classes listed in § 20(1)(1-15).";

12) in Annex no. 4 in §50(1) the introductory sentence shall read as follows:

"1. Exposures to institutions with a residual maturity date of more than 3 months, subject to § 82, shall be assigned a risk weight according to the Table 7, depending on the external credit assessment assigned to these exposures pursuant to § 11 and 12 of Annex 15 to the resolution.";

13) in Annex no. 4 in § 51(1) the introductory sentence shall read as follows:

"1. Exposures to institutions with a residual maturity date of up to three months, subject to § 52 to 54 and § 82, shall be assigned a preferential risk weight according to Table 8, depending on external credit assessments assigned to these exposures pursuant to § 12 of Annex 15 to the resolution.";

14) in Annex no. 4, § 52 shall read as follows:

"§ 52. If no exposure to an institution is assigned a short-term external credit assessment, the general preferential treatment for exposures as specified in § 51 shall apply to all exposures to this institution of up to three months residual maturity date.";

15) in Annex no. 4 in § 53 item 2 shall read as follows:

"2) other exposures with residual maturity date of three months or less shall be assigned risk weights according to general preferential treatment for exposures as specified in § 51.";

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16) in Annex no. 4 in § 54 item 2 shall read as follows:

"2) all exposures to such institution with a residual maturity date of three months or less without credit assessment shall be assigned the same risk weight as the risk weight according to the external short-term credit assessment assigned to the exposure specified in item 1.";

17) in Annex no. 4, Section 3 shall read as follows:

"Section 3. Exposures in the national currency of the debtor with residual maturity date of up to 3 months";

18) in Annex no. 4, § 55 shall read as follows:

"§ 55. Exposures to institutions, denominated and funded in the national currency of the debtor with residual maturity date of up to 3 months, subject to § 82, may be assigned a risk weight of 20%.";

19) in Annex no. 4 § 64(2)(1) shall read as follows:

"1) 50% of the value established on the basis of the valuation of an independent appraiser, referred to § 34(2)(f) of Annex 17 (if the valuation does not include earlier encumbrances, the value shall be first reduced by their total value) or";

20) in Annex no. 4, Title XIV shall read as follows:

"Title XIV. EXPOSURES TO INSTITUTIONS AND ENTREPRENEURS WITH THE SHORT-TERM CREDIT ASSESSMENT";

21) in Annex no. 4, § 96 shall read as follows:

"§ 96. Subject to § 56(2), package of stocks and shares shall be assigned a risk weight of 100%, if not deducted from own funds.";

22) in Annex no. 4, § 99a shall be added to read as follows:

"§ 99a. The exposure value for leasing agreement shall be the discounted minimum payments under the lease. The minimum payments under the leasing agreement shall mean the payments due for the leasing agreement period which the user is obliged to bear or to which he may be obliged and the possible redemption amount in the event when, due to the terms of the redemption, there is a reasonable presumption that it will be made by the user. Any guaranteed residual value fulfilling the set of conditions specified in § 26 of Annex no. 17 to the resolution regarding the eligibility of protection providers as well as the minimum requirements for recognising other types of guarantees provided for in § 39-41 of Annex no. 17 to the resolution shall be also included in the minimum lease payments. Such exposures shall be assigned to appropriate exposure classes, pursuant to the provisions of Annex no. 4 to the resolution on the determination of capital requirements for credit risk by the standardised method. If the exposure is a residual value of the leasing agreement subject, the amounts of risk-weighted exposures shall be calculated as follows:

$$1/t \times 100\% \times \text{exposure value},$$

where t is the value of 1 or the most approximate value of the number of years remaining until the expiry of the lease, depending on which of them is greater.";

23) in Annex no. 4, § 100 the introductory sentence and item 1 shall read as follows:

"§ 100. Balance sheet equivalent due to contingent off-balance sheet liability is calculated by multiplying the value of the liability (taking into account the value of provisions for this liability) and percentage of product risk weight assigned to it according to the following classification:

- 1) product risk weight 0% (low risk) - the unused credit commitments (commitments to grant loans, purchase securities, provide guarantees, grant guarantees, collaterals or accepted bills) which can be unconditionally terminated at any time without prior notice or that effectively allow the automatic cancellation due to deterioration of the credit rating of the debtor; Retail credit lines may be considered as unconditionally cancelable if the terms permit the bank to cancel them to the full extent allowable

under consumer protection laws;";

24) in Annex no. 5 to the resolution, § 6(2)(2) shall read as follows:

"2) exposures to public sector units pursuant to Annex no. 4 to the resolution, subject to par. 3 item 2;";

25) in Annex no. 5, § 12(1)(4) shall read as follows:

"4) exposures to the government of the Member States and Poland and their local governments and local authorities and administrations, including in particular the State Treasury and the national public sector entities, if they may be assigned a risk weight of 0%, pursuant to Annex 4 to the resolution;";

26) in Annex no. 5, § 13 par. 13—15 shall read as follows:

"13. If the exposures for the units of collective investment institutions meet the criteria specified in § 86-87 of Annex 4 to the Resolution and the bank has information on all or some of the underlying exposures of institutions for collective investment, the bank shall analyse the underlying exposures in order to calculate risk-weighted exposure amounts and the amounts of expected losses in accordance with the methods specified in this Annex.

In relation to this part of underlying exposures of the collective investment institutions on which the bank does not have information or could not have sufficient information, item 15 and § 15 shall apply, in particular in the event when the analysis of underlying exposures in order to calculate the risk-weighted exposure amounts and the amounts of expected losses in accordance with the methods specified in this Annex are excessively onerous for the bank.

14. If the bank fails to meet the conditions allowing them to apply methods specified in this Annex to exposures for the units of collective investment institutions, in respect of all or some of the underlying exposures of collective investment institutions, the risk-weighted

amounts and the amounts of expected losses are calculated in accordance with the following methods:

- 1) for exposures belonging to the exposure class referred to in § 6 (1)(5), in accordance with the method specified in § 47-51;
- 2) for all other underlying exposures the standardised method of calculating the capital requirement for credit risk shall be applied, as specified in Annex 4 to the Resolution, which shall be subject to the following changes:
 - a) the risk weight of exposures which are assigned the weight corresponding to the exposures without rating or qualified to the degree of credit quality corresponding to the highest risk weight, need to be multiplied by a factor 2, however, it cannot be higher than 1250%;
 - b) the risk weight of all other exposures shall be multiplied by a factor 1.1 and assigned the minimum value of 5%.

In the event when for the purpose of item 1 the bank is not able to distinguish between the equity exposures not allowed to be traded on the non-regulated market of equity securities, equity exposures related to securities allowed to be traded on the stock market and other equity exposures, the bank shall treat such exposures as other equity exposures. If such exposures, considered together with the bank's direct exposures in a specific exposure class are not relevant within the meaning of § 12 par. 2 and 3, then the provisions of § 12 Par. 1 may be applied within the scope specified in the approval to use the internal ratings based approach.

15. If exposures in the form of participation units of collective investment institutions do not meet the criteria set out in §86-87 Annex 4 to the Resolution and the bank is not aware of all the underlying exposures of institutions for collective investment, the bank shall

examine the aforementioned underlying exposures and shall calculate risk-weighted exposure amounts and the amounts of expected losses in accordance with the methods set out in § 47- 51. If for this purpose the bank is not able to distinguish between equity exposures not allowed to be traded on the regulated market for equity securities, equity exposures related to securities allowed to be traded on the stock market and other equity exposures, such exposures shall be treated as other equity exposures. For these purposes, non-equity exposures are assigned to one of the classes (equity exposures not admitted to be traded on a regulated market for equity securities, equity exposures in respect of securities admitted to be traded on a stock exchange or other equity exposures) as defined in § 47 and 48 while undefined exposures shall be assigned to other equity class.";

27) in Annex No. 5 § 14 shall read as follows:

"§ 14. The Bank may perform calculations on its own or rely on the calculations and reports of another entity, of average risk weighted exposure amounts based on the underlying exposures of collective investment undertakings, in accordance with the methods referred to in § 13 (14)(1 and 2), having verified the correctness of calculations and reports.";

28) in Annex No. 5, § 58 shall read as follows:

"§ 58. The risk weighted exposure amounts at the equity exposure portfolio level shall not be less than the total sum of minimum risk weighted exposure amounts required under the PD/LGD approach and the corresponding expected loss amounts multiplied by 12.5 and calculated on the basis of the PD values referred to in § 105 and the corresponding LGD values referred to in § 106-107.";

29) in Annex no. 5, § 61 par. 1 shall read as follows:

"§ 61. 1. If the exposure is a residual value of the leasing agreement subject, the amount of risk-weighted exposure shall be calculated as follows:

$$1/t \times 100\% \times \text{exposure value},$$

where t is the value of 1 or the most approximate value of the total number of years remaining until the expiry of the lease, depending on which of them is greater.";

30) in Annex no. 5 in § 61, paragraph 4 shall be added to read as follows:

"4. For valuation of assets arising from off balance sheet transactions and accrued interest related to those transactions net of outstanding commission, risk-weighted exposure amounts shall be calculated as follows:

Risk-weighted exposure amount = 0% x exposure value.";

31) in Annex no. 5 § 93 par. 4 shall read as follows:

"4. For exposures arising from fully or nearly-fully collateralised off-balance sheet transactions stipulated in § 31 of Annex no. 2 to the resolution and fully or nearly-fully collateralised margin lending transactions under the framework netting agreement, M shall be the weighted average, real maturity of the exposure, where M shall be at least 10 days. For the transactions with buy-back guarantees or the securities or commodities lending transactions, under the framework agreement on netting, M shall be the weighted average, real maturity of the exposure, where M is at least 5 days. The notional amount of each transaction shall be used for weighting the maturity date.";

32) in Annex No. 5, § 94 shall read as follows:

"§ 94. Regardless of § 93 par. 1—6, M is at least 1 day in case of:

- 1) fully collateralised off-balance sheet transactions listed in § 31 of Annex no. 2 to the resolution;
- 2) fully collateralised margin lending transactions;
- 3) transactions with buy-back guarantees or securities or commodities lending agreements.";

33) in Annex no. 5, § 197 par. 1 shall read as follows:

"§ 197.1. Regardless of whether for the estimates of PDs the bank uses external, internal or collective data sources, or a combination of them, the length of the observation period regarding the events of default shall cover at least five years for at least one source, and if for any of the sources the observation period is longer and the data are relevant, then the longer period shall be used.";

34) in Annex no. 5 § 203 Par. 1 shall read as follows:

"§ 203.1. Regardless of whether for evaluating the characteristics of losses the bank uses external, internal or collective data sources, or a combination of them, the length of the observation period regarding the events of default shall cover at least five years for at least one source.";

35) in Annex No. 5 § 205 shall read as follows:

"§ 205. The Bank estimates LGD by grade or pool of instruments on the basis of the average realised LGD value by grade or pool of instruments, taking into account all events of default recorded in the data sources (default weighted average).";

36) in Annex No. 5 § 214 shall read as follows:

"§ 214. For exposures to corporates, institutions, governments and central banks, LGD estimates are based on data from the period regarding the events of default covering at least five years, prolonged by one year at the end of each year after the implementation of IRB by the bank, up to the minimum period of seven years for at least one data source, and if for any of the sources the observation period is longer and the data are relevant, the bank shall use the longer period of observation.";

37) in Annex No. 5, § 218 shall read as follows:

"§ 218. The estimates of the loss given default (LGD) are based on the data regarding the events of default from the period of at least five years. Notwithstanding the provisions of § 205, the bank does not need to attach equal importance to all historical data, if it may provide a justification that the data from recent periods are better basis for predictions of loss rates.";

38) in Annex No. 5 § 219 shall read as follows:

"§ 219. The bank makes estimates of conversion factors by the grade or pool of instruments, on the basis of the average expected conversion factors by the grade or pool of instruments, including, subject to § 227, all defaults occurring in the data sources (average weighted by the number of the events of default).

39) in Annex No. 5 § 225 shall read as follows:

"§ 225. Estimates of the conversion factor are based on the data regarding the events of default from the period of at least five years, prolonged by a year every year after the implementation of IRB approach by the bank, up to the minimum period of seven years for at least one data source, and if for any of the sources the observation period is longer and the data are relevant, the bank shall use the longer period of observation.";

40) in Annex No. 5, § 227 shall read as follows:

"§ 227. Estimates of conversion factors are based on the data regarding the events of default from the period of at least five years, and the bank does not need to attach equal importance to all historical data if it may provide a justification that the data from recent periods are better basis for prediction of employment of the granted limits.";

41) in Annex No. 5 § 228 shall read as follows:

"§ 228. The criteria stipulated in § 229-236 do not apply to guarantees provided by institutions, governments, central banks and entrepreneurs who meet the criteria specified in § 26(1)(7) of Annex 17 to the Resolution, if on the basis of the approval of the Polish Financial Supervision Authority referred to in § 8 (2) of the Resolution, the bank applies the standardized method to calculate the capital requirement for credit risk for the exposures to these entities. In this case the rules set forth in § 5 of Annex no. 4 to the

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Resolution and § 2-8 of Annex no. 17 to the Resolution are applied.";

42) § 242 shall read as follows:

"§ 242. The bank should have an effective system for approving the accuracy and consistency of rating systems and processes as well as estimates of all relevant risk parameters (the internal validation process). The bank shall demonstrate that its internal estimates approval process ensures a coherent, clear and independent assessment of the quality of internal ratings and risk measurement systems.";

43) in Annex No. 9 § 5 item 3 shall read as follows:

"3) issued or guaranteed by institutions which may be assigned credit quality step 3 under the standardized approach of calculating the capital requirement for credit risk, according to Annex 4 to the Resolution;";

44) in Annex No. 9 § 5 item 4 shall read as follows:

"4) issued or guaranteed by entrepreneurs which may be assigned credit quality step 1, 2 or 3 under the standardized approach of calculating the capital requirement for credit risk, according to Annex 4 to the Resolution;";

45) in Annex no. 9, § 5 item 5(a) shall read as follows:

"a) long and short positions in assets qualifying for a credit quality step 1, 2 or 3 in the assignment process applicable to the standardized approach of calculating the capital requirement for credit risk, in accordance with Annex 15 to the Resolution,";

46) in Annex no. 9 in § 6, item 2 shall be deleted;

47) in Annex No. 9 § 6 item 3 shall read as follows:

"3) issued or guaranteed by entrepreneurs which may be assigned credit quality step 4 under the standardized approach of calculating the capital requirement for credit risk, according to Annex 4 to the Resolution;";

48) in Annex No. 11 § 8 shall read as follows:

"§ 8. Where a credit derivative included in the trading book forms a part of an internal hedge and the credit protection is recognised under Appendix 17 to the Resolution, the counterparty risk arising from this instrument shall be deemed to be zero. Alternatively, for the purposes of calculating capital requirements for counterparty credit risk, the bank can systematically include all credit derivatives included the trading book constituting a part of an internal hedge or purchased as a hedge against exposure to counterparty credit risk, if credit protection is recognized in accordance with Annex 17 to the resolution.";

49) in Annex No. 14 § 6 shall read as follows:

"§ 6. If the financial data have not been audited by an auditor, the bank uses the estimates. After obtaining an opinion of the financial statements audit carried out by an auditor, the bank shall immediately update the relevant index calculations.";

50) in Annex No. 14 § 7 shall read as follows:

"§ 7. If the financial result for any of the three business years, understood for the purposes of calculating the capital requirement for operational risk by means of a basic indicator approach as twelve-month periods, is negative or equals zero, it shall not be included in the calculation of the average.";

51) in Annex No. 14 § 15 shall read as follows:

"§ 15. The capital requirement for operational risk according to the basic indicator approach shall constitute 15% of the indicator, determined in accordance with the principles stipulated in § 4-8.

The capital requirement K shall be calculated according to the following formula:

$$K = \frac{\sum_{i=-3}^{-1} \max(w_i; 0)}{n} \times 15\%$$

where:

w_i — annual financial result in the i-th year determined according to the provisions of § 9—13 or § 14

n — number of years when $w_i > 0$

Calculations of the requirement for a given business year ($i = 0$) include the year by the end of which the calculations are made ($i = -1$) and two consecutive years preceding that financial year ($i = -2, -3$).”;

52)in Annex no. 14, § 21 shall read as follows:

”§ 21. Capital requirement for the business line, subject to § 27—31, is equal to the average calculated at the end of the financial year, understood for the purposes of calculating capital requirement for operational risk by means of a standardized method as a twelve-month period, of capital requirements specified in § 24 from the last three twelve-month periods (years).”;

53)in Annex No. 14 § 22 shall read as follows:

”§ 22. If the financial data have not been audited by an auditor, the bank uses the estimates. After obtaining an opinion of the financial statements audit carried out by an auditor, the bank shall immediately update the relevant capital requirement calculations.”;

54)in Annex No. 14 § 24 shall read as follows:

”§ 24. For each business line in each of the three years, the bank calculates capital requirement, as a result allocated to this business line, multiplied by a conversion coefficient specified in Table No. 3.”;

55)in Annex no. 14, § 25 shall read as follows:

”§ 25. A negative capital requirement (resulting from gross loss) in a given year in any business line may offset without limitation positive capital requirements in other business lines.”;

56)in Annex No. 14 § 26 shall read as follows:

”If the capital requirement total in all business lines in a given year is negative, its contribution to the value of the numerator for such year is zero.”;

57)in Annex no. 14, § 33 shall read as follows:

”§ 33. The total capital requirement for operational risk according to the standardised method is the sum of capital requirements for operational risk of all business lines in the bank, in accordance with the principles set out in § 16-32.

The total capital requirement K is calculated by the following formula:

$$K = \frac{\sum_{i=-3}^{-1} \max\left(\sum_{j=1}^8 w_{ij} \times \beta_j; 0\right)}{3}$$

where:

w_{ij} — annual interest and non-interest income in the the i-th year and j-th line of business determined as referred to in § 9-14, with the reservation that in case of using the alternative index for business lines: retail banking and commercial banking w_{ij} is defined

as the value of credits and loans calculated in accordance with § 29 and multiplied by coefficient 0.035

β_j — conversion coefficient determined for the j-th business line.

Calculations of the requirement for a given business year ($i = 0$) include the year by the end of which the calculations are made ($i = -1$) and two consecutive years preceding that business year ($i = -2, -3$).”;

58) in Annex No. 14 § 40 shall read as follows:

”§ 40. Operational risk management processes and risk measurement systems are subject to regular reviews by an internal audit unit.

59) in Annex No. 14 § 41 shall read as follows:

” 41. While giving consent, referred to in § 34, the Polish Financial Supervision Authority examines the operational risk measurement system, which includes checking:

- 1) whether the procedures related to the internal approval and periodic evaluation of the risk management system function in a satisfactory manner;
- 2) whether the flow of data and procedures related to the risk measurement system, as well as its evaluation, are transparent and publicly available.”;

60) in Annex No. 14 § 49 shall read as follows:

”§ 49. The bank is able to allocate internal historical data on losses to business lines specified in Table No. 3 and to event types specified in Table No. 4, and, if necessary, to provide these data to the Polish Financial Supervision Authority at its request. Due to the exceptional circumstances, losses affecting the bank's operation may be assigned to an additional business line defined as the "general banking activity". The bank has documented, objective criteria for assigning losses to specific business lines and event types.”;

61) in Annex No. 14 § 65 shall read as follows:

”§ 65. Reduction of the capital requirement for the recognition of insurance and other mechanisms of risk transfer does not exceed 20% of the capital requirement for operational risk before considering risk mitigation techniques.”;

62) to Annex no. 15 in § 6, item 3 is added to read as follows:

”3) publicly available are the explanations of an external credit rating assessment institution on how the results of assets included in the pool asset affect this assessment.”;

63) in Annex No. 15 § 18 shall read as follows:

”§ 18. If a short-term instrument with a credit rating assessment shows 50% or 100% risk weight, all exposures without credit rating assessment, whose residual maturity does not exceed three months, shall receive risk weight at the minimum of 100%.”;

64) in Annex no. 16, § 1 item 5 shall read as follows:

”5) netting set denotes a group of transactions with a single counterparty covered by a framework agreement referred to in Article 85 of the Act of 28 February 2003 The Bankruptcy and Reorganisation Law (Journal of Law. No. 60, item. 535, as amended) and which are subject to netting pursuant to § 74-78 of this Annex and Annex no. 17 to the Resolution; any transaction which is not subject to the framework agreement, recognized pursuant to § 74-78 of this Annex, shall be treated as a separate netting set.

According to the method specified in § 34—73 (internal model method), all netting sets with a single counterparty may be treated as a single netting set if the negative simulated market values of a single netting set are determined as zero in the estimation of the expected exposure (EE);”;

65) in Annex no. 16, § 4 shall read as follows:

”§ 4. If a bank purchases credit protection in the form of a credit derivative instrument for the exposure within the bank book or for the exposure arising from counterparty credit risk (CCR), the capital requirement for the hedged asset can be calculated in accordance with §

89 - 97 of Annex no. 17 to the resolution or after obtaining the consent of the Polish Financial Supervision Authority, pursuant to § 21 and 22 of Annex no. 5 to the Resolution, or § 115 of Annex no. 5 to the Resolution.

In such cases and when the possibility provided for in § 8, second sentence, of Annex no. 11 to the Resolution is not applied, the value of exposure for counterparty credit risk (CCR) in relation to such credit derivatives shall be determined as zero.

However, for the purposes of capital requirements calculation in relation to the counterparty credit risk, the bank may decide to consistently include all credit derivatives not included in the trading book and purchased as a protection due to the exposure belonging to the banking book or counterparty credit risk (CCR), when the credit protection is recognized under this Resolution.";

66) in Annex no. 16, § 10(2) shall read as follows:

"2. In case of contracts for precious metals, except for gold, and commodities other than precious metals, the bank may calculate the amount of potential future credit exposure, applying a risk weight of the product specified in Table 2, unless in relation to the agreements regarding such commodities, listed in § 31 item 3 of Annex 2 to the Resolution, the bank applies the method referred to in § 15 of Annex no. 7 to the Resolution.

Table 2

	Underlying instrument	Residual maturity date		
		up to 1 year	over 1 year — up to 5	over 5 years
		(in %)		
	(1)	(2)	(3)	(4)
1	Precious metals except for gold	2.00	5.00	7.50
2	Base metals	2.50	4.00	8.00
3	Agricultural products (non-durable)	3.00	5.00	9.00
4	Other commodities (including energy)	4.00	6.00	10.00

67) in Annex no. 16 § 27 shall read as follows:

"§ 27. For each issuer of debt instrument, which is the underlying instrument of credit default swap, there is one hedging set. Credit default swaps for the "n-th" default shall be treated as follows:

- 1) the risk position value of the underlying debt instrument in the basket which is the basis for the credit default swap, activated by the n-th default, shall equal the effective nominal value of a reference debt instrument multiplied by the modified duration of the derivative activated by the n-th default in relation to the credit spread change of the reference debt instrument;
- 2) for each underlying debt instrument in the basket, which is the basis of credit default swap activated by the n-th default, there is one hedging set; risk positions for different credit default swaps activated by the n-th default are not included in the same hedging set;
- 3) the multiple of the counterparty credit risk (CCR), which is applied for each hedging set created for one of the underlying debt instruments which is a derivative activated by the n-th default, is 0.3% in relation to the underlying debt instruments which have the rating of a recognized external credit rating assessment institution corresponding to the credit quality step from 1 to 3 and 0.6% in relation to other debt instruments.";

68) in Annex no. 16 § 78 item 1 (b) shall read as follows:

"b) resulting from the framework agreement on netting the future credit exposure in respect of transactions covered by the framework agreement, calculated as:

$$\text{net PCE} = 0,4 * \text{gross PCE} + 0,6 * \text{NGR} * \text{gross PCE}$$

where:

net PCE - resulting from the framework agreement on netting the amount of future credit risk exposure in respect of all transactions covered by the framework agreement,

gross PCE - the sum of the potential exposures exposed to credit risk in the future with respect to all transactions covered by the framework agreement, calculated by multiplying the reference amount of capital of these agreements by the percentage rates listed in Table 1,

NGR - the net / gross rate which may be determined:

- on an individual basis, as the quotient resulting from the framework agreement on netting the net replacement cost of transactions covered by the framework agreement (numerator) and total replacement cost of each transaction covered by the framework agreement (denominator),

- on a collective basis, for all counterparties, as the quotient of the total net replacement costs of the transactions covered by the framework netting agreement designated separately for each valid bilateral framework netting agreement concluded with these counterparties (numerator) and the total costs of replacing all transactions covered by these framework agreements (denominator),

while the bank is obliged to follow the consequences in application of the chosen approach for the calculation of NGR;"

69) in Annex no. 17, § 17 Par. 5 shall read as follows:

"5. Participation units in collective investment institutions may be recognised as eligible collateral if they meet the following conditions:

- 1) they have a daily price quote;
- 2) collective investment institution may invest only in the instruments recognized under the provisions of par. 1—4; and the use or possibility to use by a collective investment institution of derivative transactions to hedge permitted investments shall not prevent units in such institution from being eligible.

If the collective investment institution may also invest in the instruments which are not recognized under the provisions of par. 1-4, participation units in the collective investment institution may be considered as a collateral in the amount net of the value of unrecognised instruments, assuming that the collective investment institution has invested to the maximum permitted extent in the unrecognised instruments. If the unrecognised instruments may have a negative value of liabilities or contingent liabilities arising from the property rights, the bank shall calculate the total amount of the unrecognised instruments and, when it is negative, deduct this amount from the value of the recognised instruments.";

70) in Annex No. 17 § 18 shall read as follows:

"§ 18. If a bank uses the Financial Collateral Comprehensive Method stipulated in § 67 - 80, in addition to the collaterals specified in § 17, the following financial instruments may be recognised as eligible collateral:

- 1) shares or convertible debt instruments not included in the main index but traded on a recognised stock exchange;
- 2) participation units in collective investment institutions, if the following conditions are met at the same time:

- a) they have a daily public price quote,
- b) investments of the institutions are limited to the instruments recognized under § 17 par. 1—4 and instruments listed in item 1, and the use or possibility to use by a collective investment institution of derivative instruments to hedge permitted investments shall not prevent units in such fund from being eligible.

If the collective investment institution may also invest in the instruments which are not recognized under the provisions of § 17 par. 1-4, as well as instruments referred to in item 1, participation units in the collective investment institution may be considered as a collateral in the amount net of the value of unrecognised instruments, assuming that the collective investment institution has invested to the maximum permitted extent in the unrecognised instruments. If the unrecognised instruments may have a negative value due to their liabilities or contingent liabilities arising from the property rights, the bank shall calculate the total amount of the unrecognised instruments and, when it is negative, deduct this amount from the value of the recognised instruments.";

71) in Annex no. 17, § 38 shall read as follows:

"§ 38. For life insurance policies assigned to the lending bank to be recognised, the following conditions shall be met:

- 1) the issuer of the life insurance policy may be recognised as an eligible unfunded credit protection provider under § 26;
- 2) the life insurance policy is openly pledged or assigned to the lending bank;
- 3) the company issuing the life insurance is notified of the pledge or assignment and as a result it may not pay amounts payable under the contract without the consent of the lending bank;
- 4) policy surrender value is non-reducible;
- 5) the lending bank has the right to buy out the policy and pay out the surrender value in a timely manner in the event when the debtor fails to comply with its liability under the loan;
- 6) the lending bank is informed of any non-payments under the policy by the policyholder;
- 7) the period of credit protection shall cover the entire period until the credit maturity date; in the event when the insurance contract expires prior to the expiry of the loan contract, the bank is obliged to ensure that the amount deriving from the insurance contract served as the collateral of the loan until the end of the duration of the loan agreement;
- 8) the pledge or assignment of the policy shall be legally effective and enforceable in all jurisdictions relevant to the loan agreement;
- 9) policy surrender value shall be paid on request without undue delay;
- 10) it is not allowed to request payment of the policy surrender value without the bank's consent;
- 11) the issuer of the insurance policy is a national or foreign insurer, within the meaning of the provisions of the Act of 22 May 2003 on Insurance Activities (Journal of Laws of 2010, No. 11, item 66, as amended).";

72) in Annex no. 17 § 40 par. 1 shall read as follows:

"1. Where an exposure is protected by a guarantee which is counter-guaranteed by a government or central bank, a local government unit, local authority or a public sector entity, claims on which are treated as claims on central government of the country on whose territory they are established, a multi-lateral development bank or international organization to which a 0% risk weight is assigned, or a public sector entity, claims on

which are treated as exposures to banks under the standardised approach for the calculation of capital requirements for credit risk specified in Annex 4 to the Resolution, such exposure may be treated as protected by a guarantee provided by the entity in question, provided the following conditions are met:

- 1) the counter-guarantee covers all credit risk elements of the exposure;
- 2) both the original guarantee and the counter-guarantee meet the requirements for guarantees specified in § 39 and 41, except that the counter-guarantee need not be direct;
- 3) the counter-guarantee issued by an entity ensures effective credit protection and its effectiveness of protection based on historical records is effectively not lower than that of the direct guarantee issued by the entity in question.";

73) in Annex No. 17 § 61 shall read as follows:

"§ 61. The Bank may not use simultaneously the Financial Collateral Simple Method and Financial Collateral Comprehensive Method, except for the purposes of § 1 par. 1—3 and § 12 par. 1 of Annex 5 to the Resolution. The Bank is obliged to demonstrate the Polish Financial Supervision Authority, that such an exceptional application of both methods was not used selectively in order to achieve a reduced minimum capital requirements and does not lead to the use of the difference between the capital requirements arising from the use of two different methods of accounting for financial security (regulatory arbitrage).";

74) in Annex no. 17, § 63 shall read as follows:

"§ 63. Those parts of exposure values which are secured by recognized collateral market value are assigned a risk weight, which would be binding for the standardized method of calculating the capital requirement for credit risk, if the lender had direct exposure to the hedge. For this purpose, the risk weight of the product for an off-balance sheet item is 100% instead of the value specified in § 100 of Annex no. 4 to the Resolution. Where:

- 1) risk weight of the secured portion of exposure is at least 20%, except as provided in § 64-66;
- 2) a risk weight that would apply to an unsecured exposure to the counterparty for the needs of the standardized method of calculating the capital requirement for credit risk is assigned to the part of the exposure not covered by collateral, according to Annex No. 4 to the Resolution.";

75) in Annex no. 17 § 68 par. 4(1) shall read as follows:

"1) E means the exposure value, which would be set up in accordance with the standardized method, as specified in Annex No. 4 to the Resolution, or the internal ratings based method, as specified in Annex No. 5 to the Resolution, if the exposure were not hedged. For this purpose the bank applying the standardised approach to calculate the risk weighted exposure amounts, pursuant to Annex No. 4 to the Resolution, uses for calculation of the equivalent of off-balance sheet exposures the 100% risk weight instead of the product risk weight specified in § 100 of Annex No. 4 to the Resolution. Similarly, the bank applying the internal ratings based approach to calculate risk weighted amounts, pursuant to Annex No. 5 to the Resolution, in relation to the exposures specified in § 117-123 of Annex No. 5 to the Resolution applies a conversion factor of 100%, instead of conversion factors specified in § 117-123 of Annex No. 5 to the Resolution.";

76) in Annex no. 17 § 83 par. 2 shall read as follows:

"2. If the ratio of the value of the collateral (C) to the exposure value (E) is lower than the threshold value C^* (the minimum required level of collateral to the exposure) determined in accordance with Table 5, the LGD^* value is equal to the LGD value established in Annex No. 5 to the Resolution for unsecured exposures to the counterparty. For this purpose, the exposure value of the items specified in § 117—120 of Annex no. 5 to the Resolution is calculated using a conversion factor of 100% instead of the conversion

factors specified in those articles.";

77) in Annex no. 17, § 87 shall read as follows:

"§ 87. If the conditions set forth in § 38 are met, the portion of exposures secured by the current surrender value of the credit protection, included in the scope of the provisions of § 24, is subject to one of the following conditions:

- 1) is subject to the risk weight specified in § 87a, if the provisions of Annex no. 4 to the Resolution on standardised approach are applied;
- 2) is assigned the LGD value of 40% if the exposure is governed by the provisions of Annex no. 5 to the Resolution on IRB approach, but the bank does not apply its own estimates regarding LGD.

In the event of currency mismatch, the current surrender value is reduced pursuant to § 91, and the value of credit protection is the current surrender value of the life insurance.";

78) in Annex no. 17, § 87a shall be added to read as follows:

"§ 87a. For the purposes of § 87 item 1, the following assignment of risk weights based on the risk weight assigned to the senior, unsecured exposures to the insurance company concluding a life insurance agreement shall apply:

- 1) 20% risk weight, if the senior, unsecured exposure to the insurance policy issuer concluding the life insurance agreement is assigned the risk weight of 20%;
- 2) 35% risk weight, if the senior, unsecured exposure to the insurance policy issuer concluding the life insurance agreement is assigned the risk weight of 50%;
- 3) 70% risk weight, if the senior, unsecured exposure to the insurance policy issuer concluding the life insurance agreement is assigned the risk weight of 100%;
- 4) 150% risk weight, if the senior, unsecured exposure to the insurance policy issuer concluding the life insurance agreement is assigned the risk weight of 150%.";

79) in Annex No. 17 § 94 shall read as follows:

"§ 94. For the purpose of the account of risk weighted exposure amounts in accordance with § 7-19 of Annex No. 4 to the Resolution, the value of g is the risk weight assigned to the exposure whose exposure value (E) is fully covered by the unfunded protection (GA), where E is the exposure value calculated according to the standardized method of calculating the capital requirement for the credit risk; for this purpose, the product risk weight for the off-balance item is 100%, instead of the value specified in § 100 of Annex no. 4 to the Resolution; g is the risk weight of exposures to the protection provider, as specified in the calculations of capital requirement for credit risk using the standardized method according to Annex No. 4 to the Resolution, and GA is the $G *$ value as calculated in accordance with § 91, additionally adjusted for maturity mismatch in accordance with § 98-101.";

80) in Annex No. 17 § 95 shall read as follows:

"§ 95. If the protected amount is less than the value of the exposure, and secured and unsecured parts are equal in terms of preference, thereby the bank and the supplier of the collateral shall have a determined proportionate share of losses (sub-participation), lower capital requirements shall be also determined proportionally. For the purpose of the account of risk weighted exposure amounts in accordance with Part II of Annex No. 4 to the Resolution, the risk weighted exposure amounts are calculated according to the following formula:

$$(E-GA) \times r + GA \times g,$$

where:

E shall mean the exposure value calculated according to the standardized method of calculating capital requirement for credit risk. For this purpose, the product risk weight for the off-balance item is 100%, instead of the value stipulated in § 100 of Annex 4 to the Resolution;

GA shall mean G* value, calculated in accordance with § 91, additionally adjusted by mismatch of maturities in accordance with provisions of § 98-101;

r shall mean the risk weight of exposures to the debtor, as specified in the calculation of capital requirement for credit risk using the standardized method stipulated in Annex No. 4 to the Resolution;

g shall mean the risk weight of exposure to the protection provider, specified in the calculations of capital requirements for credit risk using the standardized method stipulated in Annex 4 to the Resolution.";

81) in Annex No. 17 § 97 shall read as follows:

"§ 97.1. In case of the full and partial protection, with equality in terms of preference, the credit protection is considered for the purposes of calculating risk weighted exposure amounts under the principles set forth in par. 2-4.

2. The PD value for the secured part of exposure value (E) (based on the adjusted value of credit protection GA) can be replaced by PD value of the collateral provider for the purposes of § 80-108 of Annex No. 5 to the Resolution or, if full substitution shall be considered unreasonable, the PD value included in the range between the PD value for the debtor and the PD value for the guarantor.

3. In case of subordinated exposures and independent unfunded protection the LDG value assigned to senior exposures can be used for purposes of § 80-108 of Annex No. 5 to the Resolution.

4. In the case of unsecured portion of the exposure value (E), the PD value is equal to the PD factor of the debtor and LGD is equal to the LGD of the underlying exposure.

5. GA shall mean G* value, calculated in accordance with § 91, additionally adjusted by mismatch of maturities in accordance with provisions of § 98-101. E shall be the exposure value in accordance with Annex no. 5 to the Resolution. For this purpose, the exposure value of the items specified in § 117—120 of Annex no. 5 to the Resolution is calculated using a conversion factor of 100% instead of the conversion factors specified in those articles.";

82) in Annex No. 17 § 98 par. 4 shall read as follows:

"4. If under the agreement for credit protection the bank is granted the right to withdraw from this agreement prior to its expiration and at the same time provides for favourable conditions of such withdrawal, then the expiry date shall be the period remaining to the earliest date at which the bank can use this option. In other cases it can be assumed that the bank's contractual right to withdraw does not affect the expiry date of the credit protection.";

83) in Annex no. 18, the title of Part I shall read as follows:

"Part I. Definitions, exposures to the transferred credit risk and general terms".

84) in Annex no. 18, after § 18 the following subtitle shall be added:

"EXPOSURES TO THE TRANSFERRED CREDIT RISK";

85) in Annex no. 18, after § 18 and the subtitle, § 18a shall be added to read as follows:

"§ 18a. 1. The bank other than the initiating bank, the sponsoring bank or the original creditor may have exposures to credit risk of securitization position included in the trading or banking book only of the initiating bank, the sponsoring bank or the original creditor has clearly disclosed to that bank that they shall maintain on a current basis the material net business interest, which by no means can be less than 5%.

For the purposes of this article "maintaining the net business interest" shall mean one of the following:

- 1) maintaining the nominal value not less than 5% of each tranche which has been resold or transferred to investors;

- 2) in the case of securitization of revolving exposures, maintaining by the initiating bank the interest of at least 5% of the nominal value of securitized exposures;
- 3) maintaining the randomly selected exposures amounting to no less than 5% of the nominal value of securitized exposures, if otherwise such exposures would become the subject of securitization transaction, provided that the number of the potentially securitized exposures is originally not less than 100; or
- 4) maintaining the tranche of the first loss and, if necessary, other tranches of the same or higher risk profile than the tranches transferred or sold to investors and whose maturity date is not earlier than that of the tranche transferred or sold to investors, so that the maintenance value was no less than 5% of the nominal value of securitized exposures in total.

Net business interest is calculated at inception and maintained on a current basis. No methods of credit risk mitigation or short positions or other hedging instruments shall be applied to it. For the off-balance sheet items, the net business interest shall be determined based on their reference value.

For the purposes of this article, the term "on a current basis" shall mean that the retained items, interest or exposure are not hedged or resold.

The multiple of requirements regarding maintenance shall not be applied to particular securitization.

2. In the event when the EU parent institution or other EU financial holding company or one of its subsidiaries, as an initiating or sponsoring bank, securitizes the exposures from several banks, investment companies or financial institutions covered by the scope of the consolidated supervision, the requirement referred to in par. 1 may be met based on the consolidated situation related to the EU parent company or an EU parent entity in the financial holding company. This paragraph shall apply only in the event when banks, investment companies or financial institutions which created the securitized exposures committed to comply with the requirements stipulated in par. 6 and to the timely submission to the initiating or sponsoring bank and the EU parent institution or EU parent company in a financial holding, information required to satisfy the requirements referred to in par. 7.
3. Section 1 shall not be applicable in the event when the securitized exposures constitute the receivables or contingent receivables from the following entities or are fully, unconditionally and irrevocably guaranteed by them:
 - 1) central governments or central banks;
 - 2) local government units, local authorities or non-governmental entities of the public sector of Member States or Poland;
 - 3) institutions which, according to the standardized approach for calculating the capital requirement for credit risk, are assigned the risk weight of 50% or less as specified in Annex 4 to the Resolution; or
 - 4) multilateral development banks.
4. Par. 1 shall not apply to:
 - 1) transactions based on a clear, transparent and available index in which appropriate reference entities are the same as the entities that make up the widely traded index of entities or are other negotiable securities different from the securitization positions; or
 - 2) syndicated loans, purchased receivables or credit default swaps if such instruments are not used for the purposes of securitization or securing the securitization referred to in par. 1.
5. Both prior to the investment and in appropriate cases after it, the banks can demonstrate to the Polish Financial Supervision Authority, for each of their individual securitization

items, that they have a comprehensive and in-depth understanding of formal principles of policy and procedures and that they have implemented such formal principles of policy and procedures relevant to the possessed trading and banking book and commensurable to the risk profile of their investments in the securitized positions in order to analyse and record:

- 1) the information disclosed pursuant to par. 1 by the initiating banks or sponsoring banks in order to determine the net business interest which they maintain on a current basis in securitization;
- 2) risk characteristics of a given securitization position;
- 3) risk characteristics of exposures which are the basis for a securitization position;
- 4) reputation and losses incurred so far by the initiating or sponsoring banks in connection with earlier securitizations in relevant exposure classes constituting the base of the securitization position;
- 5) statements made by the initiating or sponsoring banks or by their representatives or advisers and information disclosed by them in relation to maintaining due diligence with respect to securitized exposures and, where applicable, in relation to the collateral quality of the securitized exposures;
- 6) as appropriate, methodology and concepts on which the valuation of the collateral supporting the securitized exposures is based and the policy principles adopted by the initiating bank or sponsoring bank in order to ensure the appraiser's independence; and
- 7) all structural features of securitization which may significantly affect the results of the bank's securitization position.

Banks shall regularly perform their own stress tests in accordance with their securitization position. For this purpose, banks may benefit from the financial models developed by external credit assessment institutions, provided that the banks can demonstrate, on request of the PFSA, that prior to the investment they confirmed with due diligence the relevant assumptions of the model and its structure as well as they understood the methodology, assumptions and results.

6. Banks which are not the initiating banks, sponsoring banks or original lenders shall establish formal procedures in accordance with their trading and banking book as well as commensurately to the risk profile of their investments in the securitization positions in order to monitor the information on the results of exposures underlying their securitization positions on a current and timely basis. Where appropriate, such procedures shall include the type of exposure, the percentage of loans or credits overdue by 30, 60 and 90 days, the frequency of default, the frequency of prepayments, called credits or loans, types of collateral and its ownership, as well as the frequency distribution of scoring ratings or other measures of creditworthiness related to all the underlying exposures, sectoral and geographical diversification, frequency distribution of the collateral recovery rate in ranges facilitating adequate analysis of sensitivity. In the event when the underlying exposures are themselves the securitization positions, banks are in the possession of the information specified in this paragraph regarding not only the underlying securitization tranches, such as the issuer's name and credit quality, but also regarding the characteristics and results of the pools underlying these securitization tranches.

Banks have a thorough understanding of all structural characteristics of securitization transactions which may significantly affect the results of their exposures to transactions, such as agreements in a cascade system, mechanisms triggering the cascade effect, credit quality support, liquidity support, mechanisms triggering the market value and referring to a specific transaction, definitions of default.

In the event of failure to comply in any material respect with the requirements specified in par. 5, 8 and in this paragraph, as a result of negligence or omission on the part of the bank,

the Polish Financial Supervision Authority shall impose a proportional additional risk weight in the amount not less than 250% of the risk weight (up to a maximum of 1250%) which, subject to this paragraph, would apply to the relevant securitization positions under the provisions § 46—123 of this Annex and shall increase progressively the risk weight in case of each subsequent violation of the provisions relating to due diligence. The Polish Financial Supervision Authority allows for exemptions in case of certain securitizations, provided for in par. 3 and 4, by decreasing the risk weight that it would otherwise impose under this article with respect to securitization to which par. 3 and 4 apply.

7. Banks that are the sponsoring and initiating banks shall apply in relation to the exposures which are to be subject to securitization the same reliable and strictly defined criteria for assessing the creditworthiness of the bank's customers, pursuant to § 13 (1)(a) of the Resolution no. 383/2008 of the Polish Financial Supervision Authority of 17 December 2008 on detailed principles on the functioning of the risk management system and internal control system and detailed conditions of estimating by banks the internal capital and conducting reviews of the processes of estimating and maintaining the internal capital which they apply to exposures maintained in their portfolios. For this purpose, banks that are the initiating and sponsoring banks shall apply the same procedures of creditworthiness assessment of bank's customers. Banks also employ the same standards of examining interests in or the purchase of securities from securitization issuance purchased from third parties, both when the shares or purchases are maintained in their trading portfolio and in banking portfolio.

In the event of failure to comply with the requirements specified in the first section of this paragraph, the bank which is the initiating bank shall not apply the provisions of § 21 of this Annex and shall not exclude the securitized exposures from the calculations regarding capital requirements imposed upon it under this Resolution.

8. Banks that are the sponsoring and initiating banks shall disclose to investors information on the level of their liabilities pursuant to par. 1 in order to maintain the net business interest in securitization. Banks that are the sponsoring and initiating banks shall ensure that potential investors have at any time access to the actually relevant data on the credit quality and results of individual underlying exposures cash flows and collaterals supporting the exposure of securitization, as well as information required to conduct comprehensive and willful stress tests within the scope of cash flows and the value of collaterals supporting the underlying exposures. For this purpose, the "actual relevant data" are determined at the date of securitization, and, where appropriate due to the nature of securitization, after that date.

9. Par. 1—8 shall apply to new securitizations issued on 1 January 2011 or after that date. Par. 1—8 shall apply after 31 December 2014 to the existing securitizations in the event when new underlying exposures are added to them or replaced after that date. The Polish Financial Supervision Authority may decide to temporarily suspend the requirements referred to in par. 1 and 2 in the periods of general market tensions related to the liquidity risk.";

86) in Annex no. 18 in § 32 the introductory sentence shall be substituted with paragraphs 1—4 to read as follows:

"§ 32. 1. In the case of traditional securitization, the initiating bank may exclude the securitized exposures from the calculation of risk-weighted exposure amounts and the amounts of expected losses, if one of the following conditions is met:

- 1) considerable part of credit risk associated with securitized exposures has been transferred to a third party;
- 2) the initiating bank applies the risk weight of 1250% to all securitization positions that it has within this securitization or deducts these securitization positions from its own

funds pursuant to § 2(1)(4) of the resolution on own funds.

2. Unless the Polish Financial Supervision Authority decides in a particular case that the possible limitation of risk-weighted exposure amounts which the bank could obtain as a result of securitization is not justified by the proportional transfer of credit risk to a different entity, it shall be deemed that the considerable credit risk has been transferred in the following cases:

- 1) risk-weighted exposure amounts of securitization positions of mezzanine type owned by the initiating bank within this securitization do not exceed 50% of the risk-weighted exposure amounts of all securitization positions of mezzanine type existing within this securitization;
- 2) if there are no securitization positions of mezzanine type within a particular securitization and the initiator may prove that the exposure value of securitization positions deducted from the own funds or the risk weight of 1250% exceeds significantly the reasonable estimates regarding the expected losses on securitized exposures, the initiating bank does not have more than 20% of exposure value of securitization positions deducted from the own funds or risk weight of 1250%.

3. For the purpose of par. 2 securitization positions of mezzanine type shall mean the securitization positions which are assigned the risk weight lower than 1250% and which are less privileged than the most privileged positions within this securitization and less privileged than any other securitization position within this securitization, in respect of which:

- 1) in case of securitization positions subject to the provisions of § 51—83, credit quality step 1; or
- 2) in case of securitization positions subject to the provisions of § 84—124, credit quality step 1 or 2 is assigned pursuant to § 39—45.

4. Considerable credit risk may be also deemed to be transferred if the Polish Financial Supervision Authority decides that the bank applies the principles and methodologies which ensure that the possible reduction of capital requirements complied with by the initiator as a result of the securitization is justified by a proportional transfer of credit risk to third parties. For this purpose, the initiating bank shall demonstrate that such credit risk transfer to third parties has been recognized for purposes of the internal risk management process of the bank and its internal allocation of capital and:";

87) in Annex no. 18 in § 33 the introductory sentence shall be substituted with paragraphs 1—5 to read as follows:

"§ 33. 1. In the case of a synthetic securitization, the initiating bank may calculate the risk-weighted exposure amounts and the amounts of expected losses for the exposures included in the securitization respectively, pursuant to § 34—35, if:

- a) a considerable part of credit risk has been transferred to a third person through a funded or unfunded credit protection, or
- b) the initiating bank applies the risk weight of 1250% to all securitization positions that it has within this securitization or deducts these securitization positions from own funds pursuant to § 2(1) (4) of the resolution on own funds.

2. Unless the Polish Financial Supervision Authority decides that the possible limitation of risk-weighted exposure amounts which the bank could obtain as a result of securitization is not justified by the proportional transfer of credit risk to third parties, it shall be deemed that the considerable credit risk has been transferred if:

- 1) risk-weighted exposure amounts of securitization positions of mezzanine type owned by the initiating bank within this securitization do not exceed 50% of the risk-weighted exposure amounts of all securitization positions of mezzanine type existing within this securitization, or

- 2) if there are no securitization positions of mezzanine type within a particular securitization and the initiator may prove that the exposure value of securitization positions deducted from the own funds or the risk weight of 1250% exceeds significantly the reasonable estimates regarding the expected losses on securitized exposures, the initiating bank does not have more than 20% of exposure value of securitization positions deducted from the own funds or risk weight of 1250%.
 3. For the purpose of par. 2 securitization positions of mezzanine type shall mean the securitization positions which are assigned the risk weight lower than 1250% and which are less privileged than the most privileged positions within this securitization and less privileged than any other securitization positions within this securitization, with respect to which:
 - a) in case of securitization positions subject to the provisions of § 51—83, credit quality step 1; or
 - b) in case of securitization positions subject to the provisions of § 84—124, credit quality step 1 or 2 is assigned pursuant to § 39—45.
 4. Considerable credit risk may be also deemed to be transferred if the Polish Financial Supervision Authority decides that the bank applies the principles and methodologies to ensure, that the possible reduction of capital requirements complied with by the initiator as a result of securitization is justified by the proportional credit risk transfer to third parties. For this purpose, the initiating bank is obliged to demonstrate that such credit risk transfer to third parties has been recognized for purposes of the internal risk management process of the bank and its internal allocation of capital.
 5. Additionally, the transfer shall meet the following conditions";
- 88) in Annex no. 18 the introductory sentence in § 61 shall read as follows:
"§ 61. In order to determine the exposure value, the conversion factor of 50% may be applied with respect to the nominal value of the liquidity facility if:"
- 89) in Annex no. 18, § 63 shall be deleted;
- 90) in Annex no. 18, § 104 shall be deleted;
- 91) in Annex No. 21 in § 18(b) shall read as follows:
"b) the amount equal to:
- 50% of the value established on the basis of the valuation of an independent appraiser, referred to § 34(2)(f) of Annex 17 (if the valuation does not include earlier encumbrances, the value shall be first reduced by their total value), or
- 60% of the bank-mortgage value of the property calculated pursuant to Art. 22 of the Act of 29 August 1997 on mortgage bonds and mortgage banks,".

§ 2. The Resolution enters into force on 31 December 2010.

For and on behalf of the Polish Financial Supervision Authority
Per procura of the Chairman of the Polish Financial Supervision Authority
Lestaw Gajek