EESTI PANK
Governor's Decree No 30
21 December 2010

Amendments to Eesti Pank Governor's Decree No. 13 of 29 December 2006 "Procedure for application and calculation of prudential ratios of credit institutions and consolidation groups of credit institutions"

The Decree is established on the basis of subsections 71 (7), 79 (6)-(8), and 86^1 (3) of the Credit Institutions Act.

§ 1. Eesti Pank Governor's Decree No. 13 of 29 December 2006 "Procedure for application and calculation of prudential ratios of credit institutions and consolidation groups of credit institutions" (RTL 2007, 3, 52, 93, 1548) is amended as follows:
1) in the provision delegating authority, the words "85 (9)" are omitted;

2) in subsection 8 (1), the words "in subsection 78 (9)" are replaced by the words "in subsection 72 (3)" and the words "in subsections 85 (4)-(7)" by the words "in subsections 85 (8)-(9)";

3) section 19^1 is introduced in the following wording:

"§ 19^1 Exposure values of finance lease

The exposure values arising from finance leases where the credit institution is the lessor, shall be determined as follows:

1) the discounted value of minimum lease payments, including all contractual payments that the lessee is or can be required to make over the lease term;

2) non-guaranteed residual value of leased property.";

4) subsection 25 (6) is introduced in the following wording:

"(6) Exposures arising from finance leases, calculated on the basis of minimum lease payments in accordance with clause 1 of section 19^1, shall be assigned risk weights pursuant to the procedure established in this Sub-subdivision on the basis of the lessee's exposure class.";

5) subsection 27 (3) is worded as follows:

"(3) When a Member State treats exposures to regional governments and local authorities as exposures to the central government, the risk weights determined by the competent authority of the Member State may be assigned to such regional governments and local authorities.";

6) subsection 28 (1^1) is introduced in the following wording:

"(1^1) When a Member State treats exposures to administrative bodies as exposures to credit institutions, investment firms and the central government, the risk weights determined by the competent authority of the Member State may be assigned to such administrative bodies.";

7) clause 34 (5) 1) is worded as follows:

"1) the value of the property does not materially depend upon the credit quality of the obligor, except if the factors associated with the economic environment affect the value of the property and the credit quality of the obligor at the same time;";

8) in the first sentence of clauses 36 (1) 7) and 9), the words "assets of such an issuer" are replaced by the words "underlyings of securities" and the words "20%" with the words "10%";

9) subsection 36 (3) is worded as follows:

"(3) The 10% limit need not be applied to senior units issued by French Fonds Communs de Créances or by an equivalent securitisation entity of a Member State as specified in clause 7 of subsection (1) of this section, provided that the originator of the underlying mortgages, the issuer of the collateralised covered bonds and the holders of first-loss positions of the same tranche are included in the same consolidation group."

10) section 38 is worded as follows:

"§ 38. Risk weights of the obligations of companies with a short-term external credit assessment

Exposures arising from short-term obligations of companies for which a specific short-term external credit assessment is available shall be assigned risk weights in accordance with the external credit assessments and the corresponding credit quality steps. The following risk weights correspond to the credit quality steps determined by the Financial Supervision Authority on the basis of external credit assessments:

1) credit quality step 1 – 20%;

2) credit quality step 2 – 50%;

3) credit quality step 3 – 100%;

4) credit quality steps 4, 5 and 6 – 150%.";

11) subsection 40 (6) is introduced in the following wording:

"(6) To exposures arising from finance leases not included in the minimum lease payments specified in clause 1 of section 19[1], risk weights shall be calculated according to the following formula:

$$1/t * 100\%,$$

where t is the whole number of years closest to the remaining term of the lease contract.";

12) subsection 42 (4) is worded as follows:

"(4) Exposures to public sector entities, multilateral development banks and international organisations that are not assigned a risk weight of 0% under sections 28-30 of this Decree shall be treated as exposures to credit institutions, investment firms and local governments.";

13) in clause 42 (7) 5), the work "bands" is replaced by the word "band";

14) subsection 42 (8) is introduced in the following wording:

"(8) Exposure classes to the minimum lease payments specified in clause 85 (2) 1) of this Decree shall be assigned on the basis of the lessee's exposure class.";

15) no changes in the English version;

16) subsection 49 (2) is worded as follows:

"(2) Where the shares and units of the CIU in question meet the criteria specified in subsection 39 (5) of this Decree and the credit institution has reliable information about the underlying exposures but does not have permission to apply the Internal Ratings Based Approach for some or all of the underlying exposures, the risk-weighted exposure amounts shall be calculated as follows:

1) for underlying exposures arising from equity exposures the risk-weighted exposure amounts shall be calculated pursuant to section 58; all equity exposures shall be treated as other equity exposures, if the credit institution is unable to differentiate between exchange-traded and other equity exposures;

2) for other underlying exposures, the risk-weighted exposure amounts shall be calculated pursuant to the procedure established in subsections 39 (1) and (2) of this Decree, subject to the modifications contained in clauses 3 and 4;

3) for exposures without an external credit assessment or exposures where the credit quality step has the highest risk weight in the exposure class, the risk weight shall be multiplied by a coefficient of 2, with the maximum risk weight amounting to 1 250 %;

4) for all other exposures, the risk weight shall be multiplied by a coefficient of 1.1, with the minimum risk weight amounting to 5%.";

17) subsection 49 (4) is worded as follows:

"(4) Where shares and units of CIUs do not meet the criteria set out in subsection 39 (5), credit institutions may calculate themselves or may rely on a third party to calculate the average risk weighted exposure amounts based on the CIU's underlying exposures in accordance with subsection (2), provided that the credit institution has information about all underlying exposures and that the reliability of the information is adequately ensured.";

18) in subsection 55 (3), the words "residential real estate" are replaced by the words "real estate";

19) no changes in the English version;

20) subsection 60 (2) is worded as follows:

"(2) In equity exposure portfolios the risk weighted exposure amounts shall not be less than the sum of risk-weighted exposure amounts calculated under the PD/LGD Approach and the corresponding expected loss amounts multiplied by 12.5. In the calculation of the reference base, the PD set out in section 82 and the LGD set out in section 83 shall be used.";

21) subsection 61 (2) is worded as follows:

"(2) To exposures arising from finance leases not included in the minimum lease payments specified in clause 85 (2) 1), risk weights shall be calculated according to the following formula:

$1/t * 100\%$,

where *t* is the whole number of years closest to the remaining term of the lease contract.";

22) subsection 74 (3) is worded as follows:

"(3) Covered bonds as defined in section 36 of the Decree shall be assigned an LGD value of 11.25%.";

23) no changes in the English version;

24) subsection 77 (4^1) is introduced in the following wording:

"(4^1) The maturity of the repurchase transactions or securities lending or borrowing transactions which are subject to a master netting agreement is the weighted average residual maturity of the exposure, with the notional amount of each exposure being used for weighting the maturity, but not less than 5 days.";

25) subsections 77 (7) and (8) are introduced in the following wording:

“(7) In the case of fully or nearly fully collateralised derivative instruments, margin lending transactions, repurchase transactions, securities lending or borrowing transactions set out in the Sub-subdivision 2 of Subdivision 6 of this Division, the minimum maturity may be one day, provided that the documents relating to such transactions require daily re-margining and daily revaluation of collateral, and provided that the collateral can be promptly liquidated in the event of default or failure to re-margin.

(8) In case of maturity mismatches, the provisions of section 160 shall be applied.”;

26) subsections 78 (3) and (4) are repealed;

27) subsection 85 (2) is worded as follows:

“(2) The values of exposures arising from finance leases where the credit institution is the lessor shall be determined as follows:

1) the discounted value of minimum lease payments, including all contractual payments that the lessee is or can be required to make over the lease term;

2) non-guaranteed residual value of leased property.”;

28) section 96 is worded as follows:

“§ 96. Treatment of guarantees in the use of the Advanced IRB Approach

(1) In the use of the Advanced IRB Approach, guarantees held by credit institutions shall only be taken into account, if they comply with the requirements established in sections 97-100, except in the case specified in subsection (3).

(2) In assigning retail exposures to grades or pools and in the estimation of PDs, guarantees held by credit institutions shall only be taken into account if they comply with the requirements established in sections 97-100.

(3) If the credit institution is authorised to use the Standardised Approach established in Subdivision 1 of this Division for calculating the capital requirements for credit risk of the exposure classes of central governments, central banks, credit institutions and investment firms or companies, the guarantee of the guarantor in the corresponding exposure class shall only be taken into account if they comply with the criteria stipulated in Subdivision 3 of this Division.”;

29) clause 111 (3) 2) is worded as follows:

“2) the CIUs are limited to investing in instruments specified in subsections (1) and (2) of this section (hereinafter referred to as *instruments accepted as collateral*), while the use (or potential use) of derivative instruments to mitigate risks by a CIU shall not prevent units in that CIU from being eligible.”;

30) subsections 111 (3^1) and (3^2) are introduced in the following wording:

“(3^1) Where no investment restrictions have been established for a CIU for investment in instruments accepted as collateral, the shares and units of the CIU may be accepted as collateral partially, within the limits of the instruments accepted as collateral. The portion corresponding to the limits of the instruments accepted as collateral shall be calculated by assuming that the CIU has fully used the allowed limit for investing in assets not accepted as collateral, and by considering the stipulations of subsection (5).

(3^2) Where the value of the assets not accepted as collateral is smaller than the CIU's liabilities, including contingent liabilities, the amount by which the liabilities exceed the instruments not accepted as collateral shall be deducted from the instruments accepted as collateral.”;

31) section 112 is worded as follows:

“§ 112. Additional financial collateral under the Financial Collateral Comprehensive Method

(1) A credit institution employing the Financial Collateral Comprehensive Method in accordance with section 137 may recognise the following financial collateral in addition to those specified in section 111:

1) equities or convertible bonds not included in a main index but traded on a recognised exchange;

2) shares and units of CIUs, provided that their net value is calculated and quoted on a daily basis and the CIUs are limited to investing in instruments specified in section 111 and clause 1 of this section, and the use (or potential use) by a CIU of derivative instruments to mitigate risks shall not prevent units in that CIU from being eligible;

(2) The shares and units of CIUs may be accepted as collateral partially, within the limits of the instruments accepted as collateral in accordance with section 111 and the instruments stipulated in clause 1 of subsection (1) of this section. The portion of the instruments accepted as collateral and the instruments stipulated in subsection (1) of this section shall be calculated pursuant to the procedure provided in subsections 111 (3^1) and (3^2).”;

32) clause 114 (2) 1) is worded as follows:

“1) the value of the immovable property encumbered with mortgage does not materially depend upon the credit quality of the obligor, except if the factors associated with the economic environment affect the value of the immovable property and the credit quality of the obligor at the same time;”;

33) in section 118, the words “life insurance policies” are replaced by the words “life insurance contracts”, the words “life insurance policy” by the words “life insurance contract” and the word “policy” by the word “contract”;

34) subsections 118 (9) and (10) are introduced in the following wording:

“9) the surrender value shall be paid immediately, upon request;

10) the surrender value may not be claimed without the credit institutions’ consent.”;

35) clause 121 (2) 8) is worded as follows:

“8) another corporate entity, including the parent, subsidiary or affiliate corporate entity of the credit institution, that has a credit assessment by an eligible ECAI which has been determined to be corresponding to credit quality step 2 or above under the procedure established in Sub-Subdivision 2 of Subdivision 1 of this Division;”;

36) in subsection 122 (1), the words “or international organisations” shall be introduced after the words “multilateral development banks”;

37) no changes in the English version;

38) no changes in the English version;

39) subsection 135 (1) is worded as follows:

“(1) The Financial Collateral Simple Method may only be used where risk-weighted exposure amounts are calculated under the Standardised Approach to credit risk. A credit institution shall not use simultaneously both the Financial Collateral Simple Method and the Financial Collateral Comprehensive Method, except in cases where subsections 86^7 (5) and (8) and section 86^{10} of the Credit Institutions Act are applied. A credit institution shall not use the application of the exception for reducing the capital requirement at its own discretion.”;

40) no changes in the English version;

41) in clause 152 (2) 2), the words “specified in this clause” are replaced by the words “specified in clause 1”;

42) subsection 152 (3) is introduced in the following wording:

“(3) In the cases specified in subsection (2), conversion factors shall be applied after the adjustment of the credit risk on account of the credit protection.”;

43) subsection 153 (2) is worded as follows:

“(2) In the calculation of risk-weighted exposure amounts or expected loss amounts, life insurance contracts may be treated as a credit protection by the company providing the life insurance and its effects shall be calculated in accordance with section 154, considering the conditions specified in section 118. The value of the credit protection shall be the surrender value of the life insurance contract at the moment of the calculation of the capital requirements.”;

44) subsections 153 (2^1), (2^2) and (2^3) are introduced in the following wording:

“(2^1) Where a credit institution uses the Standardised Approach to credit risk, risk weights shall be assigned to the portion of the exposure collateralised by a life insurance contract on the basis of the risk weights applicable for the insurance company who provided the life insurance contract as follows:

1) 20% if the insurance company’s risk weight is 20%;

2) 35% if the insurance company’s risk weight is 50%;

3) 70% if the insurance company’s risk weight is 100%;

4) 150% if the insurance company’s risk weight is 150%;

(2^2) Where a credit institution uses the Internal Ratings Based Approach, a 40% LGD shall be applied to the portion of the exposure collateralised by a life insurance contract.

(2^3) In case of currency mismatches the surrender value of the life insurance contract shall be reduced on the moment of the calculation of the capital requirements in accordance with subsection 154 (4).”;

45) in subsection 156 (2), the sentence “In case of off-balance sheet liabilities listed in Subdivision 5 of this Division, the exposure value is the value of the off-balance sheet liability” is added after the words “E is the exposure value;”;

46) in subsection 156 (3), the words “treatment provided for in clause 26 (1) 5)” are replaced by the words “treatments of subsections 26 (3) and (4)”;

47) in subsection 158 (2), the words “under subsection 73 (3)” are replaced by the words “in accordance with subsection 77 (7)”;

48) subsection 162 (3) is repealed;

49) sections 166^1 and 166^2 are introduced in the following wording:

“**§ 166^1. Investor’s due diligence in securitisation**

(1) Before investing, credit institutions shall be able to demonstrate to the Financial Supervision Authority for each of their individual securitisation positions, that they have a comprehensive and thorough understanding of and have implemented policies and procedures appropriate to their trading book and non-trading book and commensurate with the risk profile of their investments in securitised positions.

(2) Credit institutions shall collect and analyse the following data on each securitisation position:

1) information disclosed by originators or sponsors of securitised exposures to specify the net economic interest that they maintain, on an ongoing basis, in the securitisation;

2) the risk characteristics of the individual securitisation position;

3) the reputation and loss experience in earlier securitisations of the originators or sponsors of securitised exposures in the relevant exposure classes underlying the securitisation position;

4) the disclosures made by the originators or sponsors of securitised exposures about their due diligence on the securitised exposures and on the quality of the collateral supporting the securitised exposures;

5) the methodologies and concepts on which the valuation of the collateral supporting the securitised exposures is based on;

6) data verifying the independence of the valuer;

7) all the structural features of the securitisation that can materially impact the performance of the credit institution's securitisation position.

(3) Credit institutions shall perform stress tests appropriate to their securitisation positions.

(4) To this end, credit institutions may rely on financial models developed by an ECAI, provided that credit institutions can demonstrate, when requested, that they took due care prior to investing to validate the relevant assumptions in and structuring of the models and to understand methodology, assumptions and results.

(5) Credit institutions, other than when acting as originators or sponsors or original lenders, shall establish formal procedures appropriate to their exposures and commensurate with the risk profile of their investments in securitised positions to monitor in a timely manner performance information on the exposures underlying their securitisation positions.

(6) This information on the exposures underlying the securitisation position shall contain the following data:

1) the exposure type;
2) the percentage of overdue loans;
3) prepayment rates;
4) default rates;
5) loans in foreclosure;
6) collateral type;
7) frequency distribution of credit scores across underlying exposures;
8) industry and geographical diversification.

(7) Where the underlying exposures are themselves securitisation positions, credit institutions shall have the information set out in subsection (6) on the exposures underlying their securitisation positions.

(8) The Financial Supervision Authority shall have the right to impose an additional risk weight of no less than 250% of the risk weight assigned under this Subdivision, if the credit institution fails to meet in any material respect the requirements specified in this section by reason of negligence or omission.

(9) The Financial Supervision Authority shall have the right to raise the additional risk weight specified in subsection (8) to a maximum of 1 250 % for each subsequent infringement of due diligence provisions.

§ 166^2. Originator's or sponsor's due diligence in securitisation

(1) If a credit institution is the originator or sponsor of the securitised exposure, the credit institution shall apply the same credit risk strategy and principles to its securitised exposures as it applies to exposures held in its non-trading book. Credit institutions shall apply the same standards of analysis to participations or underwritings in securitisation issues as those applied to exposures in their trading or non-trading book.

(2) If a credit institution is the originator or sponsor of the securitised exposure, the credit institution shall disclose to the investors the data confirming the maintaining of the economic interest in accordance with section 81^1 of the Credit Institutions Act. Credit institutions shall ensure that prospective investors have available access to all materially relevant data on the credit quality of the underlying exposures, cash flows and collateral values. Credit institutions shall also ensure access to information that is necessary to conduct stress tests.

(3) Materially relevant data shall be determined as at the date of the securitisation and after that, where appropriate. The Financial Supervision Authority shall have the right to impose an additional risk weight of no less than 250% of the risk weight assigned under this Division, if the credit institution fails to meet in any material respect the requirements specified in section (2) of this section by reason of negligence or omission.

(4) The Financial Supervision Authority shall have the right to raise the additional risk weight specified in subsection (3) to a maximum of 1 250 % for each subsequent infringement of due diligence provisions.";

50) subsection 167 (1) is worded as follows:

"(1) Exposures securitised in a traditional securitisation shall be excluded from the calculation of risk-weighted exposure amounts and expected loss amounts, if the originator of the securitisation is the credit institution, if the credit institution meets the requirements stipulated in subsection 166^2 (1) and if one of the following conditions is met:

1) significant credit risk related to the securitised exposures has been transferred to third parties;

2) the credit institution assigns a risk weight of 1 250 % to all of its securitisation positions, or deducts the securitisation positions from own funds under subsection 75 (3) of the Credit Institutions Act.";

51) subsection 167 (1^1) is introduced in the following wording:

"(1^1) In addition to the conditions stipulated in subsection (1) of this section, securitisation shall comply with the requirements stipulated in subsections (2)-(4) of this section.";

52) subsection 168 (1) is worded as follows:

"(1) Instead of the Standardised Approach or the Internal Ratings Based Approach specified in Subdivisions 1 and 2 of this Division, an originator credit institution of a synthetic securitisation may calculate risk-weighted exposure amounts and expected loss amounts for securitised exposures in accordance with the methods set out in this Subdivision, if the credit institution meets the requirements stipulated in subsection 166^2 (1) and if one of the following conditions is met:

1) significant credit risk related to the securitised exposures has been transferred to third parties through funded or unfunded credit protection;

2) the credit institution assigns a risk weight of 1 250 % to all of its securitisation positions, or deducts the securitisation positions from own funds under subsection 75 (3) of the Credit Institutions Act.”;

53) subsection 168 (1^1) is introduced in the following wording:

“(1^1) In addition to the condition stipulated in subsection (1) of this section, securitisation shall comply with the following requirements:

1) the securitisation documentation reflects the economic substance of the transaction;

2) the credit protection by which the credit risk is transferred complies with the requirements established in Subdivision 3 of this Division and, for the purposes of this clause, unfunded credit protection provided by the SSPE shall not be recognised as eligible credit protection;

3) the terms and conditions of the credit protection transaction do not impose significant materiality thresholds below which credit protection is deemed not to be triggered if a credit event occurs;

4) the terms and conditions of the credit protection transaction do not allow for the termination of the protection due to deterioration of the credit quality of the securitised exposures;

5) the terms and conditions of the credit protection transaction do not require the originator credit institution to enhance the credit quality of the securitised exposures positions in the securitisation; for the purposes of this subsection, early amortisation of securitised exposures shall not be deemed a credit quality enhancement tool;

6) the terms and conditions of the credit protection transaction do not provide for an increase in the credit institution's cost of credit protection or in the yield or risk premium payable to holders of positions in the securitisation in response to a deterioration in the credit quality of the underlying pool;

7) an opinion is obtained from an independent qualified expert confirming the enforceability of the credit protection in all relevant jurisdictions.”;

54) section 168^1 is introduced in the following wording:

“§ 168^1. Transfer of significant credit risk

(1) Unless the Financial Supervision Authority decides that the reduction in risk weighted exposure amounts achieved by the securitisation is not accompanied by a commensurate transfer of credit risk to third parties, significant credit risk shall be considered to have been transferred in the following cases:

1) the risk-weighted exposure amounts of the mezzanine securitisation positions held by the credit institution do not exceed 50% of the risk-weighted exposure amounts of all mezzanine securitisation positions;

2) where there are no mezzanine securitisation positions in a given securitisation, the credit institution does not hold more than 20% of the exposure value of the securitisation positions that are subject to deduction from own funds or a 1 250 % risk weight and the credit institution can demonstrate that the value of the positions exceeds a reasoned estimate of the expected loss on the securitised exposures by a substantial margin.

(2) For the purposes of the transfer of significant credit risk, the mezzanine securitisation positions are positions that meet the following conditions:

1) the risk weight applied to the position is lower than 1 250 %;

2) the positions are more junior than the most senior position in the securitisation;

3) the position is more junior than any securitisation position in the securitisation to which the credit quality step 1 is assigned under section 172 or credit quality step 1 or 2 is assigned under section 183;

4) significant credit risk may be considered to have been transferred if the credit institution can demonstrate to the Financial Supervision Authority that the credit institution has policies and methodologies in place, ensuring that the reduction of capital requirements achieved by the securitisation is accompanied by a commensurate transfer of credit risk to third parties. A credit institution shall demonstrate that the transfer of credit risk to third parties is also recognised in the credit institution's internal risk management and internal capital requirement.";

55) in clause 172 (3) 4), the words "100%" are replaced by the words "350%";

56) in subsection 173 (4), the words "in accordance with section 173" are replaced by the words "in accordance with subsection 75 (3) of the Credit Institutions Act";

57) subsections 176 (1), (2) and (3) are worded as follows:

"(1) When all of the conditions set out in subsection (4) of this section are met, a conversion figure of 50% may be applied to an unrated securitisation position arising from a liquidity facility.

(2) Where a credit institution applies the figures set out in subsection (1) of this section, the risk weight to be assigned to the adjusted securitised positions shall be the highest risk weight that would be applied to the securitised exposures under Subdivision 1 of this Division had the exposures not been securitised.

(3) A conversion figure of 0% may be applied to a securitisation position arising from a liquidity facility, if the liquidity facility meets the conditions set out in subsection (4) of this section and it is unconditionally cancellable by the credit institution, provided that repayment of draws on the facility are senior to any other claims on the cash flow arising from the securitised exposures.";

58) no changes in the English version;

59) subsection 183 (6) is repealed;

60) subsection 185 (1) is repealed;

61) clause 1 of section 200 is worded as follows:

"1) "Netting set" means a group of transactions with a single counterparty that are subject to a bilateral netting arrangement legally enforceable with regard to each of the counterparties and for which netting is recognised under Sub-subdivision 8 of this Subdivision and under Subdivision 3 of this Division. Each transaction that is not subject to a legally enforceable bilateral netting arrangement, which is recognised under Sub-subdivision 8 of this Subdivision, shall be interpreted as its own netting set for the purpose of this Subdivision. In the application of Sub-subdivision 7 of this Subdivision, the netting sets associated with a single counterparty may be treated as a single netting set, if in the calculation of the expected exposure (EE) the value of the negative exposure of each netting transaction is 0;";

62) no changes in the English version;

63) subsection 227 (3^1) is introduced in the following wording:

"(3^1) "N^{th}-to-default" basket credit default swaps shall be treated as follows:

1) the size of a risk position in a reference debt instrument is the effective nominal value of the reference debt instrument, multiplied by the modified duration of the "nth-to-default" derivative with respect to a change in the credit spread of the reference debt instrument;

2) there is one hedging set for each reference debt instrument in a basket underlying a given "nth-to-default" credit default swap. risk positions from different "nth-to-default" credit default swaps shall not be included in the same hedging set;

3) the CCR multiplier applicable to each hedging set created for one of the reference debt instruments of an ""nth-to-default" derivative is 0.3% for reference debt instruments that have an external credit assessment equivalent to credit quality step 3 or higher under Sub-subdivision 2 of Subdivision 1 of this Division. The CCR multiplier of other reference debt instruments shall be 0.6%.";

64) subsection 278 (2) is worded as follows:

"(2) Instead of the mirror principle, first- to-default and nth-to-default credit derivatives shall be treated as follows:

1) where a credit derivative covers a number of exposures with credit protection under terms that the first-to- default among the exposures shall trigger the payment obligation of the credit protection provider and this credit event shall terminate the credit derivative contract, the credit institution may, in the calculation of the specific risk of the exposures, exclude an exposure whose specific risk would be lower, considering the provisions of section 284;

2) where the nth-to-default among the exposures covered by credit protection triggers the payment obligation of the credit protection provider under the credit derivative terms, the provisions of clause 1 shall be applied, as modified to the nth-to-default.";

65) in clause 284 (3) 1), the words "step 1 or 2" are replaced by the words "step 1, 2 or 3";

66) in clause 284 (3) 2), the words "step 3 or" are omitted;

67) in clause 284 (3) 3), the words "or 6" are added after the words "step 5";

68) section 302 is worded as follows:

"**§ 302. Capital requirement for counterparty credit risk**

(1) The capital requirement for a counterparty credit risk shall be 8% of risk-weighted exposure amounts calculated pursuant to the procedure established in this Subdivision.

(2) Capital requirement for a counterparty credit risk shall be calculated for exposures arising from the following transactions:

1) free deliveries;

2) OTC derivative instruments and credit derivatives;

3) repurchase agreements, reverse repurchase agreements, securities or commodities lending or borrowing transactions based on securities or commodities included in the trade portfolio;

4) margin lending transactions;

5) long settlement transactions.

(3) Where a credit derivative included in the trade portfolio forms part of an internal hedge and it meets the criteria established in Subdivision 3 of Division 2 of this Chapter, the capital requirement for a counterparty credit risk may be left uncalculated.";

69) in section 316, the words “in clause 85^2 (4) 3)” are replaced by the words “in clause 85^2 (3) 3)”;

70) in section 317, the words “in subsections 85 (4) and (5)” are replaced by the words “subsections 85^2 (4) and (5)”;

71) in the second sentence of subsection 320 (1), the words “without limit” are added at the end of the sentence;

72) in subsection 327 (3), clause 4^1 is introduced in the following wording:

“4^1) group-wide loss events that affect the entire group may exceptionally be classified under the additional business line “group-wide”;”;

73) in subsection 328 (5), the words “or other risk transfer mechanisms” are added after the words “insurance coverage”;

74) 4. chapter 4 is worded as follows:

“Chapter 4
CONCENTRATION OF EXPOSURES

§ 330. Definitions

(1) For the purposes of this Chapter, the term “credit institution” shall also cover companies that have been issued an activity licence in a third country and that meet the definition of “credit institution”, as well as persons in public law, together with their branches.

(2) The term “group of connected persons” shall be used within the meaning of subsections 85 (5), (6) and (13) of the Credit Institutions Act.

(3) In the calculation of the exposures of the concentration of exposures, credit derivatives may be recognised as a guarantee, except for credit linked notes to the extent of their cash funding.

(4) In the calculation of the exposures of the concentration of exposures, the receivables pledged as collateral, specified in section 116 of the Decree, may not be recognised as credit protection.

(5) In the calculation of the exposures of the concentration of exposures, the exposures arising from real estate finance lease may not be treated similarly to exposures arising from loans secured by real estate, except in the extent stipulated in subsections 333 (11) and (12) of the Decree.

(6) In adhering to the limitations on the concentration of exposures, a credit institution may apply the treatment of exposures laid out in clause 85 (3) 3) of the Credit Institutions Act also for similar exposures of recognised third-country investment firms, clearing houses and exchanges.

(7) A credit institution shall immediately inform the Financial Supervision Authority of the exercising of the right stipulated in subsection (6) of this section.

§ 330^1. Specifications regarding classification of connected persons

(1) Where a client of a credit institution belongs to more than one group of connected persons, the exposure assigned to the client shall be included in each of the groups in full extent.

(2) Persons that are directly controlled by the central government and that would be assigned a 0% risk weight under the Standardised Approach set out in Sub-subdivision 3 of Subdivision 1 of Division 2 of Chapter 3 shall not be included in the group of connected persons.

(3) Persons that are directly controlled by a regional or central government and that would be assigned a 0% risk weight under subsections 27 (3) and (4) of the Decree shall not be included in the group of connected persons.

(4) Where the credit institution's classification of a person into a group of connected persons does not comply with that of the Financial Supervision Authority, the final decision shall be made on the basis of the assessment of the Financial Supervision Authority.

§ 330^2. Treatment of securitised exposures

(1) In the ascertainment of the actual distribution of risks related to securitised exposures stipulated in clause 85 (6) 4) of the Credit Institutions Act, the treatment provided in this section may be used.

(2) Where a credit institution has reliable data concerning the underlying asset(s) of exposures, the exposure arising from the underlying assets is treated as the credit institution's exposure, and the person against whom the claim arising from the underlying assets is raised is treated as the person with respect to whom the exposure has been taken (.

(3) Where a credit institution does not have reliable data concerning the underlying asset(s) of exposures for applying the method provided in subsection (2) of this section, all of the underlying assets shall be treated as the exposure to a single undefined client.

(4) Where a credit institution has reliable data that the underlying assets of exposures are not directly or indirectly related to any of the credit institution's clients or connected persons with a higher than 2% ratio of exposure to own funds, the exposure may be treated as the exposure to a single client (*structure-based approach*).

(5) Where a credit institution has reliable data that the securitised exposure is sufficiently diversified, the exposure may be treated as the exposure to a single client. A securitised exposure is sufficiently diversified if its underlying exposure does not exceed 5% of the securitised exposure.

(6) In case of an exposure arising from the fund of funds units, the sufficient diversification criteria shall be applied to the underlying assets of the underlying fund.

(7) A credit institution shall review the data on the underlying assets of exposures at least once a month.

(8) In case of securitised exposures acquired before 31 December 2010, the requirements valid before 31 December 2010 may be applied until 31 December 2015.

§ 331. Calculation of exposures

(1) Exposures shall be calculated separately with regard to each client or group of connected persons.

(2) Where a credit institution calculates capital requirements for its trade portfolio risks, it shall calculate separately its non-trade portfolio and trade portfolio exposures to each individual client.

(3) Where a credit institution has been exempted from the calculation of capital requirements for its trade portfolio risks, it shall calculate its exposures to an individual client pursuant to the procedure for calculating non-trade portfolio exposures established in Division 2 of Chapter 3 of this Decree.

(4) The exposures to individual clients which arise on the trading book shall be calculated by summing the following positions:

1) the excess of the credit institution's long positions over its short positions, where the absolute value of a long position exceeds the absolute value of a short position, with the net position in each of the different instruments being calculated according to the methods set out in Subdivision 2 of Division 6 of Chapter 3;

2) the net exposure, in the case of issue of financial instruments or underwriting of an equity issue. The net exposure shall be calculated by deducting, from the positions arising from contracts underwritten by the credit institution, those underwriting positions which are subscribed or sub-underwritten by third parties on the basis of formal agreements. Net exposures shall be reduced by the reduction factors applicable to positions in underwriting commitments as set out in section 281;

3) the exposures that arise from transactions, agreements and contracts related to a settlement/delivery risk and counterparty credit risk, with such exposures being calculated in accordance with Subdivision 3 of Division 6 of Chapter 3, for the calculation of exposure values.

(5) The exposures to groups of connected persons on the trading book shall be calculated by summing the exposures to individual clients in a group, as calculated under subsection (4) of this section.

(6) The exposures to individual clients which arise on the non-trade portfolio shall be calculated by summing the following positions:

1) the balance-sheet value of the assets. Where the write-down of an asset is recognised on a separate row of the balance sheet, the asset shall be included in the net value;

2) the nominal value of off-balance sheet liabilities, with credit limits recognised to the extent of the undrawn portion of the limit;

3) derivative instruments to the extent calculated pursuant to the procedure for calculating derivative exposures established in Division 2 of Chapter 3 of this Decree.

(7) The aggregate exposure to a client or group of connected persons shall be calculated by summing exposures arising from the trade portfolio and the non-trade portfolio, with account taken of the reductions specified in section 332 and the credit protection arising from section 333 of the Decree.

§ 332. Reductions applied in the calculation of non-trade portfolio exposures

(1) The positions specified in this section may be deducted in the calculation of exposures.

(2) Claims and contingent claims that would be assigned a 0% risk weight under the Standardised Approach set out in Sub-subdivision 3 of Subdivision 1 of Division 2 of Chapter 3.

(3) Exposures fully secured by claims against persons assigned a 0% risk weight under the Standardised Approach set out in Sub-subdivision 3 of Subdivision 1 of Division 2 of Chapter 3.

(4) Claims and contingent claims against regional governments and local governments of the Member States assigned a 20% risk weight under the Standardised Approach set out in Sub-subdivision 3 of Subdivision 1 of Division 2 of Chapter 3, and exposures fully secured by the same.

(5) Exposures fully secured by collateral in the form of cash deposits placed with the lending credit institution or with its parent undertaking or subsidiary, as well as cash received under a credit linked note issued by the credit institution and loans and deposits of a counterparty to or with the credit institution which are subject to an on-

balance sheet netting agreement recognised under Sub-subdivision 1 of Subdivision 3 of Division 2 of Chapter 3.

(6) Exposures fully secured by collateral in the form of certificates of deposit issued by the lending credit institution or its parent undertaking or subsidiary and lodged with either of them.

(7) Off-balance-sheet items that are classified as low-risk off-balance-sheet items for the purposes of determining the credit risk of off-balance-sheet items as specified in Subdivision 5 of Division 2 of Chapter 3, to the extent that an agreement has been concluded with the client or group of connected persons under which the exposure may be incurred only if it has been ascertained that it will not cause the limits applicable under subsections 85 (8)-(9) of the Credit Institutions Act to be exceeded.

(8) Covered bonds falling within the terms of section 36.

(9) 50% of the short-term documentary credits and unused credit limits that are classified as medium risk off-balance-sheet items for the purposes of determining the credit risk of off-balance-sheet items as specified in Subdivision 5 of Division 2 of Chapter 3.

(10) Claims against central banks arising from the minimum reserve demanded by the central bank, denominated in the official currency of the debtor’s host country.

(11) Central government bonds which are kept for the purposes of serving the liquidity requirement, which have been denominated and issued in the official currency of the issuer’s host country, and the external assessment of which is equivalent to or higher than the external assessment of the corresponding investment grade.

§ 333. Application of risk mitigation in the calculation of exposures

(1) The part of the exposure secured by the guarantee of a third party may be treated as an exposure to the guarantor, provided that a risk weight equivalent to the risk weight assigned under the Standardised Approach to credit risk stipulated in Sub-subdivision 2 of Subdivision 1 of Division 2 of Chapter 3 of the Decree, or a lower risk weight than that of the unsecured part is applied for the secured part of the exposure. In case of currency mismatches and maturity mismatches between the exposure and the guarantee securing the exposure, and in case of partial guarantee, the procedure stipulated in Subdivision 3 of Division 2 of Chapter 3 of the Decree shall be applied.

(2) Where the Financial Collateral Simple Method stipulated in section 135 is used, the collateral of the exposure secured by a recognised collateral of a third party may, to the extent of its market value, be treated as exposure to the issuer of the collateral, provided that a risk weight equivalent to the risk weight assigned under the Standardised Approach to credit risk stipulated in Sub-subdivision 2 of Subdivision 1 of Division 2 of Chapter 3 of the Decree, or a lower risk weight than that of the unsecured part, is applied for the secured part of the exposure, and provided that the credit protection and the remaining maturities of the protected exposure do not mismatch in the meaning of section 158 of this Decree.

(3) Where the Financial Collateral Comprehensive Method stipulated in section 137 is used, exposures may be calculated by taking into account the fully adjusted exposure values calculated pursuant to the procedure stipulated in section 138 of the Decree.

When using that method, a credit institution shall meet the requirements on accepting collateral, as well as other requirements established in Sub-subdivision 1 of Subdivision 3 of Division 2 of Chapter 3.

(4) Where a credit institution uses the Advanced IRB Approach set out in Subdivision 2 of Division 2 of Chapter 3, it may, in calculating the value of its exposures, estimate the

effects of financial collateral on these exposures. Where a credit institution uses its own estimates of the effects of financial collateral, it shall do so on a basis consistent with the approach adopted in the calculation of capital requirements. When using said method, the credit institution shall meet the requirements on accepting financial collateral established in Sub-subdivision 1 of Subdivision 3 of Division 2 of Chapter 3.

(5) A credit institution availing itself of the right set out in subsection (4) of this section shall demonstrate to the Financial Supervision Authority its capability of estimating the effects of financial collateral on its exposures separately from other LGD-relevant aspects.

(6) Where a credit institution that uses the Advanced IRB Approach does not avail itself of the right set out in subsection (4) of this section, it may, in calculating the value of exposures, use the Financial Collateral Comprehensive Method or the right stipulated in subsection (2) of this section. A credit institution shall use only one of these two methods.

(7) A credit institution using the Financial Collateral Comprehensive Method or the right specified in subsection (4) of this section shall conduct periodic stress tests of their risk concentrations, including in relation to the realisable value of any collateral taken. These periodic stress tests shall address the effect of potential changes in market conditions on the credit institutions' adequacy of own funds and realisation of collateral. The credit institution shall satisfy the Financial Supervision Authority that the stress tests carried out are adequate and appropriate for the assessment of such risks.

(8) If the stress test indicates a lower realisable value of the collateral than allowed by the Financial Collateral Comprehensive Method or subsection (3) of this section, the eligible value shall be lowered according to the results of the stress test.

(9) A credit institution shall work out and implement procedures that allow sufficiently accurate assessment of the concentration of exposures to the providers of unfunded credit protection, and the concentration of exposures arising from the remaining maturity mismatches between the exposure and the instrument providing credit protection.

(10) A credit institution shall work out and implement procedures that allow applying measures for reducing the concentration of exposures in case of identifying excessive concentration of exposures.

(11) A credit institution may reduce the exposure value by up to 50% of the value of the collateral, if the collateral consists of a mortgage on residential real estate or shares in Finnish residential housing companies, operating in accordance with the Finnish Housing Company Act of 1991 or subsequent equivalent legislation. The residential real estate shall comply with the requirements stipulated in subsection 114 (4) and (5) and section 150 of the Decree. Residential real estate is a residential building which its owner uses or plans to use for residential purposes or for residential lease. The value of the residential real estate shall be appraised at least once every three years.

(12) A credit institution may reduce the exposure value by up to 50% of the value of the collateral or its underlying commercial real estate, if the exposure complies with the conditions stipulated in section 34 of the Decree and a 50% risk weight may be assigned to the collateral under the Standardised Approach to credit risk. The commercial real estate must be ready-built, and generate sufficient rental revenue to the owner. The value of the commercial real estate shall be appraised at least once a year.

(13) A credit institution exercising the right stipulated in subsections (11) or (12) of this section must be able to demonstrate to the Financial Supervision Authority that the

value of the real estate encumbered with a mortgage has been assessed in a reliable manner.

§ 334. Calculation of limits

To calculate the limits of concentration of exposures, the aggregate exposure to a client or a group of connected persons shall be divided by the amount of the credit institution's own funds and the result shall be multiplied by 100.

§ 335. Calculating the concentration of exposures of consolidation groups

(1) The concentration of exposures of the consolidation group of a credit institution shall be calculated in accordance with the provisions of this Chapter. The exposures shall be calculated on the basis of the consolidated data of the consolidation group.

(2) The limits of concentration of exposures of the consolidation group of a credit institution shall be calculated on the basis of the amount of the consolidation group's own funds.”;

75) in subsection 341 (2), the number “2010” is replaced by the number “2013”.

§ 2. This Decree shall be applied from 31 December 2010.

Andres Lipstok
Governor