Ordinance on the Capital Adequacy and Risk Diversification of Banks and Securities Firms[1]

(Capital Adequacy Ordinance, CAO)

of 1 June 2012 (Status as of 1 January 2024)

The Swiss Federal Council,

based on Articles 3 paragraph 2 letter b, 3*g*, 4 paragraphs 2 and 4, 4[bis] paragraph 2, 10 paragraph 4 letter a and 56 of the Banking Act of 8 November 1934[2] (BankA) and on Articles 46 paragraph 3 and 72 of the Financial Institutions Act of 15 June 2018[3] (FinIA),[4]

ordains:

Title 1 General Provisions

Chapter 1 Purpose, Scope and Definitions

Art. 1 Principles

[1] To protect creditors and the stability of the financial system, banks and account-holding securities firms must mitigate their risks appropriately and hold adequate capital commensurate with their business activities and risks.[5]

[2] They shall provide capital backing for credit risks, market risks, non-counterparty risks and operational risks.

Art. 2 Subject matter

[1] This Ordinance governs:

a. eligible capital;

b. the risks to be backed with capital and the level of capital backing;

AS **2012** 5441

1 Amended by Annex 1 No II 10 of the Financial Institutions Ordinance of 6 Nov. 2019, in force since 1 Jan. 2020 (AS **2019** 4633).
2 SR **952.0**
3 SR **954.1**
4 Amended by Annex 1 No II 10 of the Financial Institutions Ordinance of 6 Nov. 2019, in force since 1 Jan. 2020 (AS **2019** 4633).
5 Amended by Annex 1 No II 10 of the Financial Institutions Ordinance of 6 Nov. 2019, in force since 1 Jan. 2020 (AS **2019** 4633).

c. risk diversification, i.e. the limits for risk concentrations and the treatment of intra-group exposures;

d. the special requirements for systemically important banks.

2 The Swiss Financial Market Supervisory Authority (FINMA) may issue technical implementing provisions.

Art. 3[6] Scope

This Ordinance applies to banks in accordance with the BankA and account-holding securities firms pursuant to the FinIA (hereinafter banks).

Art. 4 Definitions

In this Ordinance:

a. *regulated stock exchange* means an institution that is appropriately regulated and supervised according to internationally recognised standards whose purpose is to enable the simultaneous purchase and sale of securities among several securities firms[7] and that also ensures this by means of sufficient market liquidity;

b. *main index* means an index comprising all securities traded on a regulated stock exchange (total market index) or a selection of key securities on such an exchange, or an index comprising the key securities of various regulated stock exchanges;

c. *regulated entity* means an entity active in the financial sector that must comply with appropriate capital adequacy requirements, particularly with regard to business risks, and that is regulated according to internationally recognised standards and supervised by a banking, securities or insurance supervisory authority;

d. *equity security* means a security representing a financial interest in the share capital of an entity;

e. *equity instrument* means equity securities that qualify as Common Equity Tier 1 capital or additional Tier 1 capital, as well as debt instruments that qualify as additional Tier 1 capital or Tier 2 capital;

f. *corresponding deduction approach* means the corresponding deduction approach described in the Basel Committee's minimum standards;

g. *qualifying interest rate instrument* means an interest rate instrument that has:

1. a rating of between 1 and 4 from at least two recognised rating agencies,

6 Amended by Annex 1 No II 10 of the Financial Institutions Ordinance of 6 Nov. 2019, in force since 1 Jan. 2020 (AS **2019** 4633).

7 Term in accordance with Annex 1 No II 10 of the Financial Institutions Ordinance of 6 Nov. 2019, in force since 1 Jan. 2020 (AS **2019** 4633). This amendment has been made throughout the text.

2. a rating of between 1 and 4 from one recognised rating agency, provided it does not have a lower rating from another FINMA-recognised rating agency,
3. no rating from a recognised rating agency, but has a yield to maturity and residual maturity comparable to those of securities with a rating of between 1 and 4, provided that the issuer's securities are traded on a regulated stock exchange or on a market where at least three market makers independent of each other normally quote rates on a daily basis that are published regularly, or
4. no rating from a recognised rating agency (external rating), but has an internal bank rating (internal rating) corresponding to a rating of between 1 and 4, provided that the issuer's securities are traded on a regulated stock exchange or on a market where at least three market makers independent of each other normally quote rates on a daily basis that are published regularly;

h. *Basel minimum standards* means those documents of the Basel Committee on Banking Supervision (BCBS) that are relevant for calculating capital adequacy requirements.[8]

Art. 5 Trading book

[1] Banks may keep a trading book of exposures in financial instruments and commodities held with the intent to trade or to hedge other exposures.

[2] They may allocate exposures to the trading book only if:

a. they are unencumbered by contractual agreements regarding their tradability; or

b. they can be fully hedged at all times.

[3] An intent to trade exists if the bank intends to:

a. hold the exposures for the short term;

b. benefit from short-term fluctuations in market prices; or

c. realise arbitrage gains.

[4] The exposures must be valued frequently and accurately. The trading book must be actively managed.

Art. 6 Rating agencies

[1] FINMA may recognise a rating agency if:

a. its rating methodology and ratings are objective;

b. the agency and its rating procedure are independent;

c. it makes its ratings and the underlying information available;

[8] The current Basel minimum standards may be obtained from the Bank for International Settlements at Centralbahnplatz 2, 4002 Basel, or viewed online at www.bis.org/bcbs

d. it discloses its rating methodology, its code of conduct, the basis for its remuneration and the main characteristics of its ratings;

e. it has sufficient resources; and

f. the agency and its ratings are credible.

2 FINMA shall publish a list of recognised rating agencies.

3 If it finds that a recognised rating agency no longer meets the recognition requirements, it shall withdraw such recognition.

Chapter 2 Consolidation

Art. 7 Consolidation requirement

1 The capital adequacy and risk diversification requirements must be met not only at the level of the individual entity, but also at the level of the financial group and financial conglomerate (consolidation requirement).

2 Consolidation shall include all group companies operating in the financial sector as described in Article 4 in conjunction with Article 22 of the Banking Ordinance of 30 April 2014[9] (BankO), with the following exceptions:[10]

a. subject to Article 12, financial interests in the insurance sector shall be consolidated only within the framework of the risk diversification requirements;

b. there shall be no collective investment consolidation requirement concerning the management of collective investments on behalf of investors or the holding of the initial capital of investment companies.

3 If the bank holds equity instruments in an unconsolidated company in accordance with paragraph 2 letter a, these shall be subject to the corresponding deduction approach.

4 If the bank holds equity instruments in an unconsolidated company in accordance with paragraph 2 letter b, these shall be subject to the corresponding deduction approach without reference to a threshold.

Art. 8 Consolidation types and options available to the bank

1 Majority interests in companies subject to consolidation must be fully consolidated.

2 In the case of financial interests held jointly with a second shareholder or partner where each holds 50 per cent of the voting rights (joint ventures), the bank may choose full consolidation, proportionate consolidation or the corresponding deduction approach.

9 SR **952.02**

10 Amended by Annex 2 No 4 of the Banking Ordinance of 30 April 2014, in force since 1 Jan. 2015 (AS **2014** 1269).

3 In the case of minority interests of at least 20 per cent in companies subject to consolidation over which the bank exerts a controlling influence directly or indirectly with other shareholders, the bank may opt for proportionate consolidation or the corresponding deduction approach.

4 The corresponding deduction approach shall be applied for all other minority interests.

5 With proportionate consolidation, the eligible and required capital, as well as the risk concentrations, must be taken into account in proportion to the financial interest in question.

6 Financial interests accounted for using the corresponding deduction approach shall not be included in risk diversification.

7 The corresponding deduction approach under paragraphs 2 and 3 shall be applied without reference to a threshold

Art. 9 Alternative treatment with the consent of the audit firm

1 With the audit firm's consent, the following financial interests may be treated as exempt from the consolidation requirement:

a. financial interests in companies which, due to their size and business activities, are insignificant for compliance with the capital adequacy requirements;

b. significant group companies held for less than a year.

2 Financial interests conferring more than 50 per cent of the voting rights may exceptionally be consolidated on a proportionate basis with the audit firm's consent if it is contractually stipulated that:

a. the support for the company subject to consolidation is limited to the bank's proportionate share; and

b. the other shareholders or partners are obliged to provide support to the extent of their proportionate share and are legally and financially capable of fulfilling that obligation.

3 Financial interests that are exempt from the consolidation requirement in accordance with paragraph 1 shall be subject to the corresponding deduction approach without reference to a threshold

Art. 10 Special provisions

1 In special cases, FINMA may fully or partially exempt a bank from fulfilling the capital adequacy and risk diversification requirements at the level of the individual entity, in particular if the conditions under Article 17 of the BankO[11] are met.[12]

11 SR **952.02**

12 Amended by Annex 2 No 4 of the Banking Ordinance of 30 April 2014, in force since 1 Jan. 2015 (AS **2014** 1269).

2 In the context of the capital adequacy requirements to be met at the level of the financial group or financial conglomerate, FINMA may impose additional requirements regarding the adequate capitalisation of a company which is at the head of a financial group or financial conglomerate and which is not supervised as an individual entity.

3 In special cases, FINMA may permit a bank to consolidate group companies operating in the financial sector at the level of the individual entity (solo consolidation) due to their particularly close relationship with the bank.

Art. 11 Subordinate financial groups

1 The consolidation requirement shall apply to every financial group, even if a superordinate financial group or such a financial conglomerate is already supervised by FINMA.

2 FINMA may exempt a subordinate financial group from the consolidation requirement in special cases, particularly if:

a. its group companies operate exclusively in Switzerland; and

b. the superordinate financial group or such a financial conglomerate is itself subject to appropriate consolidated supervision by a financial market supervisory authority.

Art. 12 Captives for operational risks

Subject to approval by FINMA, group companies with the sole purpose of insuring intra-group operational risks may be fully consolidated at financial group level in the same way as group companies operating in the financial sector and, if appropriate, solo consolidation may be used (Art. 10 para. 3).

Art. 13 Financial interests outside the financial sector

The upper limits for qualified financial interests of a bank in a company outside the financial sector under Article 4 paragraph 4 of the BankA do not apply if:

a. such financial interests are acquired temporarily as part of a corporate restructuring or bail-out;

b. securities are acquired for the standard underwriting period; or

c. the difference between the carrying value and the upper limits applicable to these financial interests is fully backed by freely disposable eligible capital.

Chapter 3 Demonstration and Disclosure of Adequate Capital

Art. 14 Capital adequacy reporting

1 Banks shall provide quarterly evidence that they have adequate capital. FINMA shall determine what the capital adequacy reporting must include.

2 Capital adequacy reports on a consolidated basis must be submitted every six months.

3 The reports must be submitted to the Swiss National Bank within six weeks of the end of the quarter or half-year.

Art. 15 Calculation basis

When calculating the eligible and required capital for capital adequacy reporting, the bank shall rely on the financial statements prepared in accordance with the accounting standards prescribed by FINMA. FINMA shall regulate the exceptions to this principle.

Art. 16 Disclosure

1 The banks shall publish information in appropriate form on their risks and capital. The calculation of eligible capital must be derived from the financial statements in a comprehensible manner.

2 Private bankers who do not actively seek deposits from the public are exempt from this obligation.

3 FINMA shall issue technical implementing provisions. In particular, it shall define which information must be disclosed in addition to the annual financial statements or interim financial statements.

Chapter 4 Simplified Application

Art. 17

1 The banks may opt for simplified application of individual provisions of this Ordinance and of FINMA's technical implementing provisions that flesh them out if:

a. they thereby avoid disproportionate efforts;

b. they ensure risk management that is appropriate with regard to their business activities; and

c. the ratio of minimum capital to the bank's eligible capital is at least maintained as a result.

2 They shall ensure that these requirements are met and shall document the type of simplification.

Title 2 Eligible Capital and Additional Loss-Absorbing Capital[13]

Chapter 1 General

Art. 18 Capital components

[1] Eligible capital consists of core capital (Tier 1 capital; T1) and supplementary capital (Tier 2 capital; T2).

[2] Core capital is composed of Common Equity Tier 1 (CET1) capital and additional Tier 1 (AT1) capital.

Art. 19 Loss absorption

[1] The loss absorption principles for the capital components are as follows:

a. CET1 capital shall absorb losses ahead of AT1 capital;

b. AT1 capital shall absorb losses ahead of Tier 2 capital.

[2] If individual instruments of the same capital component (excluding CET1) are not to absorb losses in the same way, this must be specified in the articles of association or when the instrument is issued.

Art. 20 Common capital requirements

[1] Capital must be fully paid up or generated internally to the extent of its recognition.

[2] At the time of issuance, it may not:

a. be directly or indirectly financed by loans granted by the bank to third parties;

b. be offset against the bank's receivables;

c. be secured by bank assets.

[3] It must be subordinate to the senior claims of all other creditors in the event of liquidation, bankruptcy or restructuring.

[4] Capital instruments that provide for conditional conversion or write-off not only for the point of non-viability (Art. 29) shall be recognised as capital components in the same way as corresponds to their characteristics prior to conversion or write-down. This shall be without prejudice to:

a.[14] recognition to cover the capital buffer requirement under Article 43 paragraph 1 and Annex 8; as well as

b. the provisions for the convertible capital of systemically important banks pursuant to Title 5.

13 Amended by Annex No 2 of the O of 23 Nov. 2022, in force since 1 Jan. 2023 (AS **2022** 804).

14 Amended by No I of the O of 22 Nov. 2017, in force since 1 Jan. 2018 (AS **2017** 7625)

Chapter 2 Calculation
Section 1 Common Equity Tier 1 (CET1) Capital

Art. 21 Eligible elements

[1] The following shall be eligible as CET1 capital:

a. paid-up share capital;

b. disclosed reserves;

c. reserves for general banking risks after deduction of deferred taxes, where a corresponding provision has not been created;

d. retained earnings;

e.[15] the profit for the current business year after deducting the estimated earnings distribution, subject to the existence of a full income statement in accordance with FINMA's implementing provisions based on Article 42 of the BankO[16] that has been audited according to FINMA's guidelines or of a full income statement in accordance with an international standard recognised by FINMA that has been audited according to FINMA's guidelines.

[2] Minority interests in fully consolidated regulated entities shall be eligible to the extent that they are eligible in these entities themselves. Capital surpluses attributable to minorities, calculated on the basis of requirements that include capital buffers and additional capital, are not eligible.

Art. 22 Eligibility of share capital

[1] Share capital shall be eligible as CET1 capital if:

a. it meets the requirements set out in Article 20;

b. it was directly issued in accordance with the resolution or authorisation of the owners;

c. it does not constitute a liability for the company;

d. it is shown clearly and separately in the balance sheet in accordance with the applicable accounting standards;

e. it is perpetual and not subject to any provision to the contrary in the bank's articles of association or contractual obligations;

f. distributions to the owners are carried out from distributable reserves without any obligations or privileges; and

g. owners do not have any privileges or preferential claims to proceeds in the event of liquidation.

[2] Preferred stock and participation capital shall be eligible as CET1 if:

15 Amended by Annex 2 No 4 of the Banking Ordinance of 30 April 2014, in force since 1 Jan. 2015 (AS **2014** 1269).
16 SR **952.02**

a. they meet the criteria under paragraph 1;

b. they can be used as collateral in the same way as share capital in the form of CET1 capital; and

c. the issuer (as a company limited by shares) has not listed its ordinary shares on a regulated stock exchange.[17]

3 FINMA shall take account of the bank's legal form and the characteristics of its share capital when assessing whether the criteria under paragraph 1 and paragraph 2 letter b are met.

Art. 23 Types of share capital

1 Depending on a bank's legal form, the share capital shall consist of equity, nominal, cooperative or endowment capital and the limited-partner contribution in the case of banks in the form of partnerships (private bankers).

2 FINMA may issue technical implementing provisions on the regulatory recognition of banks' share capital.

Art. 24 Endowment capital of banks under public law

If cantonal legislation or the articles of association of banks under public law provide for a maturity date for their endowment capital, this capital may be recognised as CET1 capital if the maturity:

a. serves the purpose of being able to redefine the conditions; and

b. does not lead to the repayment of the endowment capital.

Art. 25 Capital contributions of private bankers

1 Private bankers may recognise capital contributions as CET1 capital if:

a. their amount is specified in the partnership agreement to be approved by FINMA;

b. they bear interest or entitle the contributor to a share in profits only if sufficient profit is available at the end of the financial year; and

c. they are liable for losses in the same way as a limited-partner contribution.

2 Capital contributions may be reduced only in a process that involves all partners with unlimited liability.

3 CET1 capital may be decreased by a reduction in capital contributions only to the extent that the remaining capital meets the requirements under Article 41.

17 Amended by Annex 2 No 4 of the Banking Ordinance of 30 April 2014, in force since 1 Jan. 2015 (AS **2014** 1269).

Art. 26 Cooperative capital

[1] If the articles of association provide for the redemption of cooperative capital share certificates, the cooperative capital may be recognised as CET1 capital if the articles of association specify that the redemption:

a. may be rejected by the governing bodies at any time without giving reasons; and

b. is carried out only to the extent that the bank's remaining capital meets the requirements under Article 41.

[2] A restriction on the claim to the liquidation proceeds must:

a. affect all share certificate holders equally; and

b. be provided for in the articles of association.

[3] A share in the liquidation proceeds may be foregone only in favour of:

a. a public or tax-exempt private institution; or

b.[18] a central organisation within the meaning of Article 17 of the BankO[19] if the bank to be liquidated belongs to this central organisation.

[4] Articles of association may not guarantee distributions for holders of share certificates, even if they set a ceiling.

Section 2 Additional Tier 1 (AT1) Capital

Art. 27 Eligibility

[1] A capital instrument shall be eligible as AT1 capital if:

a. it meets the requirements under Articles 20 and 29;

b. it is open-ended and, at the time of issuance, the bank does not raise expectations of repayment or the corresponding approval of the supervisory authority;

c. the bank is entitled to repay the capital no earlier than five years after issuance;

d. the bank indicates at the time of issuance that the supervisory authority will consent to repayment only if:

1. the remaining capital continues to meet the requirements under Article 41, or

2. sufficient capital that is at least equivalent is issued to replace it;

e. it does not have any characteristics which would in any way complicate an increase in the bank's share capital;

18 Amended by Annex 2 No 4 of the Banking Ordinance of 30 April 2014, in force since 1 Jan. 2015 (AS **2014** 1269).

19 SR **952.02**

f. distributions by the bank to the capital providers are made solely on a discretionary basis and only if distributable reserves are available; and

g. it is excluded that distributions to the capital providers may be increased during the term as a result of issuer-specific credit risk.

2 Equity securities shall be eligible as AT1 capital if they meet the criteria under paragraph 1.

3 Liabilities that meet the criteria under paragraph 1 shall be eligible as AT1 capital if, in the event of a contractually defined event (trigger) occurring, but no later than when CET1 capital falls below 5.125 per cent, they cease to exist by virtue of:

a. a write-down; or

b. conversion to CET1 capital.

4 The terms and conditions of issue of a conditional write-off capital instrument may grant the capital provider a deferred conditional right to participate in an improvement in the bank's financial situation. This may not substantially impair the strengthening of the bank's capital base at the time of the write-down.

5 Before a capital instrument is issued, FINMA shall approve:

a. the contractually defined trigger event under paragraph 3; and

b. the extent to which a right to participate in an improvement under paragraph 4 is permissible.

6 Article 21 paragraph 2 concerning the eligibility of minority interests in fully consolidated regulated entities applies by analogy.

Art. 28 Availability in the financial group

AT1 capital issued by a non-operating special purpose entity shall be recognised on a consolidated basis if it is directly and unrestrictedly transferred in the same or higher quality to the group parent company or an operating entity of the bank.

Art. 29 Point of non-viability (PONV)

1 The terms and conditions of issue or the articles of association must make provision for AT1 capital to contribute to the bank's restructuring by means of a complete write-off or conversion at the point of non-viability. In this case, creditors' claims must be written off in full.

2 The conversion to CET1 capital or the write-down must take place at the latest:

a. before recourse to public sector assistance; or

b. when FINMA orders this to avoid insolvency.

3 In the case of equity securities that are recognised as AT1 capital and do not have a loss absorption mechanism in accordance with paragraph 1, the contract or the articles of association must make provision for the irrevocable waiver of any privileges with respect to the share capital that qualifies as CET1 capital at the point of non-viability.

Section 3 Supplementary (Tier 2) Capital

Art. 30 Eligibility

[1] A capital instrument shall be eligible as Tier 2 capital if:

a. it meets the requirements under Article 20 and Article 29 paragraphs 1 and 2;

b. it has an original maturity of at least five years and the terms and conditions of issue do not contain any repayment incentives for the bank;

c. the bank is entitled to repay the capital no earlier than five years after issuance;

d. the bank indicates at the time of issuance that the supervisory authority will consent to early repayment only if:

1. the remaining capital continues to meet the requirements under Article 41, or

2. sufficient capital that is at least equivalent is issued to replace it; and

e. it is excluded that distributions to the capital providers may be increased during the term as a result of issuer-specific credit risk.

[2] In the last five years prior to final maturity, the recognition of Tier 2 capital instruments shall decrease by 20 per cent of the nominal amount each year. They shall not be recognised at all in the last year.

[3] Article 21 paragraph 2, Article 28 and Article 29 paragraphs 1 and 2 apply by analogy.

[4] FINMA shall define in technical implementing provisions the criteria for the recognition of additional Tier 2 capital components, in particular:

a. banks under public law;

b. the capital contributions made by partners with unlimited liability to private bankers which do not meet the criteria under Article 25; and

c. hidden reserves.

Section 4 Adjustments

Art. 31 General

[1] The adjustments to eligible capital shall be calculated in the same manner for both individual entities and consolidated financial groups.

[2] The carrying value shall be the relevant amount for an adjustment. Anticipated taxation effects may be taken into account to reduce the adjustment only if:

a. the tax liability expires automatically together with the corresponding item; or

b. this is expressly provided for in this Ordinance or in FINMA's technical implementing provisions.

3 FINMA's technical implementing provisions may provide for adjustments for banks that prepare their financial statements in accordance with internationally recognised accounting standards.

Art. 31*a*[20] Changes in the fair value of own liabilities as a result of a change in the bank's credit risk

1 When calculating CET1 capital, all unrealised gains and losses on own liabilities that are attributable to fair value changes caused by changes in the bank's credit risk must be neutralised.

2 In addition, all valuation adjustments concerning derivative liabilities that arise from the bank's own credit risk must be neutralised.

3 Valuation adjustments arising from the bank's own credit risk may not be netted against valuation adjustments arising from counterparties' credit risk.

Art. 32 Deductions from CET1 capital

The following must be deducted in full from CET1 capital:

a. any loss carried forward and the loss for the current financial year;

b. any uncovered valuation adjustment and provisioning requirements for the current financial year;

c. goodwill, including any goodwill included in the valuation of significant interests in financial sector entities outside the scope of consolidation, and intangible assets other than mortgage servicing rights (MSR);

d. deferred tax assets (DTAs) that depend on future profitability, whereby offsetting against corresponding deferred tax liabilities within the same geographical and material tax jurisdiction is permitted, with the exception of DTAs due to temporary differences;

e. for banks using the IRB approach[21] (Art. 77), the amount by which the expected losses calculated using this approach exceed the value adjustments according to the Basel minimum standards;

f. any gain on sale related to securitisation transactions;

g. defined benefit pension fund assets recognised on the balance sheet in accordance with the relevant requirements of the Basel minimum standards;

h. the net long positions under Article 52 in own equity securities that are part of CET1 capital, held directly or indirectly by the bank, both on and off the trading book, provided that they have not already been recognised in the income statement;

20 Inserted by Annex 2 No 4 of the Banking Ordinance of 30 April 2014, in force since 1 Jan. 2015 (AS **2014** 1269).
21 Internal ratings-based approach.

i. qualified financial interests in the capital of another financial sector entity, where such entity also has a stake in the capital of the bank (reciprocal cross-holdings);

j.[22] in the context of the individual entity calculation, if FINMA does not permit risk weighting in accordance with sections 1.6 or 1.7 of Annex 4: the net long positions of the directly held financial interests in financial sector entities subject to consolidated reporting, calculated in accordance with Article 52;

k. deductions resulting from a deduction option chosen by the bank within the framework of the consolidation provisions under Article 7 paragraph 4, Article 8 paragraphs 2 and 3 and Article 9 paragraphs 1 and 3.

Art. 33 Corresponding deduction approach

1 If the bank holds equity instruments of a financial sector entity, the deductions shall be made using the corresponding deduction approach. The value of these instruments shall be deducted from the bank's capital component that corresponds to the component at the level of the third-party entity.

1bis Bail-in bonds issued by internationally active systemically important banks in accordance with Article 126*a* paragraph 1 or corresponding regulations in foreign jurisdictions shall be treated as Tier 2 capital instruments for the requirements of this section.[23]

2 If the bank does not hold any capital for the deduction in the corresponding eligible capital component, or if such capital is insufficient, the deduction shall be made from the next higher capital component.

Art. 34 Deductions of positions in own equity instruments outside CET1 capital

1 The bank's own direct or indirect net long positions in AT1 capital and Tier 2 capital instruments, calculated in accordance with Article 52, must be deducted using the corresponding deduction approach.

2 With the corresponding deduction approach in accordance with paragraph 1 for Tier 2 capital instruments, the restricted recognition under Article 30 paragraph 2 (amortisation) shall not apply to securities of the same issue, and nominal values may be netted against each other.

Art. 35 Threshold deductions

1 In the case of threshold deductions, the amount that exceeds the threshold shall be deducted. To determine the threshold, a bank's positions are to be measured against a predefined percentage of its own CET1 capital in accordance with the requirements of the Basel minimum standards.

22 Amended by No I of the O of 21 Nov. 2018, in force since 1 Jan. 2019 (AS **2018** 5241).
23 Inserted by No I of the O of 21 Nov. 2018 (AS **2018** 5241). Amended by No I of the O of 27 Nov. 2019, in force since 1 Jan. 2020 (AS **2019** 4623).

2 Threshold 1 shall amount to 10 per cent of CET1 capital after all adjustments under Article 31 paragraph 3 and Article 32 letters a to i and k.

3 Threshold 2 shall amount to 10 per cent of CET1 capital after all adjustments under Article 31 paragraph 3 and Article 32, including any deductions from CET1 capital as a result of the threshold 1 calculation (in accordance with Art. 37 paras. 1 and 2).

4 Threshold 3 shall be determined such that, after the application of all regulatory adjustments, including any deductions at this threshold level in accordance with Article 40 paragraph 1, the amount of the three positions that remains recognised does not exceed 15 per cent of CET1 capital.[24]

Art. 36 Applicable deduction approach for equity instruments

1 Whether the deduction approach under Article 37 or that under Article 38 applies to a bank's equity holdings in a financial sector entity shall depend on the percentage of direct or indirect equity securities holdings in such an entity calculated in accordance with Article 52, as well as other forms of investment in such securities which synthetically embody the same risk (securities held).[25]

2 Equity instruments which the bank holds in the form of AT1 capital or Tier 2 capital in companies whose equity securities must be deducted in full from CET1 capital in accordance with Article 32 letters i to k shall be subject to the procedure under Article 38 paragraph 1.

Art. 37 Equity securities in financial sector entities up to 10 per cent

1 A bank that holds no more than 10 per cent equity securities in a financial sector entity in the form of CET1 capital shall deduct from its own capital components the total carrying value of all equity instruments held in all such financial sector entities that exceeds threshold 1. This shall apply even if the bank only holds equity instruments in a financial sector entity that do not constitute CET1 capital.[26]

2 When applying the corresponding deduction approach, the amount to be deducted under paragraph 1 shall be in proportion to the equity instruments held by the bank in the relevant financial sector entities before the deduction.

2bis In addition to the threshold 1 limit under paragraph 1, a bank may hold bail-in bonds in accordance with Article 33 paragraph 1bis up to 5 per cent of CET1 capital without deducting them from its own capital components. FINMA may issue corresponding implementing provisions.[27]

3 The portion of the aggregate carrying values under paragraph 1 that is below the threshold shall be risk-weighted. The risk weight for each capital component shall be based on its allocation to the banking and trading book before the deduction.

24 Amended by Annex 2 No 4 of the Banking Ordinance of 30 April 2014, in force since 1 Jan. 2015 (AS **2014** 1269).
25 Amended by Annex 2 No 4 of the Banking Ordinance of 30 April 2014, in force since 1 Jan. 2015 (AS **2014** 1269).
26 Amended by Annex 2 No 4 of the Banking Ordinance of 30 April 2014, in force since 1 Jan. 2015 (AS **2014** 1269).
27 Inserted by No I of the O of 27 Nov. 2019, in force since 1 Jan. 2020 (AS **2019** 4623).

Art. 38 Equity securities in financial sector entities over 10 per cent

1 A bank that holds more than 10 per cent equity securities in a financial sector entity in the form of CET1 capital shall apply the corresponding deduction approach to all AT1 capital and Tier 2 capital instruments of such entities without a threshold. The corresponding deduction approach without thresholds shall also apply to bail-in bonds of internationally active systemically important banks under Article 33 paragraph 1bis.[28]

2 It must deduct from its CET1 capital the amount by which the total carrying value of all directly or indirectly held shares in the CET1 capital of such entities outside the scope of consolidation exceeds threshold 2, both at the level of the individual entity and on a consolidated basis.

3 The amount calculated in accordance with paragraph 2 that is below the threshold shall be treated in accordance with Article 40.

Art. 39 Further threshold 2 deductions

1 The bank must separately deduct from its CET1 capital the following amounts that exceed threshold 2:

a. mortgage servicing rights; and

b. deferred tax assets (DTAs) due to temporary differences.

2 Amounts below the threshold shall be treated in accordance with Article 40.

Art. 40 Threshold 3 deductions

1 The carrying values resulting from the calculations under Article 38 paragraphs 2 and 3 and Article 39 that are below threshold 2 shall be aggregated and measured against threshold 3. The bank must deduct the amount that exceeds threshold 3 from its CET1 capital.

2 The bank shall apply a risk weight of 250 per cent to each amount below threshold 3.

Chapter 3[29]
Additional Loss-Absorbing Funds for Cantonal Banks

Art. 40*a*

1 Cantonal banks may issue bail-in bonds in accordance with Article 30*b* paragraph 6 of the BankA.

28 Amended by No I of the O of 27 Nov. 2019, in force since 1 Jan. 2020 (AS **2019** 4623).
29 Inserted by Annex No 2 of the O of 23 Nov. 2022, in force since 1 Jan. 2023 (AS **2022** 804).

2 These bail-in bonds must meet the requirements of Article 126*a*, as well as make provision for the following issuance conditions:

a. The level of compensation is based on the amount by which the receivable is reduced. It should take account of interest accrued and written off, as well as the interest payable on the corresponding amount up to final maturity of the receivable.

b. The obligation to pay compensation shall apply for a limited period of time. The duration and mechanism for payment must take account of the resolution concept and the level of compensation; the duration shall be at least ten years.

c. The cantonal bank:

1. may pay compensation only if it meets the regulatory requirements after making the payment,

2. must pay compensation if it meets the criteria in paragraph 1 and:
   - has a defined capital buffer or
   - if it distributes funds to the canton in order to cover the latter's costs for refinancing the capital it has used in the resolution.

3 Before the issuance of debt instruments in accordance with this Article, the cantonal bank must submit the issuance conditions, as well as a resolution concept that has been drawn up jointly with the canton, to FINMA for approval. In particular, the resolution concept must provide details of:

a. the mechanism for paying out the subsequent compensation, including the form, terms and legal feasibility;

b. the extent to which a write-down of debt instruments as part of the resolution is feasible and complies with the legal requirements, in particular those of Article 30*c* paragraph 1 letter b of the BankA;

c. the parameters for any participation by the canton in the resolution of the cantonal bank.

4 Debt instruments in accordance with this Article may be issued only in minimum denominations of CHF 100,000.

Title 3 Required Capital

Chapter 1 General

Art. 41 Composition

Required capital shall be composed of the following:

a. minimum capital;

b. the capital buffer;

c.[30] the countercyclical buffer;

30 Amended by No I of the O of 11 May 2016, in force since 1 July 2016 (AS **2016** 1725).

c^bis.[31] the countercyclical buffer add-on; and

d. additional capital.

Art. 42 Minimum capital

[1] After the deductions in accordance with Articles 31 to 40, banks must hold total capital representing 8.0 per cent of the risk-weighted exposures as minimum capital. At least 4.5 per cent of the risk-weighted exposures must be backed by CET1 capital and at least 6.0 per cent by Tier 1 capital.[32]

[2] The risk-weighted exposures shall be composed of:

a. the exposures weighted according to their credit risk (Art. 49) and the weighted exposures from unsettled transactions (Art. 76);

b. the non-counterparty risks weighted in accordance with Article 79;

c. the minimum capital requirement for market risk (Arts. 80 to 88) multiplied by a factor of 12.5;

d. the minimum capital requirement for operational risk (Arts. 89 to 94) multiplied by a factor of 12.5;

e. the minimum capital requirement for risks arising from guarantee commitments to central counterparties (Art. 70) multiplied by a factor of 12.5;

f. the minimum capital requirement for the credit valuation adjustment risk due to the counterparty credit risk of derivatives (Art. 55) multiplied by a factor of 12.5.

[3] A bank must inform FINMA and its audit firm as soon as its capital falls below the minimum required under paragraph 1.

[4] A bank that holds less than the minimum capital required under paragraphs 1 and 2 shall be deemed non-compliant with the capital adequacy requirements within the meaning of Article 25 paragraph 1 of the BankA.

Art. 43 Capital buffer

[1] In addition to the minimum capital, banks shall permanently maintain a capital buffer representing the amount of the total capital ratio in accordance with the requirements of Annex 8. The more stringent special requirements for systemically important banks under Title 5 remain reserved.[33]

[2] Banks whose capital buffer temporarily falls below the requirements due to exceptional, unforeseeable circumstances such as a crisis in the international or Swiss financial system shall not be deemed to be non-compliant with the capital adequacy requirements.

31 Inserted by No I of the O of 11 May 2016, in force since 1 July 2016 (AS **2016** 1725).
32 Amended by No I of the O of 11 May 2016, in force since 1 July 2016 (AS **2016** 1725).
33 Amended by No I of the O of 11 May 2016, in force since 1 July 2016 (AS **2016** 1725).

3 In the event of a shortfall, FINMA shall set a bank-specific deadline for restoring the capital buffer.

Art. 44 Countercyclical buffer

1 The Swiss National Bank may request the Federal Council to oblige banks to hold a countercyclical capital buffer in the form of CET1 capital of a maximum of 2.5 per cent of their risk-weighted exposures in Switzerland if this is necessary to:

a. strengthen the banking sector's resilience to the risks of excessive credit growth; or

b. counteract excessive credit growth.

2 The Swiss National Bank shall consult FINMA before submitting the request and simultaneously inform the Federal Department of Finance. If the Federal Council approves the request, this Ordinance shall be supplemented with a corresponding Annex 7.[34]

3 The countercyclical buffer may be restricted to certain credit exposures. It shall be removed or adjusted in line with the changed circumstances if the criteria for its imposition no longer apply. The procedure shall be based on paragraphs 1 and 2.

4 Article 43 paragraphs 2 and 3 shall apply by analogy to the countercyclical buffer.

Art. 44*a*[35] Countercyclical buffer add-on

1 Banks with total assets of at least CHF 250 billion including total foreign exposure of at least CHF 10 billion, or with a total foreign exposure of at least CHF 25 billion, shall be obliged to hold a countercyclical buffer add-on in the form of CET1 capital.

2 For such banks, the level of the countercyclical buffer add-on shall correspond to the weighted average level of the countercyclical buffers which, according to the list published by the Basel Committee, apply in the member countries where a bank's relevant private sector claims are located, but it shall not exceed 2.5 per cent of the risk-weighted exposures. Claims *vis-à-vis* banks and the public sector shall not be deemed to be private sector claims.

3 The weighting of the ratios for each member country shall correspond to the total capital requirement for credit exposures to the private sector in that country, divided by the bank's total capital requirement for credit exposures to the private sector.

4 The relevant level of the countercyclical buffer add-on for Switzerland shall correspond to the countercyclical buffer stipulated for all exposures in accordance with Article 44. A buffer under Article 44 is eligible to be recognised for the countercyclical buffer add-on.

34 Second sentence amended by No I of the O of 26 Jan. 2022, in force since 30 Sept. 2022 (AS **2022** 53).
35 Inserted by No I of the O of 11 May 2016, in force since 1 July 2016 (AS **2016** 1725).

5 A countercyclical buffer restricted to certain credit exposures in accordance with Article 44 paragraph 3 shall not be recognised for the countercyclical buffer add-on.

6 Article 43 paragraphs 2 and 3 apply by analogy.

Art. 45[36] Additional capital

In special circumstances, FINMA may require certain banks to hold additional capital if the minimum capital under Article 42 and the capital buffer under Article 43 do not provide sufficient security, particularly in relation to:

a. their business activities;

b. their risk exposures;

c. their business strategy;

d. the quality of risk management; or

e. the state of the art of the techniques used.

Art. 46[37] Leverage ratio

1 After the deductions in accordance with Articles 31 to 40, banks must hold Tier 1 capital amounting to 3 per cent of the unweighted exposures (total exposure).

2 The total exposure shall be the denominator of the leverage ratio calculated in accordance with the requirements of the Basel minimum standards. FINMA shall issue technical implementing provisions based on the Basel Committee's minimum standards.

Art. 47 Parallel calculations when using model-based approaches

For banks that determine their required capital using model-based approaches that are subject to approval (IRB, EPE modelling method[38], market risk model approach or AMA[39]), FINMA may require a parallel calculation of the required capital using a standardised approach that it deems appropriate.

36 Amended by No I of the O of 11 May 2016, in force since 1 July 2016 (AS **2016** 1725).
37 Amended by No I of the O of 22 Nov. 2017, in force since 1 Jan. 2018 (AS **2017** 7625).
38 Expected positive exposure modelling method.
39 Advanced measurement approach.

Chapter 1*a*[40]
Simplifications for Particularly Liquid and Well-Capitalised Banks in Categories 4 and 5

Art. 47*a* Simplifications

Banks in categories 4 and 5 under Annex 3 to the BankO[41] may apply to FINMA to be exempted from compliance with the provisions on required capital under Articles 41 to 46.

Art. 47*b* Prerequisites

[1] Banks in categories 4 and 5 may take advantage of the simplifications if they meet the following prerequisites at all times at the level of both the individual entity and the financial group:

a. The required capital corresponds to a simplified leverage ratio of at least 8 per cent.

b. The average liquidity ratio is at least 110 per cent.

c. The refinancing ratio is at least 100 per cent.

[2] The simplified leverage ratio is the quotient of:

a. Tier 1 capital; and

b. the sum of all balance sheet assets, less goodwill and financial interests, plus all off-balance sheet items.

[3] The average liquidity ratio is the quotient of:

a. the average of the last twelve month-end holdings of high-quality liquid assets (HQLA) in accordance with Article 15 of the Liquidity Ordinance of 30 November 2012[42] (LiqO); and

b. the average value for the last twelve months of the net cash outflow at month-end in accordance with Article 16 of the LiqO which can be expected over a 30-day horizon under the stress scenario for the liquidity coverage ratio (LCR).

[4] The refinancing ratio is the quotient of:

a. the sum of amounts due in respect of client deposits, medium-term notes, bonds with a residual maturity of more than one year, mortgage bond loans with a residual maturity of more than one year and net assets/equity; and

b. claims against customers and mortgage claims.

[5] FINMA may issue technical implementing provisions concerning paragraphs 2 to 4.

40 Inserted by No I of the O of 27 Nov. 2019, in force since 1 Jan. 2020 (AS **2019** 4623).
41 SR **952.02**
42 SR **952.06**

Art. 47*c* Rejection of application

FINMA may reject the application for simplifications if:

a. the prerequisites under Articles 47*a* and 47*b* are not met;

b. it has taken supervisory measures against the bank in question, proceedings have been initiated under Article 30 of the Financial Market Supervision Act of 22 June 2007[43] (FINMASA) or the bank has not taken measures to restore compliance in accordance with Article 31 of the FINMASA in the following areas:

   1. the code of conduct under the Financial Services Act of 15 June 2018[44],
   2. market rules of conduct under the Financial Market Infrastructure Act of 19 June 2015[45],
   3. anti-money laundering and terrorist financing under the Anti-Money Laundering Act of 10 October 1997[46],
   4. cross-border transactions;

c. interest rate risk management is insufficient or the interest rate risk is disproportionately high in relation to Tier 1 capital, net interest income or risk-bearing capacity, taking all risks into account.

Art. 47*d* Prerequisites no longer met

1 Banks that no longer meet the prerequisites under Article 47*b* must notify FINMA immediately.

2 If FINMA finds that a bank is no longer in category 4 or 5 or that there is a reason for rejection in accordance with Article 47*c*, it shall inform the bank accordingly.

3 In the event of notifications in accordance with paragraphs 1 and 2, FINMA shall grant the bank a deadline for restoring compliance with the prerequisites. This deadline shall generally be one year, but it may be shortened or extended in justified individual cases. If the prerequisites are not met at the end of this period, the simplifications under Article 47*a* may no longer be availed of.

Art. 47*e* Waiver of simplifications

Banks that no longer wish to avail themselves of the simplifications under Article 47*a* shall notify FINMA and the audit firm accordingly.

43 SR **956.1**
44 SR **950.1**
45 SR **958.1**
46 SR **955.0**

Chapter 2 Credit Risk
Section 1 General

Art. 48 Definition

[1] In the context of the calculation of required capital, credit risk refers to the risk of loss resulting from:

a. a counterparty's failure to meet its contractual obligations; or

b. a reduction in the value of financial instruments issued by a third party, namely equity securities, interest rate instruments or units of collective investment schemes.

[2] In the case of derivatives, repo and repo-like transactions, counterparty credit risk means the credit risk *vis-à-vis* the counterparty, and not the credit risk of the financial instruments underlying the transactions.[47]

Art. 49 Risk-weighted exposures

[1] Exposures shall be risk-weighted if they carry a credit risk and no deduction from capital is provided for under Articles 31 to 40.

[2] The following shall be deemed to be exposures:

a. receivables, including claims arising from guarantee credits not recognised under assets;

b. claims in connection with securitisations;

c. other off-balance sheet transactions converted into their credit equivalent;

d. net exposures in equity securities and interest rate instruments not in the trading book;

e. net exposures in equity securities and interest rate instruments in the trading book, provided the de minimis approach (Art. 82 para. 1 lit. a) is applied;

f. net exposures in own securities and qualified participations in the trading book.

[3] Any exposure to a group of affiliated counterparties as described in Article 109 that is not broken down by counterparty shall be risk-weighted according to the highest of the risk weights assigned to the individual counterparties in the group.

Art. 50 Approaches

[1] One of the following approaches shall be used to calculate the minimum capital requirement for credit risk in accordance with Article 42 paragraph 2 letter a:

a. the BIS SA[48] (Arts. 63-75); or

b. the IRB (Art. 77).

47 Inserted by No I of the O of 22 Nov. 2017, in force since 1 Jan. 2019 (AS **2017** 7625).
48 International standardised approach.

2 The IRB and BIS SA may be combined.

3 Use of the IRB requires approval from FINMA, which shall define the approval criteria.

4 FINMA shall issue technical implementing provisions on credit risks and securitisations.

Section 2 Calculation of Exposures

Art. 51 Net exposures

1 Net exposures shall be calculated as follows:

	physical holdings plus securities lending claims minus securities borrowing commitments
+	unsettled spot and forward purchases (including financial futures and swaps)
./.	unsettled spot and forward sales (including financial futures and swaps)
+	firm commitments to underwrite securities less sub-participations and firm subscriptions, provided these eliminate the bank's price risk
+	exercise rights from purchased calls, delta-weighted
./.	delivery obligations from written calls, delta-weighted
+	underwriting obligations from written puts, delta-weighted
./.	exercise rights from purchased puts, delta-weighted

2 Amounts for individual value adjustments and provisions recognised as liabilities shall be deducted from net exposures.

3 Positive net exposures shall be referred to as net long positions, and the absolute amounts of negative net exposures shall be referred to as net short positions.

Art. 52 Net exposures for equity instruments of companies active in the financial sector

1 The net exposures for equity instruments of companies active in the financial sector shall be calculated as follows, taking into account the additional requirements set out in paragraphs 2 and 3:

	physical holdings plus synthetic positions, as well as securities lending claims minus securities borrowing commitments
+	unsettled spot and forward purchases (including financial futures and swaps)
./.	unsettled spot and forward sales (including financial futures and swaps)
./.	underwriting positions held for five business days or less
+	exercise rights from purchased calls, delta-weighted
./.	delivery obligations from written calls, delta-weighted

+ underwriting obligations from written puts, delta-weighted

./. exercise rights from purchased puts, delta-weighted

2 In the case of direct holdings of instruments that are equity instruments or through which equity instruments are held indirectly or synthetically, other than own equity instruments, long and short positions in equity instruments may be netted only if:[49]

a. the long and short positions relate to the same equity instrument; and

b. the maturity of the short position either matches the maturity of the long position or has a residual maturity of at least one year.

3 In the case of own equity instruments, the following net exposures must be determined for each component (CET1, AT1 and T2) and deducted from the corresponding component in accordance with Articles 32 to 34:

a. net exposures in own equity instruments held directly or synthetically, whereby long and short positions may be netted only if they relate to the same equity instrument and the short position does not involve counterparty risk;

b. net exposures in own equity instruments held indirectly via a financial instrument such as an index or an option on an index, whereby long and short positions may be netted only if they relate to the same underlying instrument; the short position's counterparty risk must have capital backing.

Art. 53 Exposures in off-balance sheet transactions

1 Off-balance sheet transactions shall be converted into a credit equivalent using credit conversion factors. This shall constitute the risk-weighted exposure.

2 Banks using the IRB approach shall calculate the credit equivalent for contingent funding obligations and irrevocable commitments in accordance with the BIS SA rules where the IRB does not contain a corresponding provision.

Art. 54 Contingent funding obligations and irrevocable commitments

1 In the case of contingent funding obligations and irrevocable commitments, the credit equivalent under the BIS SA shall be calculated by multiplying the nominal or present value of the transaction in question with its credit conversion factor as set out in Annex 1.

2 Contingent funding obligations where the bank has ceded sub-participations may be treated as direct claims against the respective sub-participants in the amount of the sub-participation.

Art. 55 Credit valuation adjustment risk for derivatives

1 The banks must use minimum capital to cover not only the credit default risks of derivatives counterparties under Articles 50 and 56, but also the risk of market value

49 Amended by Annex 2 No 4 of the Banking Ordinance of 30 April 2014, in force since 1 Jan. 2015 (AS **2014** 1269).

losses due to valuation adjustments of derivatives based on the counterparty credit risk.

2 FINMA shall regulate the calculation method for the corresponding minimum capital depending on the calculation methods chosen for credit equivalents (Art. 56) and market risk (Art. 82). It shall base it on the Basel minimum standards.

3 FINMA shall provide a conservative, simplified calculation method for banks that have chosen neither a model approach in accordance with Article 56 nor a model approach in accordance with Article 82.

Art. 56 Calculation methods for derivatives

1 Credit equivalents for derivatives may be calculated using the following methods:

a. the standardised approach;

b. the expected positive exposure modelling method (EPE modelling method).[50]

2 Use of the EPE modelling method requires approval from FINMA, which shall define the approval criteria.

3 FINMA shall specify how the credit equivalent is to be calculated in the event of statutory or contractual netting in accordance with Article 61 involving more than two parties.

4 These calculation methods shall apply to all derivatives, irrespective of whether they are traded on an exchange or concluded over the counter.

Art. 57[51] Standardised approach

1 To calculate the credit equivalents of derivatives using the standardised approach, the sum of the regulatory replacement cost and the amount for potential future exposure shall be multiplied by a factor of 1.4.

2 FINMA shall issue technical implementing provisions in accordance with the Basel minimum standards.

Art. 58[52]

Art. 59 EPE modelling method

1 FINMA shall determine how the credit equivalent of derivatives is to be calculated using the EPE modelling method based on the Basel minimum standards.

2 The credit equivalents are multiplied by the EPE factor. FINMA shall determine the EPE factor in each individual case. It shall be at least 1.2.

50 Amended by No I of the O of 23 Nov. 2016, in force since 1 Jan. 2017 (AS **2016** 4683).
51 Amended by No I of the O of 23 Nov. 2016, in force since 1 Jan. 2017 (AS **2016** 4683).
52 Repealed by No I of the O of 23 Nov. 2016, with effect from 1 Jan. 2017 (AS **2016** 4683).

Art. 60 Interest rate instruments and equity securities

1 If the interest rate instruments or equity securities are equity instruments of an entity active in the financial sector, the net exposure shall be determined in accordance with Article 52.

2 In the case of interest rate instruments and equity securities of the same issuer which are not in the trading book and which have the same risk weight, the net exposure shall be calculated in accordance with Article 51.

3 The carrying value of the physical holding shall be used for exposures not in the trading book.

4 Paragraphs 1 and 2 shall also apply to interest rate instruments and equity securities in the trading book, provided the de minimis approach (Art. 82 para. 1 lit. a) is applied.

Art. 61 Risk mitigation measures

1 The following risk mitigation measures may be taken into account when calculating exposures:

a. statutory and contractual netting;

b. guarantees;

c. credit derivatives; and

d. other collateral.

2 Upon request, the banks must demonstrate to the audit firm or to FINMA that these risk mitigation measures are legally enforceable in the jurisdictions concerned.

3 FINMA shall flesh out these risk mitigation measures.

Art. 62 Secured transactions

1 A bank may choose one the following approaches to take account of collateral under Article 61 paragraph 1 letter d:

a. the simplified approach;

b. the comprehensive approach.

2 With the simplified approach, the collateralised exposure components shall be assigned to the collateral provider's exposure class.

3 With the comprehensive approach, the exposure shall be netted against the collateralised exposure component. The net exposure shall remain in the original exposure class.

4 FINMA shall flesh out these approaches.

5 When calculating the credit equivalents in accordance with Articles 56 to 59, all eligible collateral provided by the bank and received by the bank to secure derivatives must be taken into account.[53]

53 Inserted by No I of the O of 23 Nov. 2016, in force since 1 Jan. 2017 (AS **2016** 4683).

Section 3
Exposure Classes and Their Weightings According to the BIS SA

Art. 63 Exposure classes

1 The banks shall assign the individual exposures to exposure classes.

2 The individual exposures in the following exposure classes may be risk-weighted using external ratings:

a. central governments and central banks;

b. public sector entities;

c. the Bank for International Settlements (BIS), the International Monetary Fund (IMF) and multilateral development banks;

d. banks and securities firms;

e. community bodies;

f. stock exchanges and clearing houses;

g. corporates.

3 External ratings may not be used for the following exposure classes:

a. private individuals and small businesses (retail exposures);

b. domestic Pfandbrief bonds;

c. direct and indirect mortgage-backed positions;

d. subordinated exposures;

e. past-due exposures;

f.[54] equity securities;

f^{bis}.[55] units of managed collective investment schemes;

g. other exposures.

Art. 64 Use of external ratings

1 Banks using the BIS SA may risk-weight exposures with ratings from rating agencies, provided such agencies are recognised by FINMA for this purpose.

2 FINMA shall assign the ratings of recognised rating agencies to individual rating categories and determine the risk weight for the individual categories.

3 The use of external ratings must be based on a concrete, institution-specific concept, which must be adhered to consistently.

4 If a bank risk-weights exposures based on external rating agencies' ratings, it must generally use external ratings to risk-weight all exposures other than those in the

54 Amended by No I of the O of 23 Nov. 2016, in force since 1 Jan. 2017 (AS **2016** 4683).
55 Inserted by No I of the O of 23 Nov. 2016, in force since 1 Jan. 2017 (AS **2016** 4683).

corporates exposure class. If it also uses external ratings to risk-weight exposures in the corporates exposure class, it must generally risk-weight all exposures in this class according to external ratings.

5 If a bank does not use external ratings to risk-weight exposures, or if no rating from a recognised rating agency is available to risk-weight an exposure, the weights of the «unrated» rating category must be used.

Art. 65 Use of external ratings at group level

The ratings used in the companies to be consolidated may be used at group level.

Art. 66 Calculation of the exposures to be risk-weighted

1 For BIS SA purposes, exposures within exposure classes under Article 63 paragraph 2 shall be risk-weighted in accordance with Annex 2.

2 Exposures within the exposure classes under Article 63 paragraph 3 letters a to e and g shall be risk-weighted in accordance with Annex 3.

3 Exposures within the exposure class under Article 63 paragraph 3 letter f shall be risk-weighted in accordance with Annex 4.

3bis Exposures within the exposure class under Article 63 paragraph 3 letter f^{bis} shall be risk-weighted in accordance with FINMA's technical implementation provisions. FINMA shall use the Basel minimum standards as a basis.[56]

4 Net exposures in interest rate instruments under Article 60 shall be allocated to the issuer's exposure class and risk-weighted accordingly.

5 In the case of exposures in the form of equity instruments of entities active in the financial sector, the weighting under paragraphs 3 and 4 shall refer to the portion of the net exposure in accordance with Article 52 that was not deducted from capital under the corresponding deduction approach (Art. 33).

Art. 67 Local currency exposures to central governments or central banks

Where the supervisory authority of a country other than Switzerland provides for a lower risk weight than that stipulated in Article 66 paragraph 1 for local currency exposures to the central government or central bank of that country, banks may apply a similar weight to such exposures, provided that such exposures are refinanced in the local currency of that country and that the banking supervision of that country is appropriate. This similar weight shall refer to the portion of such exposure that is refinanced in the local currency.

Art. 68 Banks and securities firms

1 Securities firms may be assigned to the banks and securities firms exposure class (Art. 63 para. 2 letter d) only if they are subject to supervision that is equivalent to that of banks.

56 Inserted by No I of the O of 23 Nov. 2016, in force since 1 Jan. 2017 (AS **2016** 4683).

2 Netted exposures arising from off-balance sheet transactions shall be allocated to the time band of the shortest netted exposures.

3 With the exception of short-term self-liquidating trade letters of credit, exposures to banks without an external rating may not be assigned a risk weight that is lower than the risk weight for exposures to the banks' country of domicile.[57]

Art. 69 Stock exchanges and clearing houses

1 Clearing houses are institutions through which the contractual obligations of traded contracts are settled.

2 The risk weights of 0 per cent or 2 per cent under Annex 2 shall apply for credit risks only if a regulated central counterparty interposes itself directly in the transaction between two market participants and an appropriate and comprehensive collateralisation system is established as the basis for the performance of the functions of that central counterparty.

3 This collateralisation system shall be considered appropriate and comprehensive particularly if:

a. the contracts are marked to market daily and there are daily margin calls;

b. the changes in value expected the next day are collateralised on an ongoing basis with a high level of confidence; and

c. unexpected losses are hedged.

4 FINMA shall regulate the additional criteria for central counterparties in connection with derivatives, repo and repo-like transactions in accordance with the Basel minimum standards.

Art. 70 Credit risks and guarantee commitments to central counterparties

1 For banks that act as a clearing member of a central counterparty for exchange-traded or over-the-counter derivatives and for repos or repo-like transactions, FINMA shall define the method for determining the minimum capital required for risks arising from explicit and implicit guarantee commitments to the central counterparty. FINMA shall use the Basel minimum standards as a basis.

2 Central counterparties are clearing houses that act as a contracting party between the counterparties to contracts and guarantee the performance of the contracts throughout their term.

3 Clearing members are authorised to enter into a direct transaction with the central counterparty as a party, irrespective of whether they do so on their own behalf or as intermediaries between the central counterparty and other market participants.

57 Inserted by Annex 2 No 4 of the Banking Ordinance of 30 April 2014, in force since 1 Jan. 2015 (AS **2014** 1269).

Art. 71 Exposures to unrated companies

If a bank uses ratings to risk-weight exposures to companies, unrated exposures shall be assigned the risk weight of 100 per cent or that of the relevant central government if that is higher than 100 per cent.

Art. 72 Direct and indirect mortgage-backed exposures

1 Residential real estate shall be deemed to be real estate occupied or rented out by the borrower personally.

2 Construction loans and loans for building land shall be allocated to the real estate categories set out in Annex 3 according to the future use of the financed property.

3 The risk weight of 35 per cent for foreign residential real estate shall apply only if appropriate risk management that is equivalent to that for Swiss residential real estate can be ensured for this foreign real estate.

4 Pledged pension assets and pledged pension benefit entitlements in accordance with Article 30*b* of the Federal Act of 25 June 1982[58] on Occupational Old Age, Survivors' and Invalidity Pension Provision (OPA) and Article 4 of the Ordinance of 13 November 1985[59] on Tax Relief on Contributions to Recognised Pension Schemes shall be included in the borrower's capital when calculating the relevant exposure for risk weighting in accordance with Annex 3, provided that:

a. the pledge exists as additional security for a mortgage-backed claim;

b. the real estate in question is used by the borrower personally; and

c. the minimum requirements under paragraph 5 are met.

5 The risk weight for mortgage-backed exposures in accordance with Annex 3 shall be 100 per cent if the credit transaction does not meet the requirements of one of the self-regulation standards recognised as a minimum standard by FINMA in accordance with Article 7 paragraph 3 of the Financial Market Supervision Act of 22 June 2007[60]. The minimum requirements shall provide for:

a. an appropriate minimum share of capital to be supplied by the borrower for the financing; such share must not originate from a pledge or an advance withdrawal pursuant to Articles 30*b* or 30*c* of the OPA;

b. appropriate repayment of the loan in terms of timeframe and amount.

Art. 73 Equity securities

Net exposures in equity securities shall be risk-weighted in accordance with Annex 4. This shall not apply to portions of net exposures which:

a. are to be deducted from the capital components under Articles 31 to 40; or

b. are to be risk-weighted in accordance with Article 40 paragraph 2.

58 SR **831.40**
59 SR **831.461.3**
60 SR **956.1**

Art. 74 Lombard loans

Within the corresponding exposure class, lombard loans can be weighted individually according to the simplified approach (Art. 62 para. 1 lit. a) or the comprehensive approach (Art. 62 para. 1 lit. b).

Art. 75 Loan, repo and repo-like transactions in securities

Within the corresponding exposure class for the individual transactions, loan, repo and repo-like transactions in securities can be treated according to the simplified approach, the comprehensive approach or the EPE modelling method.

Art. 76 Exposures arising from unsettled transactions

[1] Positive replacement values of exposures arising from unsettled foreign exchange, securities and commodities transactions which carry a risk of loss owing to late or failed settlement («exposures arising from unsettled transactions») and are settled through a payment system or securities settlement system according to the payment-versus-settlement or payment-versus-payment principle shall be weighted as follows:

Number of business days after agreed settlement date	Risk weight
5–15	100%
16–30	625%
31–45	937.5%
46 or more	1,250%

[2] For exposures arising from unsettled transactions that are settled in another manner, the treatment shall be as follows:

a. The bank that has delivered shall treat the transaction as a credit until receipt of the corresponding receivable. If the exposures are not materially significant, a risk weight of 100 per cent may be applied instead of a ratings-based risk weight.

b. If the corresponding receivable has not been received five business days after the agreed settlement date, a 1250 per cent weight shall be assigned to the delivered asset and any positive replacement value.

[3] Repos, reverse repos and securities lending and borrowing shall be treated exclusively as set out in Article 75.

Section 4 IRB Approach

Art. 77

[1] Banks using the internal ratings-based approach (IRB) to calculate risk-weighted exposures and required capital for credit risk may choose between:

a. simplified, or foundation IRB (F-IRB[61]); or

b. advanced IRB (A-IRB[62]).

[2] FINMA shall flesh out the calculation details, based on the Basel minimum standards.

[3] In the absence of a rule, the provisions of the BIS SA apply by analogy.

Chapter 3 Non-Counterparty Risks

Art. 78 Definition

The term «non-counterparty risks» refers to the risk of loss owing to valuation changes or a liquidation of non-counterparty assets such as real estate and other fixed assets.

Art. 79 Weighting

[1] To calculate the charge for non-counterparty risk, a 100 per cent weight shall be assigned to the following exposures:

a. real estate;

b. other fixed assets and depreciable items recognised on the balance sheet as other assets, unless they can be deducted from CET1 capital in accordance with Article 32 letter c.

[2] A 0 per cent weight shall be assigned to the asset balance of the compensation account.

Chapter 4 Market Risk

Section 1 General

Art. 80 Principle

[1] A capital charge shall apply to the market risk of interest rate instruments and equity securities in the trading book, and of foreign exchange, gold and commodities exposures for the whole bank.

[2] FINMA shall issue technical implementing provisions on market risk.

Art. 81 Definition

The term «market risk» refers to the risk of losses arising from movements in the value of an exposure caused by changes in, and the volatility of, price-relevant factors such as share or commodity prices, exchange rates and interest rates.

61 Footnote not relevant to English text.
62 Footnote not relevant to English text.

Art. 82 Calculation approaches

[1] The minimum capital requirement for market risk may be calculated using the following approaches:

a. the de minimis approach;

b. the standardised approach; or

c. the market risk model approach.

[2] When more than one of these approaches is used, the minimum capital requirement shall be derived from the sum of the minimum capital amounts calculated according to these approaches.

Section 2 De Minimis Approach

Art. 83

[1] Banks that do not exceed certain thresholds may use Articles 66 to 76 to calculate the minimum capital requirement for interest rate instruments and equity securities in the trading book. In so doing, they shall apply the provisions of the same approach as that used to calculate the credit risk capital requirement.

[2] FINMA shall set the thresholds.

Section 3 Standardised Approach for Market Risk

Art. 84 Interest rate instruments in the trading book

[1] The minimum capital requirement for specific risk in interest rate instruments shall be derived by multiplying the net exposure for each issue by the rates in Annex 5.

[2] FINMA shall issue technical implementing provisions on calculating the minimum capital requirement for specific risk in interest rate instruments from securitisations broken down into risk buckets.

[3] The minimum capital requirement for general market risk in interest rate instruments comprises the sum of the values calculated for each currency using either the maturity method or the duration method.

Art. 85 Equity instruments in the trading book

[1] The minimum capital requirement for specific risk in equity instruments shall amount to 8 per cent of the sum of the net exposures per issuer.

[2] The minimum capital requirement for general market risk in equity instruments shall amount to 8 per cent of the sum of the net exposures per national market.

Art. 86 Foreign exchange exposures

The minimum capital requirement for market risk in foreign exchange exposures shall amount to 8 per cent of the sum of net long positions or the sum of net short positions, whichever is higher.

Art. 87 Gold and commodity exposures

[1] The minimum capital requirement for market risk in gold exposures shall amount to 8 per cent of the net exposure.

[2] The minimum capital requirement for commodity risk shall be determined using either the maturity band method or the simplified method.

Section 4 Model-Based Approach for Market Risk

Art. 88

[1] Use of the model-based approach for market risk requires approval by FINMA, which shall define the approval criteria.

[2] FINMA shall flesh out the details for calculating minimum capital under the model-based approach for market risk, based on the Basel Committee's minimum standards.

[3] It shall define the multipliers provided for under the model-based approach in each individual case. In so doing, it shall take account of the approval criteria and the forecast accuracy of the institution-specific risk aggregation model. The multipliers shall be at least 3.0 in each case.

Chapter 5 Operational Risk

Section 1 General

Art. 89 Definition

The term «operational risk» refers to the risk of loss resulting from the inappropriateness or failure of internal procedures, people or systems, or from external events. This includes legal risk, but not strategic risk or reputational risk.

Art. 90 Calculation approaches

[1] Banks may choose between the following approaches when determining the minimum capital requirement for operational risk:

a. the basic indicator approach;

b. the standardised approach;

c. institution-specific approaches (AMA).

[2] Use of an institution-specific approach requires approval by FINMA.

[3] FINMA shall issue technical implementing provisions on the approaches.

Art. 91 Income indicator

[1] Banks that determine their minimum capital requirement for operational risk according to either the basic indicator approach or the standardised approach must calculate an income indicator for each of the previous three years. This comprises the sum of the following items in the income statement:

a.[63] gross income from interest business;

b. income from commission business and services;

c.[64] income from trading and the fair value option;

d. income from participating interests not subject to consolidated reporting; and

e. income from real estate.

[2] All income from outsourcing agreements in which the bank itself acts as service provider must be included as components of the income indicator.

[3] If the bank acts as the contracting authority of an outsourced service, the corresponding expenses may be deducted from the income indicator only if the outsourcing occurs within the same financial group and is included in consolidated reporting.

[4] When determining the income indicator, banks may use internationally recognised accounting standards instead of the Swiss accounting standards, subject to FINMA approval.

Section 2 Approaches

Art. 92 Basic indicator approach

[1] Minimum capital shall amount to 15 per cent of the average of the income indicators for the previous three years. Only years in which the income indicator was positive should be taken into account.

[2] FINMA may make the use of the basic indicator approach contingent on additional qualitative risk management requirements.

Art. 93 Standardised approach

[1] Minimum capital shall be calculated as follows:

a. For each business line and each of the previous three years, an income indicator shall be determined and multiplied by the rate under paragraph 2.

63 Amended by Annex 2 No 4 of the Banking Ordinance of 30 April 2014, in force since 1 Jan. 2015 (AS **2014** 1269).
64 Amended by Annex 2 No 4 of the Banking Ordinance of 30 April 2014, in force since 1 Jan. 2015 (AS **2014** 1269).

b. The resulting numerical values shall be added for each year. Negative numerical values from individual business lines can be offset against positive values from other business lines.

c. The minimum capital corresponds to the three-year average amount. For the purposes of obtaining the average, any negative totals are set to zero.

[2] Activities shall be assigned to the following business lines and multiplied by the following rates:

a.	corporate finance/advice	18%
b.	trading	18%
c.	retail client business	12%
d.	corporate client business	15%
e.	payment transactions/securities settlement	18%
f.	custody and fiduciary business	15%
g.	institutional asset management	12%
h.	securities commission business	12%

[3] FINMA may make the use of the standardised approach contingent on additional qualitative risk management requirements.

Art. 94 Institution-specific approaches (AMA)

[1] Banks may use an institution-specific approach to determine the minimum capital.

[2] FINMA shall issue the required approval if the bank has a model that allows it to quantify operational risks by using internal and external loss data, scenario analyses and the key factors in the business environment and the internal control system.

Title 4 Risk Diversification

Chapter 1 General Provisions

Section 1 Subject Matter

Art. 95[65] Risk concentrations and other large credit risk exposures

[1] A risk concentration exists when the total exposure to a counterparty or group of affiliated counterparties equals or exceeds 10 per cent of the bank's adjusted eligible Tier 1 capital under Articles 31 to 40.

[2] Banks must identify and monitor risk concentrations and other large credit risk exposures to an individual counterparty or group of affiliated counterparties, and comply with associated reporting obligations.

65 Amended by No I of the O of 22 Nov. 2017, in force since 1 Jan. 2019 (AS **2017** 7625).

Art. 96[66] Recordable exposures and total exposure

[1] For the purposes of identifying and monitoring risk concentrations, all on- and off-balance sheet items in the banking book and trading book that carry a credit risk exposure or counterparty credit risk exposure to an individual counterparty or group of affiliated counterparties must be recorded.

[2] The recorded exposures must be aggregated to form a total exposure.

[3] The following do not need to be included in the calculation of the total exposure:

a. exposures that can be deducted from Tier 1 capital in accordance with Articles 31 to 40: the amount of the deduction;

b. intraday exposures to banks.

[4] Exposures that are assigned a 1250 per cent risk weight in the minimum capital calculation must be included in the total exposure.

[5] The total exposure to a group of affiliated counterparties is the sum of total exposures to the individual counterparties.

Section 2 Upper Limits on Risk Concentrations

Art. 97[67] Upper limit on individual risk concentrations

[1] Risk concentrations may not exceed 25 per cent of adjusted eligible Tier 1 capital under Articles 31 to 40.

[2] This limit does not apply to:

a. exposures to central banks and central governments;

b. exposures with an explicit guarantee from counterparties under letter a;

c. exposures secured by financial collateral from counterparties under letter a;

d. exposures to qualifying central counterparties resulting from clearing services.

[3] The exposures shall be calculated in accordance with Article 119 paragraph 3.

Art. 98[68] Upper limit on risk concentrations with banks and securities firms

In a departure from Article 97 paragraph 1, as regards banks in categories 4 and 5 under Annex 3 of the BankO[69], the upper limit on individual risk concentrations with banks and securities firms, where these are not designated as systemically important banks or financial groups in accordance with Article 8 paragraph 3 of the BankA or Article 136 paragraph 2 letter b, shall be: 100 per cent of the adjusted eligible Tier 1 capital under Articles 31 to 40.

66 Amended by No I of the O of 22 Nov. 2017, in force since 1 Jan. 2019 (AS **2017** 7625).
67 Amended by No I of the O of 22 Nov. 2017, in force since 1 Jan. 2019 (AS **2017** 7625).
68 Amended by No I of the O of 22 Nov. 2017, in force since 1 Jan. 2019 (AS **2017** 7625).
69 SR **952.02**

Art. 99[70] Upper limit breaches

[1] The upper limit on risk concentrations may not be breached, except in the cases specified in paragraphs 2 and 3.

[2] A limit breach is permitted if this is related to the settlement of client payment transactions and lasts for no more than five business days.

[3] A limit breach is also permitted if this results solely from the affiliation of previously independent counterparties or the affiliation of a bank with other financial entities.

[4] The amount by which the limit may be breached owing to an affiliation under paragraph 3 may not be actively increased further. The breach must be rectified within two years of the affiliation acquiring legal force.

Section 3[71]
Reporting obligations relating to risk concentrations and other large credit risk exposures

Art. 100 Reporting risk concentrations and other large credit exposures

[1] The bank shall report all outstanding risk concentrations and other large credit exposures to its body responsible for overall management, supervision and control:

a. quarterly on an individual entity basis;

b. semi-annually on a consolidated basis.

[2] The reports must be submitted to the statutory banking audit firm and the Swiss National Bank within six weeks of the end of the quarter or half-year, using the form prescribed by FINMA.

[3] The following reference dates apply for the reports:

a. total exposure: last day of the current quarter and half-year;

b. Tier 1 capital: last day of the current or preceding quarter and half-year.

[4] Specifically, the following must be reported:

a. all risk concentrations;

b. all exposures amounting to at least 10 per cent of eligible Tier 1 capital, without applying the risk mitigation under Article 119 paragraph 1;

c. all total exposures for which there is no upper limit and which amount to at least 10 per cent of eligible Tier 1 capital.

[5] In addition, each year the twenty largest total exposures must be reported, irrespective of whether or not they constitute risk concentrations, excluding total exposures to central banks and central governments.

70 Amended by No I of the O of 22 Nov. 2017, in force since 1 Jan. 2019 (AS **2017** 7625).
71 Amended by No I of the O of 22 Nov. 2017, in force since 1 Jan. 2019 (AS **2017** 7625).

[6] For the exposures under paragraphs 4 and 5, values both before and after applying the risk mitigation under Article 119 paragraph 1 must be reported.

[7] If a risk concentration involves a member of the management or holder of a qualified participation under Article 3 paragraph 2 letter c[bis] of the BankA or a related person or company, the risk concentration must be reported under the collective heading «management business».

[8] If a risk concentration involves a group company, the risk concentration must be reported under the collective heading «group business». The components of the «group business» item that are exempted from the upper limit in accordance with Article 111*a* paragraph 1 and Article 112 paragraph d must also be reported.

[9] The audit firm shall assess the internal controls carried out by the bank to ensure correct risk identification and reporting, and shall examine the trend of risks.

Art. 101 Reporting of unauthorised breaches

If the bank observes that a risk concentration has breached the upper limit without the existence of an exception under Article 99, it must inform its audit firm and FINMA immediately and rectify the breach within a period to be approved by FINMA. Limit breaches caused by the use of the settlement date principle and arising out of transactions having a settlement date within the next two business days shall be exempt from the reporting duty.

Art. 102 Reporting of intra-group exposures

The bank must report intra-group exposures under Article 111*a* on a quarterly basis and submit the report to the audit firm, the Swiss National Bank and the body responsible for overall management, supervision and control, together with the report on outstanding risk concentrations under Article 100. A distinction must be made between group companies in accordance with Article 111*a* paragraphs 1 and 3.

Section 4 Calculation Principles

Art. 103 Firm commitments to underwrite securities

The issuer-specific exposures for firm commitments to underwrite securities must be calculated as follows:

a. sub-participations and firm subscriptions may be deducted from firm commitments to underwrite debt and equity securities, provided this eliminates the bank's associated market risk;

b. the resulting amount must be multiplied by one of the following credit conversion factors:
   1. 0.05 as of the day on which the firm commitment to underwrite is irrevocably entered into,
   2. 0.1 on the issue's payment date,

3. 0.25 on the second and third business day after the issue's payment date,
4. 0.5 on the fourth business day after the issue's payment date,
5. 0.75 on the fifth business day after the issue's payment date,
6. 1 as of the sixth business day after the issue's payment date.

Arts. 104 and **105**[72]

Art. 106 Exposures arising from unsettled transactions

Transactions that remain unsettled after five business days (Art. 76) must be included in the total exposure figure at their full exposure value.

Arts. 107 and **108**[73]

Art. 109[74] Groups of affiliated counterparties

[1] A group of affiliated counterparties comprises:

a. counterparties between which there is a control relationship or economic dependence;

b. counterparties that are held as financial interests by the same person, or are directly or indirectly controlled by them; or

c. counterparties that form a consortium.

[2] Groups of affiliated counterparties must be treated as one entity.

[3] If the total exposure to a single counterparty exceeds 5 per cent of eligible Tier 1 capital, it must be verified, within three months and at appropriate intervals thereafter, whether counterparties are economically dependent on each other.

[4] Central counterparties do not constitute a group of affiliated counterparties if the exposures to them are related to clearing services.

[5] Legally independent public enterprises together with their controlling public sector entity do not constitute a group of affiliated counterparties if:

a. the public sector entity is not legally liable for the enterprise's obligations; or

b. the enterprise in question is a bank.

Art. 110 Exposures to a consortium

[1] Exposures to a consortium shall be allocated to the individual consortium members according to their participating interest.

72 Repealed by No I of the O of 22 Nov. 2017, with effect from 1 Jan. 2019 (AS **2017** 7625).
73 Repealed by No I of the O of 22 Nov. 2017, with effect from 1 Jan. 2019 (AS **2017** 7625).
74 Amended by No I of the O of 22 Nov. 2017, in force since 1 Jan. 2019 (AS **2017** 7625).

[2] In the case of joint and several liability, the bank must recognise the entire exposure to the consortium member to which it assigned the highest credit rating during the lending decision.

Art. 111 Exposures of group companies

From the perspective of each bank in the financial group or financial conglomerate, group companies constitute a group of affiliated counterparties.

Art. 111*a*[75] Intra-group exposures

[1] If a bank is part of a financial group or financial conglomerate subject to appropriate consolidated supervision, intra-group exposures to group companies fully integrated into the consolidated capital and risk diversification may be exempted from the upper limit under Article 97 if the group companies:

a. are individually subject to appropriate supervision; or

b. act as counterparty only to group companies that are individually subject to appropriate supervision.

[2] FINMA is authorised to issue implementing provisions to appropriately restrict the exclusion of intra-group exposures under paragraph 1.

[3] Intra-group exposures to other group companies shall be subject, on an aggregate basis, to the regular limit of 25 per cent of the adjusted eligible Tier 1 capital under Articles 31 to 40.

Section 5 Easing and Tightening of Requirements

Art. 112[76]

[1] FINMA shall regulate the extent to which the risk diversification requirements may be relaxed for banks in categories 4 and 5 under Annex 3 of the BankO[77].

[2] In special cases, it may also relax or tighten the risk diversification requirements. Specifically, it may:

a. set lower reporting limits or upper limits for individual total exposure figures;

b. impose upper limits on a bank's direct and indirect real estate holdings;

c. subject to prior request, allow the upper limit to be breached temporarily;

d. declare that the exemption from the upper limit under Article 111*a* paragraph 1 does not apply to some or all group companies, or extend the exemption to cover individual group companies that do not meet the criteria under Article 111*a* paragraph 1;

75 Inserted by No I of the O of 22 Nov. 2017, in force since 1 Jan. 2019 (AS **2017** 7625).
76 Amended by No I of the O of 22 Nov. 2017, in force since 1 Jan. 2019 (AS **2017** 7625).
77 SR **952.02**

e. exempt individual group companies that do not operate in the financial sector from inclusion in the aggregate exposure under Article 111*a* paragraphs 1 and 3;

f. declare that financial interests excluded from consolidation under Article 9 paragraph 1 are exempt from inclusion in the aggregate exposure under Article 111*a* paragraphs 1 and 3;

g. lower or raise the applicable weighting rates for a specific counterparty;

h. set a different deadline to that in Article 99 paragraph 4;

i. in special circumstances for which the bank must provide justification, allow the parties concerned to not be considered as a group of affiliated counterparties, even if they meet the criteria under Article 109 paragraph 1;

j. allow counterparties to not be considered as a group of affiliated counterparties, provided the bank demonstrates that a counterparty can absorb the financial problems or the default of an economically closely interconnected counterparty and find other business partners or fund providers within a reasonable period.

Chapter 2[78] Calculation of Total Exposure

Section 1 Weighting

Art. 113

[1] Counterparty exposures shall be assigned a risk weight of 100 per cent as a rule.

[2] The following exposures are to be weighted differently to paragraph 1:

a. exposures to cantons rated 1 or 2: 20 per cent;

b. exposures in domestic Pfandbrief bonds issued in accordance with the Mortgage Bond Act of 25 June 1930[79]: 10 per cent;

c. exposures in covered bonds under Article 118 paragraph 1 letter c: at least 20 per cent.

Section 2 Addition

Art. 114

When calculating the total counterparty exposure, the associated exposures in the trading book and those in the banking book must be added together. Short positions in the trading book may not be offset against long positions in the banking book.

78 Amended by No I of the O of 22 Nov. 2017, in force since 1 Jan. 2019 (AS **2017** 7625).
79 SR **211.423.4**

Section 3 General Exposure Calculation

Art. 115 Risk weighting, derivatives, loan, repo and repo-like transactions in securities and other instruments with counterparty credit risk exposure

[1] The counterparty credit risk exposure for derivatives in the banking and trading books must be calculated in accordance with Article 57.

[2] For non-linear derivatives in the trading book, the exposure shall additionally include the credit risk exposure of the underlying assets, assuming complete loss of value.

[3] The exposures for loan, repo and repo-like transactions with securities in the banking and trading books must be calculated using either the simplified or the comprehensive approach for calculating minimum capital; model-based approaches are not permitted. FINMA shall issue the implementing provisions.

Art. 116 Other balance sheet items

For balance sheet items in the banking book that are not covered by Article 115, the carrying value in the accounts shall apply. Individual value adjustments and individual provisions for balance sheet items may be deducted. Alternatively, the bank may also use the gross value without deducting individual value adjustments and value changes.

Art. 117 Off-balance sheet items

[1] Off-balance sheet items in the banking book shall be converted to their credit equivalent using the credit conversion factors under Annex 1. Individual value adjustments and individual provisions for off-balance sheet items may be deducted. For exposures under Annex 1 No. 1.3, a credit conversion factor of 0.1 shall be applied instead of 0.0.

[2] For irrevocable loan commitments as part of a syndicated loan, the following credit conversion factors shall be applied:

a. 0.1 from the time at which the bank provides the commitment, up to the time of acceptance and confirmation by the counterparty;

b. 0.5 from the time at which the counterparty accepts the bank's commitment, up to the start of the syndication phase;

c. 0.5 for the non-syndicated portion during the syndication phase, and 1 for the planned equity contribution;

d. 1.0 for the entire non-syndicated portion after 90 days (residual risk).

Art. 118 FINMA's implementing provisions on calculating the different exposures

[1] FINMA shall regulate the calculation of:

a. exposures in the trading book;

b. exposures to central counterparties;

c. exposures in covered bonds;

d. exposures in collective investment schemes, securitisations and other investment structures;

e. other exposures.

[2] It shall base these provisions on the Basel Committee's minimum standards.

Section 4 Risk Mitigation

Art. 119

[1] The following may be included in the total exposure calculation:

a. netting;

b. guarantees;

c. credit derivatives;

d. collateral recognised under the BIS SA.

[2] Upon request, the banks must demonstrate to the audit firm or to FINMA that these risk mitigation instruments are legally enforceable in the jurisdictions concerned.

[3] FINMA shall issue technical implementing provisions based on the Basel Committee's minimum standards.

Arts. 120–123

Repealed

Title 5 Provisions for Systemically Important Banks

Chapter 1 General Provisions

Art. 124[80] Principle

[1] In addition to the requirements applicable to all banks concerning capital and risk diversification under Titles 2 to 4 of this Ordinance, the special requirements of this title shall apply to systemically important banks.

[2] The amount of the special requirements shall be defined for the highest level of the financial group.

[3] The special requirements must be met by the entities listed below, at the level of the financial group, the level of each individual entity licensed under the BankA[81] and the level of each securities firm licensed under the FinIA:

80 Amended by No I of the O of 21 Nov. 2018, in force since 1 Jan. 2019 (AS **2018** 5241).
81 SR **952.0**

a. entities performing systemically important functions;

b. the highest entity in a financial group, where the consolidation scope includes an entity under letter a;

c. entities at the head of significant subordinate financial groups, where their consolidation scope includes an entity under letter a; and

d. entities which, owing to their core function or their relative size, are significant for the financial group.[82]

[4] In individual cases, FINMA may exempt entities which perform systemically important functions but whose direct share in the financial group's domestic systemically important functions does not exceed 5 per cent in total, or whose significance for the continued performance of the financial group's systemically important functions is otherwise minor.[83]

Art. 124*a*[84] Internationally active and non-internationally active systemically important banks

[1] Internationally active systemically important banks are those designated as global systemically important banks by the Financial Stability Board.

[2] Where a systemically important bank no longer qualifies as internationally active under paragraph 1, FINMA may continue to designate it as such if this is necessary owing to the scale of its activities abroad.

[3] Other systemically important banks shall not be deemed to be internationally active.

Art. 125[85]

Art. 125*a*[86]

Chapter 2 Convertible Capital and Bail-In Bonds[87]

Art. 126 Convertible capital[88]

[1] Convertible capital shall be deemed to be capital within the meaning of Article 11 paragraph 1 letter b in conjunction with Article 13 of the BankA and capital from write-down bonds in accordance with Article 11 paragraph 2 of the BankA that meets the criteria in this Chapter.

82 Amended by No I of the O of 27 Nov. 2019, in force since 1 Jan. 2020 (AS **2019** 4623).
83 Inserted by No I of the O of 27 Nov. 2019, in force since 1 Jan. 2020 (AS **2019** 4623).
84 Inserted by No I of the O of 11 May 2016, in force since 1 July 2016 (AS **2016** 1725).
85 Repealed by No I of the O of 21 Nov. 2018, with effect from 1 Jan. 2019 (AS **2018** 5241).
86 Inserted by No I of the O of 11 May 2016 (AS **2016** 1725). Repealed by No I of the O of 22 Nov. 2017, with effect from 1 Jan. 2018 (AS **2017** 7625).
87 Amended by No I of the O of 11 May 2016, in force since 1 July 2016 (AS **2016** 1725).
88 Amended by No I of the O of 11 May 2016, in force since 1 July 2016 (AS **2016** 1725).

[2] Convertible capital shall be issued to investors outside the financial group by:

a. the group parent company;

b. a group company specially established for this purpose by financial groups and bank-dominated financial conglomerates; or

c. another group company licensed by FINMA.

Art. 126*a*[89] Bail-in bonds

[1] Bail-in bonds may be recognised as additional loss-absorbing funds under Chapter 4 only if they:[90]

a. are fully paid up;

b. are issued by a Swiss entity;

c. are subject to Swiss law and jurisdiction; if justified, FINMA may grant exemptions if it can be demonstrated that a conversion or write-off ordered by FINMA is enforceable in the jurisdictions concerned;

d. are issued by the group parent company or, with FINMA approval and in accordance with international standards, are issued by a group company exclusively established for this purpose, provided it is ensured that the bonds can be used to absorb losses during restructuring;

e. are legally or contractually subordinate to the issuer's other obligations, or structurally subordinate to the obligations of other group companies;

f. do not contain an option for early termination by the creditors;

g. cannot be offset or secured or guaranteed in a way that restricts their bail-in capacity;

h. their terms and conditions contain a binding and irrevocable clause stating that creditors declare themselves in agreement with any potential conversion or write-off ordered by the supervisory authority during restructuring;

i. do not contain derivatives transactions and, with the exception of hedging transactions, are not linked to derivatives transactions;

j. were not purchased using either direct or indirect funding from the issuing bank or one of its group companies;

k.[91] were issued with the approval of FINMA or are part of a FINMA-approved annual issuance programme and may be redeemed before maturity only with FINMA approval, provided this would not cause the level of additional loss-absorbing funds to fall below the quantitative requirements.

[2] FINMA may deem loans that meet the criteria under paragraph 1 to be equivalent to bail-in bonds.

89 Inserted by No I of the O of 11 May 2016, in force since 1 July 2016 (AS **2016** 1725).
90 Amended by No I of the O of 27 Nov. 2019, in force since 1 Jan. 2020 (AS **2019** 4623).
91 Amended by No I of the O of 27 Nov. 2019, in force since 1 Jan. 2020 (AS **2019** 4623).

[3] The redemption/repayment of bail-in bonds or loans under paragraphs 1 and 2 that were issued with FINMA approval and are to be redeemed/repaid before their maturity/due date without FINMA approval must be reported to FINMA.[92]

Art. 126*b*[93] Intra-group bail-in bonds

[1] Swiss entities of systemically important banks may recognise intra-group bail-in bonds as additional loss-absorbing funds under Chapter 4 at a level below group parent company if these funds:

a. meet the criteria under Article 126*a* paragraph 1 letters a to c and f to i;

b. are contractually subordinated to the issuer's other obligations;

c. may be redeemed before maturity only with FINMA approval, provided this would not cause the level of additional loss-absorbing funds to fall below the quantitative requirements.

[2] FINMA may deem loans that meet the criteria under paragraph 1 to be equivalent to bail-in bonds.

[3] The debt instruments under paragraph 1 may be recognised in the amount of the receivable, provided they have a residual maturity of at least one year.

Art. 127 Eligibility of convertible capital[94]

[1] Convertible capital may be recognised in the amount of certain capital components to the extent that it contributes to loss absorption when a trigger event occurs. The loss absorption must take the following forms:

a. write-off as the result of a debt waiver;

b. conversion into CET1 capital of the bank.

[2] FINMA shall grant the approval under Article 11 paragraph 4 of the BankA only if the bank demonstrates that the effects under the BankA and its implementing ordinances will occur and that the requirements under corporate and capital market legislation are met.

[3] The convertible capital must meet at least the criteria for Tier 2 capital within the meaning of Article 30 of this Ordinance.

Art. 127*a*[95] Eligibility of bail-in bonds

[1] Bail-in bonds meeting the criteria under Article 126*a* may be recognised as additional loss-absorbing funds under Chapter 4 in the amount of the receivable, provided they have a residual maturity of at least one year.[96]

92 Amended by No I of the O of 21 Nov. 2018, in force since 1 Jan. 2019 (AS **2018** 5241).
93 Inserted by No I of the O of 27 Nov. 2019, in force since 1 Jan. 2020 (AS **2019** 4623).
94 Amended by No I of the O of 11 May 2016, in force since 1 July 2016 (AS **2016** 1725).
95 Inserted by No I of the O of 11 May 2016, in force since 1 July 2016 (AS **2016** 1725).
96 Amended by No I of the O of 27 Nov. 2019, in force since 1 Jan. 2020 (AS **2019** 4623).

1bis Bail-in bonds that are issued by cantonal banks and which meet the criteria set out in Article 40*a* may also be recognised in accordance with paragraph 1.[97]

2 The maturities of the loss-absorbing funds shall be staggered so as to ensure that the requirements concerning the level of these funds can be met, even in the event of temporarily impaired borrowing conditions. A maximum of 25 per cent of the requirements concerning additional loss-absorbing funds may be met with assets with a residual maturity between one and two years.[98]

3 Where Tier 2 capital in accordance with Article 30 paragraph 2 is excluded as regulatory capital for a period of five years up to one year before final maturity, it can be recognised in the same way as bail-in bonds in accordance with international standards, provided it is ensured that these instruments will absorb losses ahead of bail-in bonds.

4 Systemically important banks may not hold at their own risk convertible or debt-reducing capital instruments of other banks, nor bail-in bonds of other Swiss banks or foreign systemically important banks governed by Swiss law or corresponding regulations in foreign jurisdictions. The following are exempt:

a. exposures relating to the provision of bid and offer prices as a market maker, and short-term exposures relating to underwriting activities; and

b. the holding of bail-in bonds under Articles 37 and 38 in the bank's trading book, provided these bail-in bonds are resold within 30 business days of their purchase.[99]

Chapter 3[100] Going-Concern Capital of the Bank

Art. 128 Principle

1 Systemically important banks must hold sufficient capital to continue operating even in the event of major losses.

2 Required capital shall be calculated according to:

a. the leverage ratio; and

b. the share in risk-weighted assets (RWA ratio).

Art. 129 Total capital requirement

1 The total capital requirement is made up of a base requirement plus surcharges for market share and bank size as measured by total exposure.

2 The base requirement shall amount to:

97 Inserted by Annex No 2 of the O of 23 Nov. 2022, in force since 1 Jan. 2023 (AS **2022** 804).
98 Amended by No I of the O of 27 Nov. 2019, in force since 1 Jan. 2020 (AS **2019** 4623).
99 Amended by No I of the O of 27 Nov. 2019, in force since 1 Jan. 2020 (AS **2019** 4623).
100 Amended by No I of the O of 11 May 2016, in force since 1 July 2016 (AS **2016** 1725).

a. 4.5 per cent for the leverage ratio;

b. 12.86 per cent for the RWA ratio.

[3] For the purpose of determining the surcharges, FINMA shall periodically allocate the banks to «buckets» according to their market share and total exposure. The relevant values and the surcharges are set down in Annex 9. The surcharges shall be determined annually at the end of the second quarter.

[4] Market share is determined using whichever is the higher of the average market share in domestic lending business and the market share in domestic deposit-taking business based on the Swiss National Bank's statistical surveys on the reporting date at the end of the previous calendar year.

[5] The FDF shall regularly review the values and surcharges set down in Annex 9 against system stability and the competitiveness of the systemically important banks, and shall apply to the Federal Council for any adjustments.[101]

Art. 130 Minimum capital and the capital buffer

[1] Systemically important banks shall permanently hold minimum capital amounting to:

a. 3 per cent for the leverage ratio;

b. 8 per cent for the RWA ratio.

[2] In addition, they must hold a capital buffer up to the amount of the total requirement.

[3] The capital buffer should be complied with at all times. Temporary shortfalls are permitted in the event of bank losses.

[4] If there is a temporary shortfall in the capital buffer, the bank must demonstrate what measures will be taken to restore it and by what deadline. FINMA shall approve the deadline. If the capital requirements are not met after the deadline has expired, FINMA may order the necessary measures.

Art. 131 Capital quality

To meet the requirements, the capital must be of at least the following quality:

a. leverage ratio requirements:
   1. Minimum capital: CET1 capital; to meet the minimum capital requirement, up to 1.5 per cent may be used as AT1 capital in the form of convertible capital that is triggered if the eligible CET1 capital falls below 7 per cent of the RWA ratio (high-trigger convertible capital),
   2. Capital buffer: CET1 capital;

b. RWA ratio requirement:
   1. Minimum capital: CET1 capital; up to 3.5 per cent may be used as AT 1 capital in the form of high-trigger convertible capital to comply with the minimum capital requirement,

101 Inserted by No I of the O of 27 Nov. 2019, in force since 1 Jan. 2020 (AS **2019** 4623).

2. Capital buffer: CET1 capital; up to 0.8 per cent may be used as AT1 capital in the form of high-trigger convertible capital to comply with the capital buffer.

Art. 131*a* Countercyclical buffer

In addition to the capital requirements as a measure of risk-weighted exposures under this Title, the countercyclical buffer under Articles 44 and 44*a* must be complied with.

Art. 131*b* Additional capital

In special circumstances, FINMA may require individual banks to hold additional capital according to the criteria under Article 45, or may set higher quality requirements.

Chapter 4[102] Additional Loss-Absorbing Funds

Art. 132[103] Principle

[1] Systemically important banks must permanently hold additional funds to ensure liquidity in accordance with Sections 11 and 12 of the BankA[104].[105]

[2] The requirement concerning these additional funds is based on the total requirement comprising the base requirements and surcharges under Article 129. It shall amount to:

a. for an internationally active systemically important bank:
   1. for entities performing systemically important functions (Art. 124 para. 3 lit. a): 62 per cent of the total requirement at the level of the financial group and the individual entity,
   2. at the level of the highest entity in a financial group (Art. 124 para. 3 lit. b) and significant subordinate financial groups (Art. 124 para. 3 lit. c), unless the requirements under No. 1 apply: 75 per cent of the total requirement,
   3. at the level of the individual entity under Article 124 paragraph 3 letters c or d, the sum of:
      – the nominal amounts of additional loss-absorbing funds passed on to subsidiaries
      – 75 per cent of the total requirement, except for financial interests subject to the consolidation requirement, including similarly recorded

102 Originally before Art. 133. Amended by No I of the O of 11 May 2016, in force since 1 July 2016 (AS **2016** 1725).
103 Amended by No I of the O of 21 Nov. 2018, in force since 1 Jan. 2019 (AS **2018** 5241).
104 SR **952.0**
105 Amended by Annex No 2 of the O of 23 Nov. 2022, in force since 1 Jan. 2023 (AS **2022** 804).

regulatory capital, and except for exposures from intra-group relationships, and
– 30 per cent of the consolidated requirements applicable to that entity;

b. for a non-internationally active systemically important bank: 40 per cent of the total requirement.[106]

[3] The additional funds must be held in the form of bail-in bonds meeting the criteria under Article 126*a*. This is without prejudice to paragraphs 4 to 7 and Article 132*b*.[107]

[4] If a systemically important bank holds the additional funds in the form of CET1 capital or convertible capital that meets the requirements concerning AT1 capital, the requirements under paragraph 2 shall be reduced by a factor of 0.5 for the amount of additional funds thus held. The requirements may be reduced by a maximum of one third.

[5] …[108]

[6] Capital held by a bank to meet the requirements under this chapter must not simultaneously be used to meet the requirements under Articles 128 to 131*b*.

[7] If a bank has previously held capital to meet the requirements in this chapter, it may use now use it to meet the requirements under Articles 128 to 131*b* only insofar as the requirements of this article continue to be met with the remaining funds.

Art. 132*a*[109] Special provisions for internationally active systemically important banks

[1] If an internationally active systemically important bank holds the additional funds in the form of CET1 capital or convertible capital which meets the requirements for additional Tier 1 capital, this capital shall receive preferential treatment within the meaning of Article 132 paragraph 4, up to a maximum of 2 per cent for the leverage ratio and up to a maximum of 5.8 per cent for the RWA ratio.

[2] For entities under Article 124 paragraph 3 letters b to d, the level of the additional capital requirement taking account of the reduced requirements under paragraph 1 must not fall below 3.75 per cent for the leverage ratio and 10 per cent for the RWA ratio.

106 Amended by Annex No 2 of the O of 23 Nov. 2022, in force since 1 Jan. 2023 (AS **2022** 804).
107 Amended by Annex No 2 of the O of 23 Nov. 2022, in force since 1 Jan. 2023 (AS **2022** 804).
108 Repealed by Annex No 2 of the O of 23 Nov. 2022, with effect from 1 Jan. 2023 (AS **2022** 804).
109 Inserted by No I of the O of 21 Nov. 2018 (AS **2018** 5241). Amended by Annex No 2 of the O of 23 Nov. 2022, in force since 1 Jan. 2023 (AS **2022** 804).

Art. 132*b*[110] Special requirements for banks with a state guarantee or similar mechanism

If a non-internationally active systemically important bank benefits from an explicit state guarantee or similar mechanism, the requirement under Article 132 paragraph 2 letter b, in the amount of the guarantee:

a. shall be deemed to be met up to a maximum of half the required 40 per cent;

b. shall be deemed to be fully met if, in a crisis situation, the corresponding funds are available to FINMA irrevocably and rapidly; FINMA shall decide whether these criteria are met on a case-by-case basis.

Art. 133[111] Tier 2 additional loss-absorbing funds for internationally active systemically important banks

In accordance with Article 65*b* paragraph 1 of the Bank A[112], in the event of an impediment to the resolvability of entities under Article 124 paragraph 3 letters b to d, FINMA may require internationally active systemically important banks to hold Tier 2 additional loss-absorbing funds. Their amount is limited to 25 per cent of the total requirement. Article 132 paragraph 4 applies by analogy.

Arts. 134 and **135**

Repealed

Chapter 5 Special Risk Diversification Requirements

Art. 136[113] Risk concentrations

[1] A risk concentration may not exceed 25 per cent of the adjusted eligible Tier 1 capital under Articles 31 to 40 which is not used to meet the additional loss-absorbing capital requirements.

[2] A risk concentration may not exceed 15 per cent of the Tier 1 capital under paragraph 1 in the case of:

a. exposures to other systemically important banks under Article 8 paragraph 3 of the BankA;

b. exposures to foreign systemically important banks that have been designated as global systemically important banks by the Financial Stability Board.

[3] The upper limit under paragraph 2 must be complied with at the latest twelve months after:

110 Inserted by Annex No 2 of the O of 23 Nov. 2022, in force since 1 Jan. 2023 (AS **2022** 804).
111 Amended by Annex No 2 of the O of 23 Nov. 2022, in force since 1 Jan. 2023 (AS **2022** 804).
112 SR **952.02**
113 Amended by No I of the O of 22 Nov. 2017, in force since 1 Jan. 2019 (AS **2017** 7625).

a. the designation of a bank as systemically important under Article 8 paragraph 3 of the BankA;

b. the designation of a foreign bank as a global systemically important bank under paragraph 2 letter b.

[4] Furthermore, Article 99 applies by analogy.

Title 6 Transitional and Final Provisions

Chapter 1 Transitional Provisions

Section 1 Transitional Provisions of 1 June 2012[114]

Arts. 137 and **138**[115]

Art. 139 Entry into force of the capital adequacy requirement for exchange-traded derivatives and credit risk exposures to central counterparties

FINMA shall set the starting date for compliance with the new provisions of the Basel minimum standards on exchange-traded derivatives (Art. 56 para. 4) and credit risk exposures to central counterparties (Arts. 69 and 70).

Art. 140 Eligible capital

[1] Capital instruments comprising AT1 capital and Tier 2 capital which were issued after 12 September 2010 and which do not meet the relevant new eligibility criteria for regulatory capital shall no longer qualify as capital from 1 January 2013. Paragraph 3 is reserved.

[2] Capital instruments which were issued before 12 September 2010 may be recognised subject to phasing out over a ten-year horizon in accordance with Article 141 and shall no longer qualify as capital from 1 January 2022 at the latest.

[3] Capital instruments comprising AT1 capital and Tier 2 capital which were issued between 12 September 2010 and 31 December 2011, and for which only the contractual provisions on impending insolvency (Art. 29) are missing, may be recognised subject to phasing out in accordance with Article 141.

Art. 141 Eligibility of Tier 1 capital and Tier 2 capital under existing legislation

[1] Participation capital and other Tier 1 capital components under existing legislation which now no longer qualify as CET1 capital or AT1 capital and were issued before 12 September 2010 may be recognised over a maximum ten-year horizon in accordance with the provisions of paragraphs 6 and 7. This does not include

114 Inserted by Attachment No I of the O of 11 May 2016, in force since 1 July 2016 (AS **2016** 1725).

115 Repealed by No I of the O of 22 Nov 2017, with effect from 1 Jan 2019 (AS **2017** 7625).

participation capital of banks which are not organised as corporations; the participation capital of such banks may continue to be recognised as CET1 capital under the same mechanism.

[2] Tier 2 capital under existing legislation which was issued before 12 September 2010 and does not qualify as Tier 2 capital under this Ordinance, may be recognised as Tier 2 capital subject to phasing out in accordance with paragraph 1.

[3] With the entry into force of this Ordinance, between 1 January 2013 and 31 December 2022 at the latest, regulatory capital shall be divided into the following components:

a. CET1 capital as measured by the new provisions;

b. AT1 capital as measured by the new provisions;

c. Tier 1 capital under existing legislation: in accordance with paragraph 1;

d. Tier 2 capital as measured by the new provisions;

e. Tier 2 capital under existing legislation: in accordance with paragraph 2.

[4] Until 31 December 2021 at the latest, the components under paragraph 3 letters b and c shall constitute AT1 capital, and the components under letters d and e Tier 2 capital.

[5] At the time of entry into force of this Ordinance, all capital components under paragraphs 1 and 2 shall be quantified and added together for each category.

[6] The amounts determined in accordance with paragraph 5 on 1 January 2013 shall be reduced by 10 per cent annually, starting on 1 January 2013. They shall constitute the upper limit for the maximum eligible capital components under existing legislation in the year concerned. They may be recognised only to the extent that the bank has outstanding capital instruments of the corresponding quality.

[7] If an existing capital instrument can no longer be recognised as AT1 capital as a result of the phased reduction under paragraph 6, it may instead be recognised as Tier 2 capital in the same amounts as have been derecognised from AT1 capital, provided it meets the new criteria for Tier 2 capital.

Art. 142 Introductory phase for corrections

[1] Deductions that were not provided for under existing legislation shall be made from CET1 capital over a five-year horizon in increments of 20 per cent annually, as follows:

a. 20 per cent of the relevant amount from 1 January 2014;

b. 40 per cent of the relevant amount from 1 January 2015;

c. 60 per cent of the relevant amount from 1 January 2016;

d. 80 per cent of the relevant amount from 1 January 2017; and

e. 100 per cent of the relevant amount from 1 January 2018.

[2] The portion of exposures under paragraph 1 that is not subject to deductions shall be recognised in required capital in accordance with the risk weighting under existing legislation.

[3] Full or partial deductions from existing Tier 1 capital under existing legislation shall be gradually changed over to deductions from CET1 capital using the increments in paragraph 1.

[4] For the portion of exposures under paragraph 3 that is not subject to a deduction, the deductions under existing legislation shall be continued over a five-year horizon in decrements of 20 per cent annually, as follows:

a. 100 per cent of the relevant amount from 1 January 2013;

b. 80 per cent of the relevant amount from 1 January 2014;

c. 60 per cent of the relevant amount from 1 January 2015;

d. 40 per cent of the relevant amount from 1 January 2016;

e. 20 per cent of the relevant amount from 1 January 2017.

[5] The additional deduction under paragraph 4 shall be eliminated completely from 1 January 2018.

[6] Up to 31 December 2017, Threshold 3 (Art. 35 para.4) shall be 15 per cent of CET1 capital after taking account of all regulatory adjustments except the deduction from Threshold 3.[116]

[7] New deductions from AT1 capital or from Tier 2 capital shall be made using the same phased procedure as in paragraphs 1 to 5.

Arts. 143–147[117]

Art. 148[118]

Art. 148*a*[119]

Section 2[120] Transitional Provisions to the Amendment of 11 May 2016

Art. 148*b* Capital quality

[1] As regards required capital quality under Article 131, instruments shall be recognised as follows:

116 Amended by Annex 2 No 4 of the Banking Ordinance of 30 April 2014, in force since 1 Jan. 2015 (AS **2014** 1269).
117 Repealed by No I of the O of 11 May 2016, with effect from 1 July 2016 (AS **2016** 1725).
118 Repealed by No I of the O of 22 Nov. 2017, with effect from 1 Jan. 2019 (AS **2017** 7625).
119 Inserted by Annex 2 No 4 of the Banking Ordinance of 30 April 2014 (AS **2014** 1269). Repealed by No I of the O of 11 May 2016, with effect from 1 July 2016 (AS **2016** 1725).
120 Inserted by No I of the O of 11 May 2016, in force since 1 July 2016 (AS **2016** 1725).

a. high-trigger convertible capital qualifying as Tier 2 capital which is held at the time this Amendment enters into force: recognised as high-trigger convertible capital in the form of AT1 capital for the period of its maturity or up to the time of the first capital call, but at the latest until 31 December 2019;

b. low-trigger convertible capital qualifying as AT1 capital which is held at the time this Amendment enters into force: recognised as high-trigger convertible capital in the form of AT1 capital up to the time of the first capital call;

c. convertible capital that no longer qualifies under letter a: recognised as funds used to meet the requirements under Articles 132 and 133 up to one year before final maturity;

d. convertible capital that no longer qualifies under letter b: recognised as funds used to meet the requirements under Articles 132 and 133 up to the time of any termination by the bank.

[2] As regards required capital quality under Article 131, convertible capital with a 5 per cent trigger and issued before the entry into force of the Amendment on 1 July 2016 shall be recognised as follows:

a. where it qualifies as Tier 2 capital: recognised as high-trigger convertible capital in the form of AT1 capital for the period of its maturity or up to the time of the first capital call, but at the latest until 31 December 2019;

b. where it qualifies as AT1 capital: recognised as high-trigger convertible capital in the form of AT1 capital up to the time of the first capital call;

c. where it no longer qualifies under letters a and b: recognised as funds used to meet the requirements under Articles 132 and 133 up to one year before final maturity.

Art. 148*c* Going-concern capital of the bank

[1] With the entry into force of the Amendment on 1 July 2016, the requirement under Article 129 shall be 3 per cent for the leverage ratio and 10.75 per cent for the RWA ratio. A maximum of 0.70 per cent of AT1 capital in the form of high-trigger convertible capital may be recognised for the leverage ratio, and a maximum of 2.625 per cent for the RWA ratio.

[2] In 2017, the requirement under Article 129 shall be 3.5 per cent for the leverage ratio and 12.0 per cent for the RWA ratio. A maximum of 0.9 per cent of AT1 capital in the form of high-trigger convertible capital may be recognised for the leverage ratio, and a maximum of 3 per cent for the RWA ratio.

[3] In 2018, the requirement under Article 129 shall be 4.0 per cent for the leverage ratio and 12.86 per cent for the RWA ratio. A maximum of 1.1 per cent of AT1 capital in the form of high-trigger convertible capital may be recognised for the leverage ratio, and a maximum of 3.4 per cent for the RWA ratio.

[4] In 2019, the base requirement under Article 129 must be met for the leverage ratio, and the base requirement under Article 129 plus half the surcharges for market share and total exposure must be met for the RWA ratio. A maximum of 1.3 per cent of AT1

capital in the form of high-trigger convertible capital may be recognised for the leverage ratio, and a maximum of 3.9 per cent for the RWA ratio.

Art. 148*d* Additional loss-absorbing funds

[1] With the entry into force of the Amendment on 1 July 2016, the requirement under Article 132 shall be 1.0 per cent for the leverage ratio and 3.5 per cent for the RWA ratio.

[2] In 2017, the requirement under Article 132 shall be 1.875 per cent for the leverage ratio and 5.84 per cent for the RWA ratio, plus a quarter of the surcharges for market share and total exposure.

[3] In 2018, the requirement under Article 132 shall be 2.75 per cent for the leverage ratio and 8.18 per cent for the RWA ratio, plus half the surcharges for market share and total exposure.

[4] In 2019, the requirement under Article 132 shall be 3.625 per cent for the leverage ratio and 10.52 per cent for the RWA ratio, plus three quarters of the surcharges for market share and total exposure.

[5] The reduction in requirements in accordance with paragraphs 1 to 4 as a result of a rebate under Article 133 remains reserved.

Art. 148*e* Bail-in bonds issued before the entry into force of the Amendment of 11 May 2016

[1] FINMA shall retroactively approve the bail-in bonds issued by internationally active banks as defined in Article 124*a* before the entry into force of the Amendment on 1 July 2016, subject to the criteria under Article 126*a* being met.

[2] Up to 31 December 2012, bail-in bonds issued by a special purpose entity may also be approved.

Art. 148*f* Extended countercyclical buffer

Measured in terms of weighted exposures, the maximum extended countercyclical buffer may amount to:

a. with the entry into force of the Amendment on 1 July 2016: 0.625 per cent;

b. in 2017: 1.25 per cent;

c. in 2018: 1.875 per cent.

Section 3[121]
Transitional Provision to the Amendment of 23 November 2016

Art. 148*g*[122]

[1] For the purposes of determining the capital requirement, the credit equivalents of derivatives must be calculated in accordance with Articles 56 to 59 at the latest 36 months after the entry into force of the Amendment of 23 November 2016.

[2] The exposures in the exposure class under Article 63 paragraph 3 letter f[bis] must be weighted in accordance with Article 66 paragraph 3[bis] at the latest 36 months after the entry into force of the Amendment of 23 November 2016.

[3] Up to 31 December 2019, the conversion of derivatives into their credit equivalent within the scope of Title 4 may also be carried out using the market valuation method or the standardised method in accordance with Articles 56 to 58 in the version of 1 July 2016[123]. FINMA may extend this deadline.

Section 4[124]
Transitional Provision to the Amendment of 22 November 2017

Art. 148*h*

Banks which expect or suspect that, from 1 January 2019, they will impermissibly breach the upper limit on risk concentrations (Arts. 97 to 99) shall report this to FINMA within three months after the entry into force of the Amendment of 22 November 2017.

Section 5[125]
Transitional Provision to the Amendment of 21 November 2018

Art. 148*i* Treatment of participations

Individual transitional rules on the treatment of participations that were set by FINMA before the entry into force of the Amendment of 21 November 2018 shall take precedence over the provisions of Article 32 paragraph j and Annex 4.

Art. 148*j* Additional funds for non-internationally active systemically important banks

The requirement under Article 132 paragraph 2 letter b shall amount to:

121 Inserted by No I of the O of 23 Nov. 2016, in force since 1 Jan. 2017 (AS **2016** 4683).
122 Amended by No I of the O of 22 Nov. 2017, in force since 1 Jan. 2018 (AS **2017** 7625).
123 AS **2012** 5441
124 Inserted by No I of the O of 22 Nov. 2017, in force since 1 Jan. 2018 (AS **2017** 7625).
125 Inserted by No I of the O of 21 Nov. 2018, in force since 1 Jan. 2019 (AS **2018** 5241).

a. in 2019: 0.21 per cent for the leverage ratio and 0.64 per cent for the RWA ratio;
b. in 2020: 0.42 per cent for the leverage ratio and 1.28 per cent for the RWA ratio;
c. in 2021: 0.63 per cent for the leverage ratio and 1.92 per cent for the RWA ratio;
d. in 2022: 0.84 per cent for the leverage ratio and 2.56 per cent for the RWA ratio;
e. in 2023: 1.05 per cent for the leverage ratio and 3.2 per cent for the RWA ratio;
f. in 2024: 1.26 per cent for the leverage ratio and 3.84 per cent for the RWA ratio;
g. in 2025: 1.5 per cent for the leverage ratio and 4.5 per cent for the RWA ratio, plus half the surcharges for market share and total exposure.

Section 6[126]
Transitional Provisions to the Amendment of 27 November 2019

Art. 148*k* Calculation methods for derivatives

[1] Up to 31 December 2021, banks in categories 4 and 5 under Annex 3 of the BankO[127] may also use the market valuation method in accordance with Article 57 in the version of 1 July 2016[128] to convert derivatives into their credit equivalents within the scope of Titles 3 and 4.

[1bis] The deadline in accordance with paragraph shall be extended to 31 December 2024.[129]

[2] This also applies to banks in category 3 under Annex 3 of the BankO which do not have significant derivatives exposures. FINMA shall issue technical implementing provisions.

Art. 148*l* Additional funds for internationally active systemically important banks

The requirement under Article 132 paragraph 2 letter a number 3 third indent shall amount to:

a. in 2020: 0 per cent;
b. in 2021: 5 per cent;

126 Inserted by No I of the O of 27 Nov. 2019, in force since 1 Jan. 2020 (AS **2019** 4623).
127 SR **952.02**
128 AS **2012** 5441
129 Inserted by No I 6 of the O of 18 June 2021 on the Adaptation of Federal Law to Developments in Distributed Ledger Technology (AS **2021** 400). Amended by No I of the O of 29 Nov. 2023, in force since 1 Jan. 2024 (AS **2023** 725).

c. in 2022: 10 per cent;

d. in 2023: 20 per cent.

Art. 148*m* Rebates for internationally active systemically important banks

In 2020 and 2021, the requirements under Article 133 paragraph 2 may not fall below 3 per cent for the leverage ratio and 8.6 per cent for the RWA ratio.

Chapter 2 Final Provisions

Art. 149 Repeal of existing legislation

The Capital Adequacy Ordinance of 29 September 2006[130] is repealed.

Art. 150 Amendment of existing legislation

The amendment of existing legislation is regulated in Annex 6.

Art. 151 Commencement

[1] This Ordinance enters into force on 1 January 2013, subject to paragraphs 2 and 3.

[2] Article 43 enters into force on 1 January 2016.

[3] The entry into force of the provisions of Title 5, with the exception of Articles 126 and 127, is conditional on approval by the Federal Assembly.[131]

130 [AS **2006** 4307, **2008** 5363 Annex No 8, **2009** 6101, **2010** 5429, **2012** 3539]
131 Approved by the FA on 18 Sept. 2012 (BBl **2012** 8395).

Annex 1[132]
(Art. 54 para. 1)

Credit conversion factors when using the BIS standardised approach

No.	Contingent funding obligations and irrevocable commitments	Credit conversion factors
		BIS SA
1.	**Loan commitments**	
1.1	with firm commitment and agreed original maturity of less than one year	0.20
1.2	with firm commitment and agreed original maturity of one year or more	0.50
1.3	that are unconditionally cancellable at any time, or provide for automatic cancellation due to deterioration in the borrower's creditworthiness	0.00
2.	**Builder warranties for construction work in Switzerland and abroad**	0.50
3.	**Self-liquidating guarantees from goods trade transactions**	0.20
3.1	Short-term self-liquidating trade letters of credit, e.g. documentary credits collateralised by the underlying shipment	0.20
4.	**Initial and variation margin obligations**	
4.1	on equity securities not recorded as participations in the balance sheet	1.00
4.2	on equity securities that are not participations subject to consolidated reporting	1.00
4.3	on equity securities that are not participations subject to consolidated reporting or equity securities in the insurance sector	1.00

132 Revised by Annex 2 No 4 of the Banking Ordinance of 30 April 2014, in force since 1 Jan. 2015 (AS **2014** 1269). The correction of 10 May 2016 relates to the French text only (AS **2016** 1359).

No.	Contingent funding obligations and irrevocable commitments	Credit conversion factors
		BIS SA
5.	**Warranties**	
5.1	Transaction-related contingent liabilities, e.g. performance bonds, bid bonds, warranties and standby letters of credit related to particular transactions	0.50
5.2	Note issuance facilities (NIFs) and revolving underwriting facilities (RUFs)	0.50
6.	**Other contingent liabilities**	1.00
6.1	Direct credit substitutes, e.g. general guarantees of indebtedness including standby letters of credit serving as financial guarantees for loans and securities, and acceptances including endorsements with the character of acceptances	1.00
6.2	Other contingent liabilities	1.00

Comments:

Other contingent liabilities (under No. 6.2) contain, in particular:

1. – sale and repurchase agreements and asset sales with recourse, where the credit risk remains with the bank [paragraph 83(ii) of the Basel II framework];
   – lending of securities and posting of securities as collateral, including instances where these arise out of repo-style transactions, e.g. repurchase/reverse repurchase and securities lending/borrowing transactions [paragraph 84 of the Basel minimum standards];
   – forward asset purchases, forward forward deposits and partly paid shares and securities which represent commitments with certain drawdown [paragraph 84(i) of the Basel II framework].

2. Where there is an undertaking to provide a commitment on an off-balance sheet item, banks may use the lower of the two applicable credit conversion factors [paragraph 86 of the Basel II framework].

Annex 2[133]
(Art. 66 para. 1)

Exposure classes under the BIS SA when using external ratings and their risk weights

No.	Exposure classes (BIS SA) for which external ratings can be used	Rating category								
		1	2	3	4	5	6	7	Unrated	Fixed
1.	**Central governments and central banks**									
1.1	Central governments and central banks	0%	0%	20%	50%	100%	100%	150%	100%	–
1.2	Confederation and Swiss National Bank, where the asset is denominated and refinanced in domestic currency	–	–	–	–	–	–	–	–	0%
2.	**Public sector entities**									
2.1	Public sector entities	20%	20%	50%	100%	100%	150%	150%	100%	–
2.2	Unrated public sector entities, where they have tax-collecting powers or where their obligations have a full and unlimited guarantee from a public body	–	–	–	–	–	–	–	–	50%
2.3	Unrated cantons	–	–	–	–	–	–	–	–	20%
3.	**BIS, IMF and multilateral development banks**									
3.1	Multilateral development banks	20%	20%	50%	50%	100%	100%	150%	50%	–
3.2	Bank for International Settlements (BIS), International Monetary Fund (IMF), certain multilateral development banks designated by FINMA	–	–	–	–	–	–	–	–	0%

133 Revised by Annex 2 No 4 of the Banking Ordinance of 30 April 2014 (AS **2014** 1269) and Annex No 2 of the O of 23. Nov. 2022, in force since 1. Jan. 2023 (AS **2022** 804).

No.	Exposure classes (BIS SA) for which external ratings can be used	Rating category								
		1	2	3	4	5	6	7	Unrated	Fixed
4.	**Banks and securities firms**									
4.1	Banks and securities firms, original asset maturity ≤ 3 months	20%	20%	20%	20%	50%	50%	150%	20%	–
4.2	Banks and securities firms, original asset maturity > 3 months	20%	20%	50%	50%	100%	100%	150%	50%	–
5.	**Community bodies**									
5.1	Banks' community bodies recognised by FINMA	20%	20%	50%	100%	100%	150%	150%	100%	–
5.2	Payment obligations to the agency of the deposit protection scheme	–	–	–	–	–	–	–	–	20%
5.3	Claims of banks in categories 4 and 5 under Annex 3 of the Banking Ordinance[134] to repayment of loans granted to the deposit protection entity in accordance with Article 37*h* paragraph 3 letter c number 2 of the BankA									20%
5.4	Repayment claims vis-à-vis the deposit protection entity after deposit insurance has been triggered (Art. 37*i* of the BankA)									100%
6.	**Stock exchanges, clearing houses and central counterparties**									
6.1	Stock exchanges, clearing houses and central counterparties	20%	20%	50%	100%	100%	150%	150%	100%	–
6.2	Central counterparties, where credit risks are directly linked to the central counterparty's guarantee of payment performance for exchange-traded or over-the-counter contracts (especially derivatives, repos or repo-like	–	–	–	–	–	–	–	–	2%

134 SR **952.02**

No.	Exposure classes (BIS SA) for which external ratings can be used	Rating category								
		1	2	3	4	5	6	7	Unrated	Fixed
	transactions for which the central counterparty guarantees performance of the obligation over the entire maturity).									
6.3	Stock exchanges and clearing houses, where credit risks are directly linked to the central counterparty's guarantee of payment performance for transactions for which the central counterparty guarantees only the settlement (especially spot transactions).	–	–	–	–	–	–	–	–	0%
7.	**Corporates**	20%	20%	50%	100%	100%	150%	150%	100%	–

Annex 3[135]
(Art. 66 para. 2)

Exposure classes under the BIS SA without the use of external ratings and their risk weights

	Exposure classes (BIS SA) without external ratings	Risk weight
		BIS SA
1.	**Private individuals and small businesses (retail)**	
1.1	Retail exposures, where the total value of the exposures under Article 49 paragraph 1 to a counterparty, excluding residential mortgage-backed securities, does not exceed CHF 1.5 million and 1% of all retail exposures	75%
1.2	Other retail exposures	100%
2.	**Mortgage bonds (Pfandbrief bonds)**	
2.1	Domestic Pfandbrief bonds	20%
3.	**Direct and indirect mortgage-backed exposures**	
3.1	Residential real estate in Switzerland and abroad, up to two thirds of the market value	35%
3.2	Residential real estate in Switzerland and abroad, over two thirds and up to 80% of the market value	75%
3.3	Residential real estate in Switzerland and abroad, over 80% of the market value	100%
3.4	Other real estate and buildings	100%
4.	**Subordinated exposures**	
4.1	Subordinated exposures to public sector entities with a maximum risk weight under Annex 2 (BIS SA) of 50%	are weighted in the same way as
4.2	Other subordinated exposures	

135 The correction of 9 April 2019 concerns the Italian text only (AS **2019** 1203).

		unsubordinated exposures
5.	**Past-due exposures**	
5.1	The exposures under 3.1, corrected for individual value adjustments; mortgage-backed exposures under 3.2 to 3.4 shall be deemed unsecured	100%
5.2	The unsecured exposure components, corrected for individual value adjustments, where the individual value adjustments amount to at least 20% of the outstanding amount	100%
5.3	The unsecured exposure components, corrected for individual value adjustments, where the individual value adjustments amount to less than 20% of the outstanding amount	150%
6.	**Other exposures**	
6.1	Liquid assets, excluding exposures under Annex 2 No. 6.2	0%
6.2	Credit equivalents from initial and variation margin obligations	100%
6.3	Other exposures (incl. accruals and deferrals)	100%

Annex 4[136]
(Art. 32 let. j and 66 para. 3)

Risk weighting of equity securities and units of collective investment schemes under the BIS SA

	Exposure class: equity securities and units of collective investment schemes			Risk weight
				BIS SA
1.1	Equity securities held as financial investments or – where the bank applies the de minimis approach – in the trading book		Traded on a regulated stock exchange	
			Yes	100%
			No	150%
1.2	…			
1.3	…			
1.4	Participations outside the banking, financial and insurance sectors	Traded on a regulated stock exchange		
		Yes		100%
		No		150%
1.5	Participations in the banking, financial and insurance sectors, where these are not deducted from CET1 or AT1 capital or weighted at 250 per cent in accordance with Article 40 paragraph 2			150%
1.6	As part of the individual entity calculation: the net long positions of direct or indirect participations calculated in accordance with Article 52 in companies subject to consolidated financial reporting, with registered office:			in Switzerland: 250%
				abroad: 400%
1.7	As part of the individual entity calculation: the net long positions of direct or indirect regulatory capital instruments calculated in accordance with Article 52 in companies subject to consolidated financial reporting, with registered office:			in Switzerland: 250%
				abroad: 400%

136 Revised by No I of the O of 23 Nov. 2016 (AS **2016** 4683) and No II of the O of 21 Nov. 2018, in force since 1 Jan. 2019 (AS **2018** 5241).

Annex 5
(Art. 84 para. 1)

Rates for calculating the minimum capital requirement for specific risk in interest rate instruments according to the standardised approach for market risk

Category	Rating category	Rate
Central governments and central banks	1 or 2	0.00%
	3 or 4	0.25% (residual maturity ≤ 6 months)
		1.00% (residual maturity > 6 months and ≤ 24 months)
		1.60% (residual maturity > 24 months)
	5 or 6	8.00%
	7	12.00%
	Unrated	8.00%
Eligible interest rate instruments (Art. 4 lit. g)		0.25% (residual maturity ≤ 6 months)
		1.00% (residual maturity > 6 months and ≤ 24 months
		1.60% (residual maturity > 24 months)
Other	5	8.00%
	6 or 7	12.00%
	Unrated	8.00%

Annex 6
(Art. 150)

Amendment of existing legislation

…[137]

[137] The amendment may be consulted under AS **2012** 5441.

Annex 7[138]
(Art. 44 para. 2)

Countercyclical buffer

1. The banks are required to maintain a countercyclical buffer in the form of Tier 1 capital on direct and indirect mortgage-backed credit exposures for residential real estate in Switzerland in accordance with Article 72.
2. The buffer amounts to 2.5 per cent of the risk-weighted credit exposures.
3. The countercyclical buffer applies from 30 September 2022 until the repeal or amendment of this Annex.

[138] Inserted by No I of the O of 13 Feb. 2013 (AS **2013** 693). Amended by No II of the O of 26 Jan. 2022, in force since 30 Sept. 2022 (AS **2022** 53).

Annex 8[139]
(Art. 43 para. 1)

Minimum capital, capital buffer and total capital ratio

(in % of risk-weighted exposures)

Category under Annex 3 of the BankO[140]	1 and 2	3	4	5
Minimum capital			8.0%	
- of which CET1			4.5%	
- of which AT1 or higher			1.5%	
- of which T2 or higher			2.0%	
Capital buffer	4.8%	4.0%	3.2%	2.5%
- of which CET1	3.7%	3.3%	2.9%	2.5%
- of which AT1 or higher	0.5%	0.3%	0.1%	–
- of which T2 or higher	0.6%	0.4%	0.2%	–
Total capital ratio	12.8%	12.0%	11.2%	10.5%

139 Inserted by No II of the O of 11 May 2016, in force since 1 July 2016 (AS **2016** 1725).
140 SR **952.02**

Annex 9[141]
(Art. 129)

Surcharges

1 Surcharges for market share

1.1 Market share of up to 27 per cent

Bucket	Market share	LR surcharge	RWA ratio surcharge
M1	< 12%	0%	0%
M2	< 17%	0.125%	0.36%
M3	< 22%	0.25%	0.72%
M4	< 27%	0.375%	1.08%

1.2 Market share of 27 per cent or more

For every additional 5 percentage points of market share, the requirement increases by 0.125 percentage points for the leverage ratio and by 0.36 percentage points for the RWA ratio.

2 Surcharges for total exposure

2.1 Total exposure of up to CHF 1,341 billion

Bucket	Total exposure	LR surcharge	RWA ratio surcharge
G1	< CHF 697 billion	0%	0%
G2	< CHF 912 billion	0.125%	0.36%
G3	< CHF 1,127 billion	0.25%	0.72%
G4	< CHF 1,341 billion	0.375%	1.08%

2.2 Total exposure exceeding CHF 1,341 billion

For every additional CHF 215 billion of total exposure, the requirement increases by 0.125 percentage points for the leverage ratio and by 0.36 percentage points for the RWA ratio.

[141] Inserted by No II of the O of 11 May 2016 (AS **2016** 1725). Revised by No II of the O of 27 Nov. 2019, in force since 1 Jan. 2020 (AS **2019** 4623).