

Resolution 206/2011
of the Polish Financial Supervision Authority
of 22 August 2011

amending the Resolution No. 76/2010 of the Polish Financial Supervision Authority on the scope and detailed procedures for determining capital requirements for particular types of risk

Pursuant to Article 128(6) point 1, 3, 4, 5 and 7 and Article 141j of the Act of 29 August 1997 - the Banking Act (Journal of Laws, 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 particular types of risk (PFSA Journal of Laws, No. 2, item 11 and No. 8, item 38):

1) in § 13 the following paragraph 5 shall be added:

“5. By 31 December 2012, the exposure weighted average loss given default (LGD) referred to in Annex 5 to the Resolution, for all retail exposures secured by residential property and not covered by central governments guarantees, shall not be lower than 10%.”

2) § 77(1)(4) and § 77(1)(5) of Annex No. 4 shall read as follows:

“4) loans secured by mortgages on residential property, up to the lesser of the following values (in the amount of principal exposure):

- a) joint value of mortgages covering any prior mortgages,
- b) 80% of the value of the pledged properties or senior units issued by French *Fonds Communs de Creances* or by equivalent securitisation entities governed by the laws of the Republic of Poland or another Member State, securitising residential real estate exposures;

Provided collateral is based on such senior units, specific public supervision aiming to grant security to the bonds' holders, pursuant to Article 52. 4 of the Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) shall guarantee that:

- i) the underlying assets of such units, whenever they are included in the security pool, should consist at least in 90% of receivables secured by real estate, for which the value of the mortgage covering any prior mortgage encumbrance shall be the lesser of the following ones:
 - exposures to senior units,
 - joint value of mortgages,
 - 80% of the value of the pledged properties;

However, the exposures caused by transmission of payments of the obligors of, or liquidation proceeds in respect of, loans secured by pledged properties of the senior units debt securities shall not be comprised in calculating the 90% limit,

- ii) senior units qualify for the credit quality step 1 as set out in this Annex,
- iii) the value of such units does not exceed 10% of nominal value of bonds for repurchase;

5) loans secured by commercial real estate or shares in Finnish housing companies up to the lesser of the following values (in the amount of principal exposure):

- a) joint value of mortgages covering any prior mortgages,
- b) 60% of the value of the pledged properties or by senior units issued by French *Fonds Communs de Creances* or by equivalent securitisation entities governed by the laws of the Republic of Poland or another Member State securitising commercial real estate exposures;

The limit of the value of the pledged properties , referred to in letter b, may amount to 70%, if:

- the value of total assets pledged as the collateral for the covered bonds exceed the nominal amount outstanding on the covered bond by at least 10% and the bondholders' claim meets the legal certainty requirements set out in Annex 17 to the Resolution,
- the bondholders' claim must take priority over all other claims on the collateral;

Provided collateral is based on such senior units, specific public supervision aiming to grant security to the bonds' holders, pursuant to Article 52(4) of the Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) shall guarantee that:

- i) the underlying assets of such units, whenever they are included in the security pool, should consist at least in 90% of receivables secured by real estate, for which the value of the mortgage covering any prior mortgage encumbrance shall be the lesser of the following ones:
 - exposures of senior units,
 - joint value of mortgages,
 - 60% of the value of the pledged properties;

However, the exposures caused by transmission and management of payments of the obligors of, or liquidation proceeds in respect of, loans secured by pledged properties of the senior units or debt securities shall not be comprised in calculating the 90% limit,

- ii) priority units qualify for the credit quality step 1 iii) the value of senior units does not exceed 10% of the nominal value of the bonds for repurchase;

3) § 77 paragraph 3 of Annex No. 4 shall read as follows:

“3. By 31 December 2013 the upper 10% limit 1 does not apply to preference shares issued pursuant to paragraph 1 point 4 and 5 by French *Fonds Communs de Creances* or another equivalent securitisation entity provided that:

- 1) securitised exposures secured by residential or commercial real estate had been initialised by a member of the same consolidated group of which the issuer of the covered bonds is also a member or by an entity linked with the same central institution with which the issuer of covered bonds is linked (such membership or linkage with the same institution should be determined when using preference shares as collateral for covered bonds),
- 2) the member of the same consolidated group of which the issuer of covered bonds is also a member or an entity linked with the same central institution with which the issuer of covered bonds is also linked, keeps the total of the first loss tranche which supports such preference shares.”

4) § 89(3) of Annex No. 5 shall read as follows:

“3) covered bonds defined in § 76-80, Annex No. 4 to the Resolution, can be assigned loss given default (LGD) value of 11.25%;”

5) § 9 paragraph 9 of Annex No. 12 shall read as follows:

“§9. Total capital requirement for exceeding the large exposure limit and significant exposure limit is determined by the upper amount set out as:

- 1) total of excess bank’s exposures to specific units over the limits defined in Article 71(1), 1a and 1b of the Banking Act;
- 2) excess of the total significant bank’s exposures to specific entities over the limit defined in Article 71(1), 1a and 1b of the Banking Act.”

6) in § 6 of Annex No. 15 the following point 4 shall be inserted:

“4) credit assessment cannot be based in part or in its entirety on unfunded credit protection provided by the bank itself; in such case the bank shall consider such position as a position without rating and in consequence shall apply the provisions of Annex No. 18 on unrated positions.”

7) § 13 paragraph 1 of Annex No. 16 shall read as follows:

“§ 13.1. An exposure value shall be calculated separately for each netting set, having deducted possible collateral according to the following formula:

Exposure value equals:

$$\beta * maks. \left(CMV - CMC; \sum_j \left| \sum_l RPT_{lj} - \sum_l RPC_{lj} \right| * CCRM_j \right)$$

where:

CMV is current market value of transaction portfolio in the framework of a netting set with a counterparty prior to taking collateral into account, hence

$$CMV = \sum_i CMV_i$$

CMV_i is current market value of transaction i,

CMC is current market value of tangible collateral attributed to netting set, hence

$$CMC = \sum_l CMC_l$$

where CMC_l is current market value of collateral l,

i = transaction index,

l = collateral index,

j = index defining the category of hedging set.

The hedging sets correspond to risk factors for which risk exposures with contrary symbols can be compensated, resulting in net risk exposure, on which subsequent exposure measurement is based,

RPT_{ij} = risk exposure connected with transaction i and with reference to hedging set j ,

RPC_{ij} = risk exposure connected with collateral 1 and with reference to hedging set j ,

$CCRM_j$ = multiple counterparty credit risk (CCR) given in Table 2 with regard to hedging set j ,

$\beta = 1.4$

Collateral obtained from a counterparty is marked as positive; collateral granted to a counterparty is marked as negative.”

8) § 121 of Annex No. 18 shall read as follows:

“§ 121. A bank can calculate the amount of risk-weighted exposure without taking into account securitisation position, to which the risk weight of 1250% is assigned, provided it deducted the value of such exposure from own funds according to § 2(1)(4) of the Resolution on own funds.”

§2. The Resolution shall come into force within 14 days of the publication in the Journal of Laws of the Polish Financial Supervision Authority.

For and on behalf
of the Polish Financial Supervision Authority