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|---|--|
| <p>9. Money broking</p> <p>10. Portfolio management and advice</p> <p>11. Safekeeping of securities</p> <p>12. Credit reference services</p> <p>13. Safe custody services</p> | <p>(f) Professional investment advice given to investors on an individual basis or on the basis of private subscription in connection with any or all of the instruments referred to in footnote 2.</p> <p>(g) Safekeeping and administration of any of the instruments referred to in footnote 2 otherwise than in connection with the management of a clearing system.</p> |
| <p>9. Money broking</p> <p>10. Credit reference services</p> <p>11. Safe custody services</p> | <p>9. Money broking</p> <p>10. Credit reference services</p> <p>11. Safe custody services</p> |

Amended proposal for a Council Directive on a solvency ratio for credit institutions ⁽¹⁾

COM(89) 239 final — SYN 133

(Submitted by the Commission pursuant to the third paragraph of Article 149 of the EEC Treaty on 30 May 1989)

(89/C 167/03)

ORIGINAL PROPOSAL

AMENDED PROPOSAL

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

unchanged

Having regard to the Treaty establishing the European Economic Communities, and in particular the third sentence of Article 57(2) thereof,

Having regard to the proposal from the Commission,

In cooperation with the European Parliament,

Having regard to the opinion of the Economic and Social Committee,

Whereas the Directive is a development from the work undertaken by the Banking Advisory Committee which has under Article 6(4) of the Council Directive 77/780/EEC of 12 December 1977 on the coordination of laws, regulations and administrative provisions relating to the taking up and pursuit of the business of credit institutions ⁽²⁾, as amended by Directive 86/524/EEC ⁽³⁾, responsibility for making 'suggestions to the Commission with a view to coordinating the coefficients applicable in the Member States';

unchanged

Whereas appropriate solvency ratios play a central role in the prudential supervision of credit institutions;

unchanged

Whereas ratios which weight assets and off-balance sheet transactions according to the degree of credit risk are particularly useful measures of solvency;

unchanged

⁽¹⁾ OJ No C 135, 25. 5. 1988, p. 5.

⁽²⁾ OJ No L 322, 17. 12. 1977, p. 30.

⁽³⁾ OJ No L 309, 4. 11. 1986, p. 15.

unchanged

ORIGINAL PROPOSAL

Whereas the development of common standards of capital adequacy in relation to assets and off-balance sheet items at risk is accordingly, one of the essential areas of harmonisation necessary for the achievement of mutual recognition and thus completion of the internal market in banking services;

Whereas in this respect the Directive is connected with other specific legislation also harmonising the fundamental techniques of prudential supervision: Council Directive .../.../EEC on own funds, the Commission recommendations 87/62/EEC ⁽¹⁾ and 87/63/EEC ⁽²⁾ on large exposures and deposit protection schemes;

Whereas the Directive should also be seen as directly complementary to the Second Coordination Directive which lays out the broader framework of which this Directive is an integral part;

Whereas the minimum ratio contained in this Directive is provisional in nature; whereas it will be reviewed following a statistical survey; whereas the Commission will, if necessary, duly propose an amendment to the figure before the final adoption of the Directive;

Whereas measurement of, and allowance for, interest and exchange rate risk, and other market risks, are also of great importance in prudential supervision; whereas the Commission shall, accordingly, in cooperation with the competent authorities of Member States and others working towards similar ends, further study the available techniques; whereas it shall then make appropriate proposals for the further harmonisation of prudential rules relating to these risks;

AMENDED PROPOSAL

unchanged

Whereas in this respect the Directive is connected with other specific legislation also harmonising the fundamental techniques of prudential supervision: Council Directive 89/299/EEC ⁽¹⁾ on own funds, the Commission recommendations 87/62/EEC ⁽²⁾ and 87/63/EEC ⁽³⁾ on large exposures and deposit protection schemes;

unchanged

deleted

Whereas measurement of, and allowance for, interest and exchange rate risk, and other market risks, are also of great importance in prudential supervision; whereas the Commission shall, accordingly, in cooperation with the competent authorities of Member States and others working towards similar ends, further study the available techniques; whereas it shall then make appropriate proposals for the further harmonisation of prudential rules relating to these risks; **whereas in so doing it shall pay full attention to the interaction of the various banking risks, whereas it shall, accordingly, examine the coherence of the separate proposals;**

⁽¹⁾ OJ No L 33, 4. 2. 1987, p. 10.

⁽²⁾ OJ No L 33, 4. 2. 1987, p. 16.

⁽¹⁾ OJ No L 124, 5. 5. 1989, p. 16.

⁽²⁾ OJ No L 33, 4. 2. 1987, p. 10.

⁽³⁾ OJ No L 33, 4. 2. 1987, p. 16.

ORIGINAL PROPOSAL

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Whereas technical modifications to the detailed rules contained in this Directive may from time to time be necessary to respond to new developments in the banking sector; whereas the Commission shall accordingly make such modifications as are necessary, after consulting the Banking Advisory Committee, within the limits of the implementing powers delegated to the Commission by the provisions of the Treaty; whereas that Committee shall act as a 'Regulatory' Committee, according to the rules of procedure laid down in Article 2, procedure III, variant (a) of Council Decision 87/373/EEC of 13 July 1987 laying down procedures for the exercise of implementing powers conferred to the Commission ⁽¹⁾;

HAS ADOPTED THIS DIRECTIVE:

Scope and definition

Article 1

1. This Directive shall apply to credit institutions within the meaning of the first indent of Article 1 of Directive 77/780/EEC.

2. Notwithstanding indent 1 above, the Member States need not apply this Directive to credit institutions listed in Article 2(2) of Directive 77/780/EEC.

3. Credit institutions which, as defined in Article 2(4) (a) of Directive 77/780/EEC are affiliated to a central body in the same Member State, may be exempted from the provisions of this Directive, provided that the totality of those affiliated credit institutions and the central body are included in consolidated solvency ratios in accordance with this Directive.

⁽¹⁾ OJ No L 197, 18. 7. 1987, p. 33.

New recital 9

Whereas the risk weights in this Directive could not expect exactly to reflect actual credit risk relativities in all cases; whereas in this regard the application of a 20 % rather than 0 % weight to the European Investment Bank reflects agreement on the supervisory treatment of borrowing by multilateral investment and development banks made in a wider international context and not the high credit-standing of the EIB;

unchanged

HAS ADOPTED THIS DIRECTIVE:

Article 1

unchanged

unchanged

unchanged

unchanged

ORIGINAL PROPOSAL	AMENDED PROPOSAL
<i>Article 2</i>	<i>Article 2</i>
For the purpose of this Directive:	For the purpose of this Directive:
(indent 1)	(indent 1)
— ‘competent authorities’ shall be defined in accordance with the fifth indent of Article 1 of Council Directive 83/350/EEC of 13 June 1983 on the supervision of credit institutions on a consolidated basis ⁽¹⁾ ,	unchanged
(indent 2)	(indent 2)
— ‘Domestic credit institutions’ shall comprise all credit institutions authorised in the Member States, in accordance with Article 3 of Directive 77/780/EEC, and branches of those institutions established outside the European Communities,	— ‘Zone A’ shall comprise all Member States and all other countries which are full members of the Organisation for Economic Cooperation and Development or countries which have concluded special lending arrangements with the International Monetary Fund associated with the General Arrangements to Borrow; ‘Zone B’ shall comprise all other countries,
(indent 3)	(indent 3)
— ‘foreign credit institutions’ in this Directive shall comprise all private and public undertakings outside the Member States which satisfy the definition in the first indent of Article 1 of Directive 77/780/EEC, including their branches,	— ‘Zone A’ credit institutions’ shall comprise all credit institutions authorised in the Member States, in accordance with Article 3 of Directive 77/780/EEC, including their branches and all private and public undertakings licensed in other Zone A countries, which satisfy the definition in the first indent of Article 1 of Directive 77/780/EEC, including their branches,
(indent 4)	(indent 4)
— in the case of central governments and central banks, regional governments and local authorities and the non-bank sectors as defined below, ‘domestic’ shall mean of the Member States, ‘foreign’ shall mean of other countries,	deleted
(indent 5)	(indent 5)
— ‘non-bank sector’ shall be defined as all borrowers other than credit institutions as defined in the second and third indents above, central governments and central banks, regional governments and local authorities, the European Communities and the European Investment Bank, and the Bank for International Settlements (BIS) the International Bank for Reconstruction and Development (IBRD) and the International Monetary Fund (IMF),	— ‘non-bank sector’ shall be defined as all borrowers other than credit institutions as defined in the third and fourth indents above, central governments and central banks, regional governments and local authorities, the European Communities and the European Investment Bank (EIB), and multilateral development banks as defined below,
⁽¹⁾ OJ No L 193, 18. 7. 1983, p. 18.	unchanged

ORIGINAL PROPOSAL

AMENDED PROPOSAL

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| <p>(indent 6)</p> <p>— ‘full risk’, ‘medium risk’, ‘medium/low risk’ and ‘low risk’ off-balance sheet items are described in Annex 1 and listed in Annex 2,</p> <p>— ‘participation’ shall be defined in accordance with the third indent of Article 1 of Directive 83/350/EEC.</p> | <p>(indent 6)</p> <p>— ‘multilateral development banks’ shall be defined as the International Bank for Reconstruction and Development and the International Finance Corporation, the Inter-American Development Bank, the African Development Bank, the Nordic Investment Bank, the Caribbean Investment Bank, the Council of Europe Resettlement Fund and other multilateral development banks in which Member States are shareholding members,</p> <p>(indent 7)</p> <p>— ‘full risk’, ‘medium risk’, ‘medium/low risk’ and ‘low risk’ off-balance sheet items are described in Article 6(2) and listed in Annex 1,</p> <p>deleted</p> |
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*Article 3**Article 3***General principles**

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| <p>1. For the purposes of measuring the solvency of credit institutions as defined in Article 1, the competent authorities of Member States shall ensure that ratios are calculated for each credit institution which expresses its own funds, as defined in Article 4, as a proportion of its total risk-adjusted assets and off-balance sheet items, as defined in Article 5.</p> | <p>unchanged</p> |
| <p>2. Ratios shall be calculated on a consolidated basis in accordance with Directive 83/350/EEC and Council Directive 86/635/EEC of 8 December 1986 on the annual accounts and consolidated accounts of banks and other financial institutions ⁽¹⁾. Notwithstanding the above requirement, unconsolidated ratios shall also be calculated for all credit institutions. However, the competent authorities shall have the discretion to require sub-consolidated rather than unconsolidated ratios for credit institutions subsidiaries.</p> | <p>unchanged</p> |
| <p>3. Without prejudice to the compliance obligations of credit institutions established in Article 9(2), (3) and (4), the competent authorities shall ensure that the ratios are controlled not less than twice each year.</p> | <p>unchanged</p> |
| <p>4. Valuation of assets and off-balance sheet items shall be undertaken in accordance with Directive 86/635/EEC.</p> | <p>4. Valuation of assets and off-balance sheet items shall be undertaken in accordance with Directive 86/635/EEC.</p> |

⁽¹⁾ OJ No L 372, 31. 12. 1986, p. 1.

unchanged

ORIGINAL PROPOSAL

*Article 4***Own funds: the numerator**

Own funds, as defined in Directive .../.../EEC of ... 1988 on the own funds of credit institutions, shall form the numerator of the solvency ratio.

*Article 5***Risk adjusted assets and off-balance sheet transactions: the denominator**

1. Degrees of credit risk, expressed as percentage weights, shall be assigned to the asset items in accordance with provisions of Article 6. The balance sheet value of each asset shall then be multiplied by the relevant weight to arrive at a risk-adjusted value.

2. In the case of the off-balance sheet items included in categories (a) to (e) of Article 6, a two-stage calculation, in accordance with rules presented in Annex 1, shall be used to arrive at risk weights. Risk adjusted values shall be obtained by multiplying the value of each off-balance sheet item by the relevant risk weight.

3. In the case of the interest rate and foreign exchange rate related off-balance sheet items in Article 6(2), the potential costs of replacing cash flows in the event of counterparty default shall be assessed by the application of either of the two methods presented in Annex 3. These costs shall be multiplied by the relevant counterparty weights in Article 6(1) to give risk-adjusted values.

4. The total of the risk-adjusted values of assets and off-balance sheet items described above shall be the denominator of the solvency ratio.

AMENDED PROPOSAL

*Article 4***Own funds: the numerator**

Own funds, as defined in Directive 89/299/EEC of 17 April 1989 on the own funds of credit institutions, shall form the numerator of the solvency ratio.

*Article 5***Risk adjusted assets and off-balance sheet transactions: the denominator**

1. Degrees of credit risk, expressed as percentage weights, shall be assigned to the asset items in accordance with provisions of **Articles 6 and 7**. The balance sheet value of each asset shall then be multiplied by the relevant weight to arrive at a risk-adjusted value.

2. In the case of the off-balance sheet items **listed in Annex 1** a two-stage calculation, presented in Article 6(2), shall be used.

3. In the case of the interest rate and foreign exchange rate related off-balance sheet items **referred to** in Article 6(3), **and listed in Annex 3** the potential costs of replacing contracts in the event of counterparty default shall be assessed by the application of either of the two methods presented in Annex 2. These costs shall be multiplied by the relevant counterparty weights in Article 6(1), **except that 100 % weights in that Article shall be put at 50 %**, to give risk-adjusted values.

4. unchanged

(new paragraph)

5. **When asset items are afforded a lower weight because of the existence of an explicit guarantee or of collateral acceptable to the relevant competent authorities the lower weight shall apply only to that part which is guaranteed or which is fully and completely secured by the collateral.**

ORIGINAL PROPOSAL

Article 6

1. The following weights shall be applied to the asset and off-balance sheet items shown below, although the competent authorities may establish higher weights as they see fit:

(a) Nil weight:

- cash in hand or equivalent items,
- asset items representing claims on 'domestic' central governments and central banks,
- asset items representing claims carrying the explicit guarantee of 'domestic' central governments and central banks,

- asset items representing claims on the European Communities and the EIB,
- asset items carrying the explicit guarantee of the European Communities and the EIB,
- asset items representing claims on the BIS, IBRD and IMF
- asset items carrying the explicit guarantee of the BIS, IBRD and IMF,
- all off-balance sheet items incurred on behalf of 'domestic' central governments and central banks,
- all off-balance sheet items carrying the explicit guarantee of 'domestic' central governments and central banks,
- all off-balance sheet items incurred on behalf of the European Communities and the EIB,
- all off-balance sheet items carrying the explicit guarantee of the European Communities and the EIB,
- all off-balance sheet items incurred on behalf of the BIS, IBRD and IMF,

AMENDED PROPOSAL

Article 6

1. The following weights shall be applied to the asset and off-balance sheet items shown below, although the competent authorities may establish higher weights as they see fit:

(a) Nil weight:

- (i) cash in hand or equivalent items,
- (ii) asset items representing claims on 'Zone A' central governments and central banks,
- (iii) asset items representing claims carrying the explicit guarantee of 'Zone A' central governments and central banks,

[new indent (iv)]

- (iv) **asset items representing claims on Zone B central governments and central banks denominated in the national currency of the borrowers and funded in that currency,**

[new indent (v)]

- (v) **asset items representing claims carrying the explicit guarantee of Zone B central governments and central banks denominated in the national currency of the guarantor and the borrower and funded in that currency,**

- (vi) asset items representing claims on the European Communities,

- (vii) asset items carrying the explicit guarantee of the European Communities,

deleted

deleted

deleted

deleted

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deleted

deleted

ORIGINAL PROPOSAL	AMENDED PROPOSAL
— all off-balance sheet items carrying the explicit guarantee of the BIS, IBRD and IMF,	deleted
— loans and off-balance sheet items, fully and completely secured to the satisfaction of the relevant competent authorities, by any of the asset items shown above and by deposits and certificates of deposit with the lending institutions,	(viii) asset items, fully and completely secured to the satisfaction of the relevant competent authorities, by collateral in the form of Zone A central government securities and securities issued by the European Communities, by cash or by deposits and certificates of deposit issued by the lending institution;
— all off-balance sheet items having low risk, regardless of counterparty;	deleted
(b) 10 % weight:	(b) 10 % weight:
— off-balance sheet items, having medium risk, incurred on behalf of 'domestic' credit institutions,	deleted
— off-balance sheet items, having medium risk, carrying the explicit guarantee of 'domestic' credit institutions,	deleted
— off-balance sheet items, having medium risk and an original maturity of up to and including one year, incurred on behalf of 'foreign' credit institutions,	deleted
— off-balance sheet items, having medium risk and an original maturity of up to and including one year, carrying the explicit guarantee of 'foreign' credit institutions;	deleted
	[new indent (i)] (i) claims fully and completely secured to the satisfaction of the relevant competent authorities, by a combination in aggregate of the asset items recognized as appropriate collateral in Article 6(1) (a) and 6(1) (c).
(c) 20 % weight:	(c) 20 % weight:
	[new indent (i)] (i) asset items representing claims on the EIB,
	[new indent (ii)] (ii) asset items representing claims carrying the explicit guarantee of the EIB,
	[new indent (iii)] (iii) asset items representing claims on multilateral development banks,
	[new indent (iv)] (iv) asset items representing claims carrying the explicit guarantee of multilateral development banks,

ORIGINAL PROPOSAL	AMENDED PROPOSAL
	[new indent (v)]
	(v) asset items representing claims on Zone A regional governments and local authorities, other than those falling under the exceptional provisions of Article 7,
	[new indent (vi)]
	(vi) asset items representing claims carrying the explicit guarantee of Zone A regional governments and local authorities, other than those falling under the provisions of Article 7,
— asset items representing claims on ‘domestic’ credit institutions,	(vii) asset items representing claims on Zone A credit institutions, which do not form an integral part of the own funds of those institutions,
— asset items representing claims, with an original maturity of up to and including one year, on ‘foreign’ credit institutions,	(viii) asset items representing claims, with a residual maturity of up to and including one year, on Zone B credit institutions, which do not form an integral part of the own funds of those institutions,
— asset items carrying the explicit guarantee of ‘domestic’ credit institutions,	(ix) asset items carrying the explicit guarantee of Zone A credit institutions,
— asset items representing claims with an original maturity of up to and including one year, carrying the explicit guarantee of ‘foreign’ credit institutions,	(x) asset items representing claims with a residual maturity of up to and including one year, carrying the explicit guarantee of Zone B credit institutions,
— off-balance sheet items, having full risk, incurred on behalf of ‘domestic’ credit institutions,	deleted
— off-balance sheet items, having full risk, carrying the explicit guarantee of ‘domestic’ credit institutions,	deleted
— off-balance sheet items, having full risk and an original maturity of up to and including one year, incurred on behalf of ‘foreign’ credit institutions,	deleted
— off-balance sheet items, having full risk and an original maturity of up to and including one year carrying the explicit guarantee of ‘foreign’ credit institutions,	deleted
— loans and full and medium risk off-balance sheet items, fully and completely secured to the satisfaction of the relevant competent authorities, by any of the asset items shown above in the 20 % weight category,	(xi) asset items, fully and completely secured to the satisfaction of the relevant competent authorities, by collateral in the form of securities issued by the EIB and multilateral development banks, Zone A regional governments and local authorities and Zone A credit institutions, or by deposits or certificates of deposit with Zone A credit institutions other than the lending institution.

ORIGINAL PROPOSAL	AMENDED PROPOSAL
— off-balance sheet items having medium/low risk incurred on behalf of the 'domestic' and 'foreign' non-bank sectors,	deleted
— off-balance sheet items representing local currency claims of 'foreign' branches of domestic credit institutions on 'foreign' central governments, funded by local currency deposits,	deleted
— cash items in process of collection, where the corresponding prior payments have already been made;	unchanged
(d) 50 % weight:	(d) 50 % weight:
— off-balance sheet items, having medium risk, incurred on behalf of 'foreign' central and regional governments, local authorities and central banks and the 'domestic' and 'foreign' non-bank sectors,	deleted
— off-balance sheet items, having medium risk and an original maturity of more than one year, incurred on behalf of 'foreign' credit institutions,	deleted
— off-balance sheet items, having medium risk and an original maturity of more than one year, carrying the explicit guarantee of 'foreign' credit institutions,	deleted
— loans to individuals for the purchase of residential property in the Community for their own occupation, fully and completely secured to the satisfaction of the relevant competent authorities, by mortgages on the property in question;	(i) claims , fully and completely secured to the satisfaction of the relevant competent authorities, by mortgages on residential property which is or will be occupied by the borrower or which is rented.
(e) 100 % weight	(e) 100 % weight
— asset items representing claims on 'foreign' central and regional governments, local authorities and central banks,	(i) asset items representing claims on Zone B central governments and central banks, except where denominated in the national currency of the borrower and funded in that currency,
	[new indent (ii)]
	(ii) asset items representing claims on Zone B regional governments and local authorities,
— asset items representing claims with an original maturity of more than one year, on 'foreign' credit institutions,	(iii) asset items representing claims with a residual maturity of more than one year, on Zone B credit institutions,

ORIGINAL PROPOSAL	AMENDED PROPOSAL
— asset items representing claims on 'domestic' and 'foreign' non-bank sectors,	(iv) asset items representing claims on Zone A and Zone B non-bank sectors,
— off-balance sheet items, having full risk, incurred on behalf of 'foreign' central and regional governments, local authorities and central banks and the 'domestic' and 'foreign' non-bank sectors,	deleted
— off-balance sheet items, having full risk and an original maturity of more than one year, incurred on behalf of 'foreign' credit institutions,	deleted
— tangible assets in accordance with assets heading C.II of Article 9 of Council Directive 78/660/EEC of 25 July 1978 on the annual accounts of certain types of companies, ⁽¹⁾	(v) unchanged
— participations where not deducted from own funds,	(vi) holdings of shares, participations and other elements which form the own funds of other credit institutions, where not deducted from the own funds of the lending institution;
— all other assets except where deducted from own funds.	(vii) all other assets except where deducted from own funds, including prepayments and accrued income other than where, in accordance with Directive 86/635/EEC, such items can be assigned to counterparties in lower weight categories.
2. The methods laid out in Annex 3 shall be applied to interest rate and foreign exchange rate related off-balance sheet instruments.	2. The following treatment shall apply to off-balance sheet items other than those covered in Article 6(3). They shall first be grouped according to the risk groupings presented in Annex I. The full value of the full-risk items shall be taken into account; 50 % of the value of the medium-risk items; 20 % of the medium-low-risk items; the value of low risk items shall be set at zero. The second stage shall be to multiply the off-balance sheet values, adjusted as described above, by the weights attributable to the relevant counterparties, in accordance with the treatment of asset items in Article 6(1) and Article 7. In the case of asset sale and repurchase agreements and outright forward purchases, the weights shall be those attaching to the assets in question and not to the counterparties to the transactions.

⁽¹⁾ OJ No L 222, 14. 8. 1978, p. 11.

unchanged

ORIGINAL PROPOSAL

AMENDED PROPOSAL

Article 7

1. Member States shall fix weights of either 0 %, 20 % or 50 % in the case of asset items representing claims on their own regional governments and local authorities, and full risk off-balance sheet items incurred on behalf of their own regional governments and local authorities. Medium risk off-balance sheet items incurred on behalf of their own regional governments and local authorities shall correspondingly be weighted at 0 %, 10 % or 20 %. Loans and off-balance sheet items carrying the explicit guarantee of a regional or local authority shall have the same weight as loans to, or off-balance sheet items incurred on behalf of, the same regional government or local authority.

2. Member States shall notify the Commission of their weights, the Commission shall disseminate that information and Member States shall mutually respect the weights chosen by each other. They shall have the discretion to apply weights of either 0 %, 20 % or 50 % in the case of those foreign countries determined in accordance with Article 8(2), with medium risk off-balance sheet items weighted correspondingly at 0 %, 10 % or 20 %.

Article 8

1. Technical modifications in the areas of this Directive shown below may be made in accordance with the procedure set out in paragraph 3:

- the minimum established in Article 9,
- the weights and asset items in Article 6,

Article 7

3. The methods laid out in Annex 2 shall be applied to interest rate and foreign exchange rate contingencies listed in Annex 3.

4. Where off-balance sheet items carry explicit guarantees, they shall be weighted as if they were incurred on behalf of the guarantor rather than the counterparty. Where potential exposure arising from off-balance sheet transactions is fully and completely secured, to the satisfaction of the relevant competent authorities, by any of the asset items recognised as appropriate collateral in Article 6(1) (a) and 6(1) (c), weights of 0 % or 20 % shall apply in accordance with the collateral in question. Where the conditions of Article 6(1) (b) are met a 10 % weight shall apply.

1. Notwithstanding the requirement in Article 6(1) (c), Member States may fix a weight of 0 % for their regional governments and local authorities, if there is no appreciable difference in risk between claims on the latter and claims on their central governments because of the revenue-raising powers of the regional governments and local authorities and the existence of specific constitutional arrangements acting to reduce the chances of default by the latter. A nil weight fixed in accordance with these criteria will apply to claims on and off-balance sheet items incurred on behalf of the regional governments and local authorities in question and claims on others and off-balance sheet items incurred on behalf of others guaranteed by those regional governments and local authorities.

2. Member States shall notify the Commission if they believe a nil weight to be justified according to the criteria laid out in paragraph 1. The Commission shall disseminate that information and other Member States may offer the credit institutions under the supervision of their competent authorities the possibility of applying a nil weight where they undertake business with the regional governments and local authorities in question or where they hold claims guaranteed by the latter.

Article 8

1. Technical modifications in the areas of this Directive shown below may be made in accordance with the procedure set out in paragraph 3:

- the minimum established in Article 9,
- the weights and asset items in Article 6,

ORIGINAL PROPOSAL

AMENDED PROPOSAL

— the list and classification of off-balance sheet items in Annexes 2 and 4 and their treatment in the calculation of the ratio as described in Article 5 and Annexes 1 and 3.

2. The Commission may also, according to the procedure set out in paragraph 3, extend to foreign countries the same weights applied to domestic central governments, central banks and credit institutions, where the risks are considered equivalent, notably in the case of credit institutions, because of arrangements made in an international context and similarly to extend the 50 % weight for mortgage-backed loans for the purchase of property in foreign countries.

3. The Commission shall be assisted by a Committee composed of representatives from the Member States and chaired by a representative of the Commission.

The representative of the Commission shall submit to the Committee a plan within a time limit to be fixed by the Chairman in accordance with the urgency of the matter. The opinion shall be given on a qualified majority basis according to Article 148(2) of the Treaty in the case of decisions which the Council is called upon to take following a proposal of the Commission. In the Committee the votes of the representatives shall be weighted according to the abovementioned article. The Chairman shall not vote.

The Commission shall implement the envisaged measures when they are in conformity with the opinion of the Committee.

When the envisaged measures do not conform with the opinion of the Committee, or in the absence of an opinion, the Commission shall without delay submit to the Council a proposal relating to the measures to take. The Council shall act according to qualified majority voting.

If at the end of the period which will be set in the case of each decision to be taken by the Council as a result of this paragraph, a period which must not exceed three months from the day on which the Council was informed, the Council has not acted, the Commission shall implement the proposed measures.

Article 9

1. Member States shall adopt the measures necessary to comply with the provisions of the Directive by 1 January 1990.

— the definition of 'Zone A' in Article 2,

— the definition of 'multilateral development banks' in Article 2,

— the list and classification of off-balance sheet items in Annexes 1 and 3 and their treatment in the calculation of the ratio as described in Articles 5 and 6 and Annex 2.

deleted

2. unchanged

unchanged

unchanged

unchanged

unchanged

Article 9

deleted [new Article 11(1)]

ORIGINAL PROPOSAL

2. Until 31 December 1992, credit institutions whose ratios are below 8 % ⁽¹⁾ shall not allow their ratios to fall unless such falls are associated with the issue of new capital and occur in the period immediately following such issuance. The competent authorities shall ensure that corrective measures are taken if falls occur for any reason other than that referred to above.

3. With effect from 1 January 1993, credit institutions shall not allow their ratios, as defined in Articles 3(1) and (2), to fall below 8 % ⁽¹⁾. In the event of such an occurrence, the competent authorities shall ensure that appropriate measures to restore the ratio to the agreed minimum are taken as quickly as possible by the credit institution in question.

4. Notwithstanding paragraph 3, the competent authorities may establish ratios above 8 % ⁽¹⁾ as they consider appropriate.

5. Member States shall communicate to the Commission the texts of the main laws, regulations and administrative provisions which they adopt in the field covered by this Directive.

Article 10

This Directive is addressed to the Member States.

⁽¹⁾ This figure is provisional. A definitive figure will be proposed after study of the results of a statistical exercise to be undertaken in the first half of 1988.

AMENDED PROPOSAL

deleted (new Article 10)

1. With effect from 1 January 1993, credit institutions shall be required to maintain ratios, as defined in Article 3(1) and (2), of at least 8 %.

2. Notwithstanding paragraph 1, the competent authorities may establish higher minimum ratios as they consider appropriate.

deleted [new Article 11(2)]

Article 10

Until 31 December 1992, credit institutions whose ratios are below 8 % shall be required to ensure that the minimum target is attained without their ratio falling, except temporarily in the case of fluctuations which can occur around the time new capital is raised.

Article 11

1. Member States shall adopt the measures necessary to comply with the provisions of this Directive by 1/1/1991.

2. Member States shall communicate to the Commission the texts of the main laws, regulations and administrative provisions which they adopt in the field covered by this Directive.

Article 12

unchanged

footnote deleted.

ORIGINAL PROPOSAL

AMENDED PROPOSAL

ANNEX 1

deleted

**THE TREATMENT OF OFF-BALANCE SHEET ITEMS IN
THE SOLVENCY RATIO**

The items shall first be grouped according to the perceived credit risk attaching to the instrument in question (see Annex 2). 'Full risk' off-balance sheet items shall be deemed to carry a credit equal to balance sheet items, and thus their full value taken into account; 'medium risk' items shall be considered to carry less risk and only one-half of their value taken into account; medium/low risk items shall be deemed to carry lower risk than the medium category and one-fifth of their value taken into account; 'low risk' items shall be considered to carry negligible risk and their value accordingly set at zero. The second stage shall be to multiply the off-balance sheet values, adjusted as described above, by the weights attributable to the relevant counterparties, in accordance with the treatment afforded to asset items. In the case of asset sale and repurchase agreements and outright forward purchases, the weights shall be those attaching to the assets in question and not to the counterparties to the transactions. Article 6 combines the two-stage process used for off-balance sheet items into a single percentage weight.

Where off-balance sheet items carry explicit guarantees, they shall be weighted as if they were incurred on behalf of the guarantor rather than the counterparty. Where potential exposure arising from off-balance sheet business is fully and completely secured, to the satisfaction of the relevant competent authorities, by any assets having a 0 % or 20 % weight, the weight applicable to the collateral and not to the counterparty shall be used.

deleted

ANNEX 2

ANNEX 1

CLASSIFICATION OF OFF-BALANCE SHEET ITEMS

CLASSIFICATION OF OFF-BALANCE SHEET ITEMS

Full risk**Full risk**

- Guarantees having the character of credit substitutes,
- Acceptances,
- Endorsements on bills not carrying the name of other credit institutions,
- Transactions with recourse,
- Irrevocable standby letters of credit having the character of credit substitutes,
- Assets sale and repurchase agreements as defined in Article 12(1) and (2) of Directive 86/635/EEC, if these agreements are treated as off-balance sheet items pending full compliance with Directive 86/635/EEC,
- Assets purchased under outright forward purchase agreements,

- Guarantees having the character of credit substitutes,
- Acceptances,
- Endorsements on bills not carrying the name of other credit institutions,
- Transactions with recourse,
- Irrevocable standby letters of credit having the character of credit substitutes,
- Assets sale and repurchase agreements as defined in Article 12(1) and (2) of Directive 86/635/EEC, if these agreements are treated as off-balance sheet items pending full compliance with Directive 86/635/EEC,
- Assets purchased under outright forward purchase agreements,

ORIGINAL PROPOSAL

- The unpaid portion of partly-paid shares and securities,
- Other items also carrying full risk.

Medium risk

- Documentary credits issued and confirmed (see also medium/low risk),
- Warranties and indemnities (including tender, performance, customs and tax bonds) and guarantees not having the character of credit substitutes,
- Asset sale and repurchase agreements as defined in Article 12(3) and (5) of Directive 86/635/EEC,
- Irrevocable standby letters of credit not having the character of credit substitutes,
- Undrawn credit facilities (agreements to lend purchase securities, provide guarantees, acceptance facilities) with an original maturity of more than one year;
- Other items also carrying medium risk.

Medium/low risk

- Documentary credits in which underlying shipment acts as collateral and other self-liquidating transactions,
- Other items also carrying medium/low risk.

Low risk

- Undrawn credit facilities (agreements to lend, purchase securities, provide guarantees, acceptance facilities) with an original maturity of up to and including one year;
- Other items also carrying low risk.

AMENDED PROPOSAL

Forward forward deposits

- The unpaid portion of partly-paid shares and securities,
- Other items also carrying full risk.

Medium risk

- Documentary credits issued and confirmed (see also medium/low risk),
- Warranties and indemnities (including tender, performance, customs and tax bonds) and guarantees not having the character of credit substitutes,
- Asset sale and repurchase agreements as defined in Article 12(3) and (5) of Directive 86/635/EEC,
- Irrevocable standby letters of credit not having the character of credit substitutes,
- Undrawn credit facilities (agreements to lend, purchase securities, provide guarantees, acceptance facilities) with an original maturity of more than one year;
- **note issuance facilities and revolving underwriting facilities,**
- Other items also carrying medium risk.

Medium/low risk

- Documentary credits in which underlying shipment acts as collateral and other self-liquidating transactions,
- Other items also carrying medium/low risk.

Low risk

- Undrawn credit facilities (agreements to lend, purchase securities, provide guarantees, acceptance facilities) with an original maturity of up to and including one year, **or which can be unconditionally cancelled at any time without any notice;**
- Other items also carrying low risk.

Member States shall communicate to the Commission as soon as possible any cases where they have agreed to classify a new off-balance sheet instrument under one of the final indents in each of the risk categories. Such items shall then be definitively classified at Community level in accordance with the procedure set out in Article 8(2).

ORIGINAL PROPOSAL

AMENDED PROPOSAL

ANNEX 3

ANNEX 2

THE TREATMENT OF INTEREST RATE RELATED OFF-BALANCE SHEET ITEMS

THE TREATMENT OF INTEREST RATE RELATED OFF-BALANCE SHEET ITEMS

Subject to the consent of their supervisory authorities, credit institutions shall choose one of the methods presented below to measure the risks associated with the transactions listed in Annex 4. Interest and exchange rate contracts traded on recognized exchanges, and exchange rate contracts with an original maturity of seven days or less shall be excluded.

Subject to the consent of their supervisory authorities, credit institutions shall choose one of the methods presented below to measure the risks associated with the transactions listed in Annex 3. Interest and exchange rate contracts traded on recognized exchanges **where they are subject to daily margin requirements**, and exchange rate contracts with an original maturity of **fourteen calendar days or less may** be excluded.

Where there is a separate legal contract, acceptable to the national supervisory authorities, between the credit institution and its counterparty under which mutual obligations to deliver payments in a common currency on a given date are automatically amalgamated with other similar obligations due on the same date, the single net amount fixed by such novation shall be weighted, in the place of the gross amount involved.

*Method 1: the 'marking to market' approach**Method 1: the 'marking to market' approach*

Step (a): on the basis of attaching current market values to contracts (marking to market) the current replacement costs of all contracts with a positive value shall be obtained.

Step (a): on the basis of attaching current market values to contracts (marking to market) the current replacement costs of all contracts with a positive value shall be obtained.

Step (b): to obtain a figure for potential future credit exposures the notional principal amounts or values underlying the institutions' aggregate books shall be multiplied by the following percentage ⁽¹⁾:

Step (b): to obtain a figure for potential future credit exposures ⁽¹⁾ the notional principal amounts or values underlying the institutions' aggregate books shall be multiplied by the following percentage:

Original maturity	Interest rate contracts	Exchange rate contracts
Less than one year	nil	1 %
One year and over	0,5 %	5 %

Original maturity	Interest rate contracts	Exchange rate contracts
One year or less	nil	1 %
More than one year	0,5 %	5 %

Step (c): the sum of current replacement cost and potential future credit exposure shall be multiplied by the risk weight attached to the relevant counterparties in Article 6.

unchanged

⁽¹⁾ The percentages are provisional and subject to revision.

Footnote deleted.

⁽¹⁾ Except in the case of single currency 'floating/floating' interest rate swaps in which the current replacement cost only will be calculated.

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Method 2: the original exposure approach

Step (a): the notional principal amounts of each instrument shall be multiplied by the percentages given below ⁽¹⁾:

Original maturity	Interest rate contracts	Exchange rate contracts
Less than one year	0,5 %	2 %
One year and less than two years	1 %	6 %
Additional allowance for each subsequent year	1 %	4 %

Step (b): the original exposures thus obtained shall be multiplied by the counterparty weights given in Article 6.

⁽¹⁾ These percentages are provisional and subject to revision.

AMENDED PROPOSAL

Method 2: the original exposure approach

Step (a): the notional principal amounts of each instrument shall be multiplied by the percentages given below:

Original maturity ⁽¹⁾	Interest rate contracts	Exchange rate contracts
One year or less	0,5 %	2 %
More than one year and less than two years	1 %	5 %
Additional allowance for each subsequent year	1 %	3 %

⁽¹⁾ In the case of interest rate contracts, credit institutions may choose, subject to the consent of their supervisory authorities, either original or residual maturity.

Step (b): the original exposures thus obtained shall be multiplied by the counterparty weights given in Article 6, subject to a maximum weight of 50 %.

Footnote deleted.

ANNEX 4

TYPES OF INTEREST AND FOREIGN EXCHANGE RATE RELATED OFF-BALANCE SHEET ITEMS

Interest rate contracts

- Single-currency rate swaps
- Basis swaps
- Forward rate agreements
- Interest rate futures
- Interest rate options purchased
- Other contracts of similar nature

Exchange rate contracts

- Cross-currency interest rate swaps
- Forward foreign exchange contracts
- Currency futures
- Currency options purchased
- Other contracts of similar nature.

ANNEX 3

TYPES OF INTEREST AND FOREIGN EXCHANGE RATE RELATED OFF-BALANCE SHEET ITEMS

unchanged

unchanged