

**CAPITAL REQUIREMENTS DIRECTIVE (HANDBOOK AMENDMENTS NO 2)
INSTRUMENT 2010**

Powers exercised

- A. The Financial Services Authority makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
- (1) section 138 (General rule-making power);
 - (2) section 150(2) (Actions for damages);
 - (3) section 156 (General supplementary powers); and
 - (4) section 157(1) (Guidance).
- B. The rule-making powers listed above are specified for the purpose of section 153(2) (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force as follows:
- (1) the amendments in Annex A, Annex B and Part 1 of Annex C come into force on 31 December 2010; and
 - (2) the remainder of the instrument comes into force on 1 January 2011.

Amendments to the Handbook

- D. The General Prudential sourcebook (GENPRU) is amended in accordance with Annexes A and B to this instrument.
- E. The Prudential sourcebook for Banks, Building Societies and Investment Firms (BIPRU) is amended in accordance with Annex C to this instrument.

Citation

- F. This instrument may be cited as the Capital Requirements Directive (Handbook Amendments No 2) Instrument 2010.

By order of the Board
16 December 2010

Annex A

Amendments to the General Prudential sourcebook (GENPRU)

In this Annex, underlining indicates new text and striking through indicates deleted text.

2.2 Capital resources

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Core tier one capital: permanent share capital

2.2.83 R *Permanent share capital* means an item of capital which (in addition to satisfying *GENPRU 2.2.64R*) meets the following conditions:

- (1) ...
- (2) any *coupon* on it is not cumulative, the *firm* is under no obligation to pay a *coupon* in any circumstances and the *firm* has the right to choose the amount of any *coupon* that it pays; ~~and~~
- (3) the terms upon which it is issued do not permit redemption and it is otherwise incapable of being redeemed to at least the same degree as an ordinary *share* issued by a company incorporated under the Companies Act 2006 (whether or not it is such a *share*); and
- (4) (in the case of a *BIPRU firm*) it meets the conditions set out in *GENPRU 2.2.83AR* (General conditions for eligibility of capital instruments as core tier one capital (*BIPRU firm* only)).

General conditions for eligibility of capital instruments as core tier one capital (*BIPRU firm* only)

2.2.83A R The conditions that a *BIPRU firm*'s permanent share capital must comply with under *GENPRU 2.2.83R*(4) or that a *BIPRU firm*'s eligible partnership capital or eligible LLP members' capital must comply with under *GENPRU 2.2.95R* are as follows:

- (1) it is undated;
- (2) the terms upon which it is issued do not give the holder a preferential right to the payment of a *coupon*;
- (3) the terms upon which it is issued do not indicate the amount of any *coupon* that may be payable nor impose an upper limit on the amount of any *coupon* that may be payable;
- (4) the *firm*'s obligations under the instrument do not constitute a liability (actual, contingent or prospective) under section 123(2) of the Insolvency Act 1986 and the holder has no right to petition for the

- winding up or administration of the *firm* or for any similar procedure in relation to the *firm* arising from the non-payment of a *coupon* or any other sums payable under the instrument;
- (5) there is no contractual or other obligation arising out of the terms upon which it is issued that requires the *firm* to repay capital to the holders other than on a liquidation of the *firm*;
- (6) the terms upon which it is issued do not include a dividend pusher or a dividend stopper;
- (7) the *firm* is under no obligation to issue *core tier one capital* or to make a payment in kind in lieu of making a *coupon* payment and non-payment of a *coupon* is not an event of default on the part of the *firm*;
- (8) it is simple and the terms upon which it is issued are clearly defined;
- (9) it is able to fully and unconditionally absorb losses on a non-discretionary basis as soon as they arise to allow the *firm* to continue trading, and it absorbs losses before all *capital instruments* that are not eligible for inclusion in stage A of the *capital resources table* and equally and proportionately with all *capital instruments* that are eligible for inclusion in stage A of the *capital resources table*;
- (10) it ranks for repayment on winding up, administration or any other similar process lower than all other items of capital, and on a liquidation of the *firm* the holders have a claim on the residual assets remaining after satisfaction of all prior claims that is proportional to their holding and do not have a priority claim or a fixed claim for the nominal amount of their holding;
- (11) the *firm* has not provided the holder with a direct or indirect financial contribution specifically to pay for the whole or a part of its subscription or purchase;
- (12) a reasonable person would not think that the *firm* is likely to redeem or purchase it because of the description of its characteristics used in its marketing and in its contractual terms of issue; and
- (13) its issue is not connected with one or more other transactions which, when taken together with its issue, could result in it no longer displaying all of the characteristics set out in *GENPRU 2.2.83R(2)*, *GENPRU 2.2.83AR(1)* to (12) and (in the case of *permanent share capital*) *GENPRU 2.2.83R(3)*.

2.2.83B R A *BIPRU firm* must not include in stage A of the *capital resources table* different classes of the same *share* type (for example “A ordinary shares” and “B ordinary shares”) that meet the conditions in *GENPRU 2.2.83R* and *GENPRU 2.2.83AR* but have differences in voting rights, unless it has notified the *FSA* of its intention at least one month before the *shares* are

issued or (in the case of existing issued *shares*) the differences in voting rights take effect.

2.2.83C R A BIPRU firm must not pay a coupon on a tier one instrument included in stage A of the capital resources table if it has no distributable reserves.

2.2.83D G A BIPRU firm may disclose its dividend policy, provided that the policy only reflects the current intention of the firm and does not undermine the firm's right to choose the amount of any coupon that it pays.

Core tier one capital: exception to eligibility criteria (building societies only)

2.2.83E R A building society may include in stage A of the capital resources table a capital instrument that includes in its terms of issue an upper limit on the amount of any coupon that may be payable and the prohibition on a coupon limit under GENPRU 2.2.83AR(3) does not apply to that capital instrument, provided that:

- (1) the capital instrument satisfies all other conditions for eligibility as core tier one capital set out in GENPRU 2.2.83R to GENPRU 2.2.83AR;
- (2) the coupon limit has been imposed by law or the constitutional documents of the firm;
- (3) the objective of the limit is to protect the capital reserves of the firm;
- (4) the firm continues to have the effective right to choose the amount of any coupon that it pays;
- (5) all other capital instruments issued by the firm and included in stage A of the capital resources table:
 - (a) meet the conditions set out in GENPRU 2.2.83R(2), GENPRU 2.2.83R(3) and GENPRU 2.2.83AR (General conditions for eligibility of capital instruments as core tier one capital (BIPRU firm only)); and
 - (b) if subject to a coupon limit, are subject to the same coupon limit; and
- (6) any preferential coupon on a capital instrument included in stage A of the capital resources table, arising as a result of the inclusion of a coupon limit on another capital instrument, must be restricted to a fixed multiple of the coupon payment on the capital instrument that is subject to the coupon limit. GENPRU 2.2.83AR(2) to (3) do not prevent a capital instrument from being included in stage A of the capital resources table if the only reason for those prohibitions not being met is that a preferential coupon arises, and is restricted, in the manner referred to in this paragraph (6).

- 2.2.83F R *A building society must not issue a capital instrument that includes a coupon limit in its terms of issue in accordance with GENPRU 2.2.83ER unless it has notified the FSA of its intention to do so at least one month before the intended date of issue.*
- 2.2.83G G *Under GENPRU 2.2.83ER(4), an effective right means that in practice the firm has, and exercises, full discretion to choose the amount of coupon that it pays (for example, it has not fettered that discretion by indicating to instrument holders that the coupon limit is the standard level of coupon they will receive).*
- 2.2.83H G *The purpose of GENPRU 2.2.83ER(6) is to limit the potential preferential rights that may arise on capital instruments that are not subject to a coupon limit. The FSA considers that “preferential” refers to both priority of coupon payment and level of coupon payment. Therefore the FSA considers that:*
- (1) *a coupon arising on a capital instrument which is not subject to an explicit coupon limit within its terms of issue is likely to be preferential to a coupon on a capital instrument included in the same stage of capital which is subject to a coupon limit; and*
 - (2) *the preference so arising should be restricted so that it is not an unlimited preference.*

Core tier one capital: additional information

- 2.2.84 G *In the case of an insurer, GENPRU ~~2.2.83R~~ 2.2.83R(2) and GENPRU 2.2.83R(3) have* has the effect that the firm should be under no obligation to make any payment in respect of a tier one instrument if it is to form part of its permanent share capital unless and until the firm is wound up. A tier one instrument that forms part of permanent share capital should not therefore count as a liability before the firm is wound up. The fact that relevant company law permits the firm to make earlier repayment does not mean that the tier one instruments are not eligible. However, the firm should not be required by any contractual or other obligation arising out of the terms of that capital to repay permanent share capital. Similarly, a tier one instrument may still qualify if company law allows dividends to be paid on this capital, provided the firm is not contractually or otherwise obliged to pay them. There should therefore be no fixed costs. GENPRU 2.2.83AR to GENPRU 2.2.83FR impose more specific conditions on coupon payment and winding up which are applicable to BIPRU firms.
- 2.2.84A G *Under GENPRU 2.2.83AR(13) a tier one instrument does not meet the conditions for inclusion as core tier one capital if in isolation it does meet those requirements but fails to meet those requirements when other transactions are taken into account. Examples of those transactions include guarantees, pledges of assets or other side agreements provided by the firm to the holder of a tier one instrument designed to enhance the legal or economic seniority of the tier one instrument.*

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2.2.95 R A *BIPRU firm* that is a partnership or a *limited liability partnership* may not include *eligible partnership capital* or *eligible LLP members' capital* in its *tier one capital resources* unless (in addition to *GENPRU 2.2.62R* (General conditions relating to *tier one capital*) it complies with *GENPRU 2.2.83R(2)* (~~*Coupons*~~ Coupons should not be cumulative or mandatory) and *GENPRU 2.2.83AR* to *GENPRU 2.2.83CR* (General conditions for eligibility of capital instruments as core tier one capital (BIPRU firm only)). However, *GENPRU 2.2.64R(3)* (Redemption), *GENPRU 2.2.83AR(5)* (Capital repayment) and *GENPRU 2.2.83AR(12)* (Characteristics in contract) are ~~is~~ replaced by *GENPRU 2.2.93R* or *GENPRU 2.2.94R*.

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Schedule 2 Notification and reporting requirements

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3 Table

Handbook reference	Matter to be notified	Contents of notification	Trigger events	Time allowed
...
<i>GENPRU 2.2.79GR</i>
<u><i>GENPRU 2.2.83BR</i></u>	<u>Intention to include in stage A of the <i>capital resources table</i> different classes of the same <i>share</i> type that meet the conditions in <i>GENPRU 2.2.83R</i> and <i>GENPRU 2.2.83AR</i> but have differences in voting rights.</u>	<u>Fact of intention.</u>	<u>Intention to include in stage A of the <i>capital resources table</i> classes of the same <i>share</i> type that have different voting rights.</u>	<u>At least one month before the <i>shares</i> are issued or (in the case of existing issued <i>shares</i>) the differences in voting rights take effect.</u>
<u><i>GENPRU 2.2.83FR</i></u>	<u>Intention by a <i>building society</i> to issue a <i>capital instrument</i> that includes a <i>coupon limit</i> in</u>	<u>Fact of intention.</u>	<u>Intention to issue a <i>capital instrument</i> that includes a <i>coupon limit</i>.</u>	<u>At least one month before the intended date of issue.</u>

	<u>its terms of issuance in accordance with GENPRU 2.2.83ER.</u>			
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Annex B

Further amendments to the General Prudential sourcebook (GENPRU)

The amendments shown in this Annex are to the version of the General Prudential sourcebook (GENPRU) as amended by Annex B to the Capital Requirements Directive (Handbook Amendments) Instrument 2010 (FSA 2010/29) which comes into force, together with this Annex, on 31 December 2010.

Although the amendments in Annex B to the Capital Requirements Directive (Handbook Amendments) Instrument 2010 (FSA 2010/29) have not come into force as at the date of this instrument, they are not shown as underlined for the purpose of this Annex.

In this Annex, underlining indicates new text inserted into the version of the General Prudential Sourcebook amended in Annex B to the Capital Requirements Directive (Handbook Amendments) Instrument 2010 (FSA 2010/29) and striking through indicates text deleted from that version, unless otherwise stated.

2.2 Capital resources

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Table: Arrangement for GENPRU 2.2

2.2.6 G This table belongs to *GENPRU 2.2.5G*

Topic	Location of text
...	...
<i>Core tier one capital: permanent share capital</i>	<i>GENPRU 2.2.83R to GENPRU 2.2.84G <u>2.2.84AG</u></i>
<u>General conditions for eligibility of capital instruments as core tier one capital (BIPRU firm only)</u>	<u>GENPRU 2.2.83AR to GENPRU 2.2.83DG; GENPRU 2.2.84AG</u>
<u>Core tier one capital: exception to eligibility criteria (building societies only)</u>	<u>GENPRU 2.2.83ER to GENPRU 2.2.83HG</u>
...	...
Purchases of <i>tier one instruments: BIPRU firm only</i>	<i>GENPRU 2.2.79AR to GENPRU 2.2.79HG; GENPRU 2.2.79LG</i>
...	...

...

General conditions for eligibility as tier one capital

2.2.64 R The conditions that an item of capital of a *firm* must comply with under *GENPRU 2.2.62R(2)* are as follows:

...

(6) it is able to absorb losses to allow the *firm* to continue trading and:

...

(b) in the case of a *BIPRU firm*, it does not, through appropriate mechanisms, hinder the recapitalisation of the *firm*, and in particular it complies with:

(i) *GENPRU 2.2.80R to GENPRU 2.2.81R* (Loss absorption); ~~and~~

(ii) ~~in the case of hybrid capital, GENPRU 2.2.116R to GENPRU 2.2.118R (Other tier one capital: loss absorption);~~ in the case of core tier one capital, GENPRU 2.2.83AR(9) to (10) (General conditions for eligibility of capital instruments as core tier one capital (BIPRU firm only)); and

(iii) in the case of hybrid capital, GENPRU 2.2.116R to GENPRU 2.2.118R (Other tier one capital: loss absorption);

...

...

Purchases of tier one instruments: BIPRU firm only

2.2.79A R A *BIPRU firm* must not purchase a *tier one instrument* that it has included in its *tier one capital resources* unless:

(1) the *firm* initiates the purchase;

(2) ~~it is on or after the fifth anniversary of the date of issue of the instrument; and~~ [deleted]

(3) the *firm* has given notice to the *FSA* in accordance with *GENPRU 2.2.79GR*; and

(4) (in the case of hybrid capital) it is on or after the fifth anniversary of the date of issue of the instrument.

2.2.79B G In exceptional circumstances a *BIPRU firm* may apply for a *waiver* of

~~GENPRU 2.2.79AR(2)~~ GENPRU 2.2.79AR(4) under section 148 (Modification or waiver of rules) of the *Act*.

- 2.2.79C R ~~GENPRU 2.2.79AR(2)~~ GENPRU 2.2.79AR(4) does not apply if:
- (1) the *firm* replaces the *capital instrument* it intends to purchase with a *capital instrument* that is included in a *higher stage of capital* or the *same stage of capital*; and
 - (2) the replacement *capital instrument* has already been issued.

- 2.2.79D R ~~GENPRU 2.2.79AR(2)~~ GENPRU 2.2.79AR(4) does not apply if:
- (1) the *firm* intends to hold the purchased instrument for a temporary period as *market maker*; and
 - (2) the purchased instruments held by the *firm* do not exceed the lower of:
 - (a) 10% of the relevant issuance; and
 - (b) 3% of the *firm's* total issued *hybrid capital*.

...

- 2.2.79I R A *BIPRU firm* must not announce to the holders of a *tier one instrument* its intention to purchase that instrument unless it has notified that intention to the *FSA* in accordance with *GENPRU 2.2.79GR* and it has not, during the period of one month from the date of giving notice, received an objection from the *FSA*.

- 2.2.79J R If a *BIPRU firm* announces the purchase of any *tier one instrument*, the *firm* must no longer include that instrument in its *tier one capital resources*.

- 2.2.79K R If a *BIPRU firm* does not comply with its *capital resources requirement*, or if the purchase of any *tier one instrument* would cause it to breach its *capital resources requirement*, it must suspend the purchase of *tier one instruments*.

- 2.2.79L G A *firm* should continue to exclude from its *tier one capital resources* all *tier one instruments* that are the subject of a purchase notification under *GENPRU 2.2.79GR* and for which the offer to purchase has been declined by the instrument holders unless the purchase offer period has expired.

...

- 2.2.82 G There are additional loss absorption requirements for (in the case of an *insurer*) *innovative tier one capital*, and (in the case of a *BIPRU firm*) *hybrid capital* in *GENPRU 2.2.116R* to *GENPRU 2.2.118R* (Other tier one capital: loss absorption) and (in the case of a *BIPRU firm*) for *core tier one capital* in *GENPRU 2.2.83AR(9)* to *(10)* (General conditions for eligibility of capital instruments as core tier one capital (*BIPRU firm* only)).

...

After GENPRU TP 8A, insert the following new transitional provisions. The text is not underlined.

TP 8B Miscellaneous capital resources definitions for BIPRU firms: Core tier one capital

Application

8B.1 R This section applies to a *BIPRU firm*.

Core tier one capital

8B.2 R A provision in this section applies on a consolidated basis for the purposes of *BIPRU 8* (Group risk – consolidation) to a *UK consolidation group* to the extent that, and in the same manner that, the provision in *GENPRU* to which it relates applies on a consolidated basis.

8B.3 R The Royal Bank of Scotland plc may treat a *share* falling within *GENPRU* TP 8B.4R as eligible for inclusion within stage A of the *capital resources table* (Core tier one capital) if it would not otherwise be eligible provided that:

- (1) the *share*:
 - (a) had been issued on or before 30 December 2010; or
 - (b) if issued after that date, is issued pursuant to a contractual obligation requiring its issue entered into on or before 30 December 2010;
- (2) as at 30 December 2010 The Royal Bank of Scotland plc was entitled (or would have been entitled, had the *share* then been issued) to include it in the calculation of its *capital resources* under *GENPRU* as *permanent share capital* and, in the case of a *share* which had been issued as at that date, did so include it; and
- (3) the *share* is held by or on behalf of the Government of the *United Kingdom*.

8B.4 R The *shares* referred to in *GENPRU* TP 8B.3R are as follows:

- (1) The Royal Bank of Scotland Group plc Series 1 Class B Shares of 1p each; and
- (2) The Royal Bank of Scotland Group plc Series 1 Dividend Access Share of 1p;

either as separate instruments or considered together as connected

instruments

Voting rights

8B.5 R A *BIPRU firm* may treat an ordinary *share* that has different voting rights to other ordinary *shares* issued by the *firm* as eligible for inclusion within stage A of the *capital resources table* (Core tier one capital) without making a notification of issue or change in voting rights to the *FSA* under *GENPRU* 2.2.83BR if:

- (1) on 30 December 2010 the *firm* was subject to *GENPRU*;
- (2) the *firm* issued the ordinary *share* on or before 30 December 2010 and the shareholders were bound by the differences in voting rights on or before 30 December 2010; and
- (3) as at 30 December 2010 the *firm* included the ordinary *share*, and was entitled to include it, in the calculation of *capital resources* under *GENPRU* as *permanent share capital*;

provided that by 30 June 2011 the *firm* provides the *FSA* with full details of the ordinary *shares*, their terms of issue and the differences in voting rights applicable to those ordinary *shares*.

Annex C

Amendments to the Prudential sourcebook for Banks, Building Societies and Investment Firms (BIPRU)

In this Annex, underlining indicates new text and striking through indicates deleted text.

Part 1: Comes into force on 31 December 2010

6.5 Operational risk: Advanced measurement approaches

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6.5.30A G A firm that recognises the impact of insurance and operational risk mitigation techniques for the purposes of its *operational risk* measurement system should be able to show that it has considered the Commission of European Banking Supervisors' guidelines on operational risk mitigation techniques published in December 2009. This can be found at <http://www.c-ebs.org/documents/Publications/Standards---Guidelines/2009/Operational-risk-mitigation-techniques/Guidelines.aspx>.

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10.2 Identification of exposures and recognition of credit risk mitigation

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10.2.2A G The Committee of European Banking Supervisors (CEBS) has issued guidelines on the conditions applicable to the short-term *exposures* referred to in *BIPRU* 10.2.2R(4) and (5) in order to be exempted from the *large exposures* limits in *BIPRU* 10.5 (Limits on exposures). These guidelines can be found at: [http://www.c-ebs.org/Publications/Standards-Guidelines/CEBS-Guidelines-on-Article-106\(2\)-\(c\)-and-\(d\)-of-D.aspx](http://www.c-ebs.org/Publications/Standards-Guidelines/CEBS-Guidelines-on-Article-106(2)-(c)-and-(d)-of-D.aspx).

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10.3 Identification of counterparties

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Connected counterparties

10.3.8 R ...

10.3.8A G The Committee of European Banking Supervisors (CEBS) has issued guidelines in relation to the definition of a *group of connected clients*, in particular with reference to the concepts of “control” and “economic interconnection”. These guidelines can be found at: <http://www.c-ebs.org/Publications/Standards-Guidelines/CEBS-Guidelines-on-the-revised-large-exposures-reg.aspx> - Part I.

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Exposures to underlying assets

10.3.15 R ...

10.3.16 G The Committee of European Banking Supervisors (CEBS) has issued guidelines in relation to the treatment for *large exposures* purposes of schemes with *exposures* to underlying assets. These guidelines can be found at: <http://www.c-ebs.org/Publications/Standards-Guidelines/CEBS-Guidelines-on-the-revised-large-exposures-reg.aspx> - Part II.

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Part 2: Comes into force on 1 January 2011

3.4 Risk weights under the standardised approach to credit risk

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Exposures in the form of covered bonds

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3.4.107 R (1) *Covered bonds* means covered bonds as defined in paragraph (1) of the definition in the *glossary* (Definition based on Article 22(4) of the *UCITS Directive*) and collateralised by any of the following eligible assets:

...

(d) loans secured:

- (i) by residential real estate or shares in Finnish residential housing companies as referred to in *BIPRU* 3.4.57R up to the lesser of the principal amount of the liens that are combined with any prior liens and 80% of the value of the pledged properties; or
- (ii) by senior units issued by French Fonds Communs de Créances or by equivalent *securitisation* entities governed by the laws of an *EEA State securitising* residential real estate *exposures* provided that ~~at least 90% of the assets of such Fonds Communs de Créances or of equivalent *securitisation* entities governed by the laws of an *EEA State* are composed of mortgages that are combined with any prior liens up to the lesser of the principal amounts due under the units,~~

~~the principal amounts of the liens, and 80% of the value of the pledged properties and the units qualify for *credit quality step 1* where such units do not exceed 20% of the nominal amount of the outstanding issue~~ the special public supervision to protect bond holders as provided for in Article 52(4) of Directive 2009/65/EC of the European Parliament and of the Council ensures that the assets underlying such units must, at any time while they are included in the cover pool, be at least 90% composed of residential mortgages that are combined with any prior liens up to the lesser of the principal amounts due under the units, the principal amounts of the liens, and 80% of the value of the pledged properties, that the units qualify for *credit quality step 1* and that such units do not exceed 10% of the nominal amount of the outstanding issue; or

- (e) (i) loans secured by commercial real estate or shares in Finnish housing companies as referred to in *BIPRU* 3.4.57R up to the lesser of the principal amount of the liens that are combined with any prior liens and 60% of the value of the pledged properties; or
- (ii) ~~loans secured by senior units issued by French Fonds Communs de Créances or by equivalent *securitisation* entities governed by the laws of an *EEA State* securitising commercial real estate *exposures* provided that, at least, 90% of the assets of such Fonds Communs de Créances or of equivalent *securitisation* entities governed by the laws of an *EEA State* are composed of mortgages that are combined with any prior liens up to the lesser of the principal amounts due under the units, the principal amounts of the liens, and 60% of the value of the pledged properties and the units qualify for *credit quality step 1* where such units do not exceed 20% of the nominal amount of the outstanding issue~~ the special public supervision to protect bond holders as provided for in Article 52(4) of Directive 2009/65/EC of the European Parliament and of the Council ensures that the assets underlying such units must, at any time while they are included in the cover pool, be at least 90% composed of commercial mortgages that are combined with any prior liens up to the lesser of the principal amounts due under the units, the principal amounts of the liens, and 60% of the value of the pledged properties, that the units qualify for *credit quality step 1* and that such units do not exceed 10% of the nominal amount of the outstanding issue; or

(iii) ...

...

...

(4) ~~Until 31 December 2010 the 20% limit for senior units issued by French Fonds Communs de Créances or by equivalent *securitisation* entities specified in subpoints (d) and (e) does not apply, provided that those senior units have a credit assessment by a *nominated ECAI* which is the most favourable category of credit assessment made by the *ECAI* in respect of *covered bonds*. [deleted]~~

(4A) Until 31 December 2013, the 10% limit for senior units issued by French Fonds Communs de Créances or by equivalent *securitisation* entities as specified in (1)(d)(ii) and (1)(e)(ii) does not apply, provided that:

(a) the *securitised residential or commercial real estate exposures* were originated by a member of the same consolidated group of which the *issuer* of the *covered bonds* is also a member or by an entity affiliated to the same central body to which the *issuer* of the *covered bonds* is also affiliated (that common group membership or affiliation to be determined at the time the senior units are made collateral for *covered bonds*); and

(b) a member of the same consolidated group of which the *issuer* of the *covered bonds* is also a member or an entity affiliated to the same central body to which the *issuer* of the *covered bonds* is also affiliated retains the whole first loss tranche supporting those senior units.

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4.4 The IRB approach: Exposures to corporates, institutions and sovereigns

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IRB foundation approach: LGDs

4.4.34 R A *firm* must use the following *LGD* values:

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(4) *covered bonds* may be assigned an *LGD* value of ~~12.5%~~ 11.25%; and

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4.4.35 R ~~Until 31 December 2010, *covered bonds* as set out in BIPRU 3.4.107R to~~

~~*BIPRU 3.4.110R* may be assigned an *LGD* value of 11.25% if:~~

- ~~(1) assets set out in *BIPRU 3.4.107R(1)(a)* to *(c)* collateralising the *covered bonds* all qualify for *credit quality assessment step one* as set out in *BIPRU 3*;~~
- ~~(2) where assets set out in *BIPRU 3.4.107R(1)(d)* and *BIPRU 3.4.107R(1)(e)* are used as collateral, the respective upper limits laid down in each of those points is 10% of the nominal amount of the outstanding issue;~~
- ~~(3) assets as set out in *BIPRU 3.4.107R(1)(f)* are not used as collateral; or~~
- ~~(4) the *covered bonds* are the subject of a credit assessment by a *nominated ECAI*, and the *ECAI* places them in the most favourable category of credit assessment that the *ECAI* could make in respect of *covered bonds*. [deleted]~~

~~[Note: *BCD Annex VII Part 2 point 8 (part)*]~~

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Transitional Provisions

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TP 2 Capital floors for a firm using the IRB or AMA approaches

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Waiver from IPRU capital resources requirement

- 2.11A G Article 152(5d) and (5e) of the *Banking Consolidation Directive* allows the *FSA* to waive the capital floor calculation based on the *IPRU* capital resources requirement in *BIPRU TP 2.8R(3)*, or *BIPRU TP 2.8R(3)* as applied in *BIPRU TP 2.9R*, on a case-by-case basis only if a *firm* started to use the *IRB approach* or the *advanced measurement approach* on or after 1 January 2010. The *FSA* will consider an application for such a *waiver* in the light of the criteria in section 148 of the *Act* (Modification or waiver of rules).
- 2.11B R If a *firm* has a *waiver* referred to in *BIPRU TP 2.11AG*, it must provide *capital resources* that equal or exceed 80% of the *capital resources requirement* that the *firm* would be required to provide under the relevant sections of *BIPRU* applicable to it immediately before it started to use the *IRB approach* or the *advanced measurement approach* as those sections were in force on 31 December 2010.

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TP 11 IRB transitionals

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Residential properties

- 11.6 R In accordance with Article 154(5) of the *Banking Consolidation Directive*, until ~~31 December 2010~~ 31 December 2012, the *exposure*-weighted average *LGD* for all *retail exposures* secured by residential properties and not benefiting from guarantees from central governments must not be lower than 10%.

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