

**REGULATION**  
**ON THE FUNDING OF THE COMPENSATION SCHEME OF GERMAN PRIVATE BANKS**  
**AND THE COMPENSATION SCHEME OF THE ASSOCIATION OF GERMAN PUBLIC**  
**BANKS**  
**(COMPENSATION SCHEME FUNDING REGULATION)\***

Verordnung über die Finanzierung der Entschädigungseinrichtung deutscher Banken GmbH und der Entschädigungseinrichtung des Bundesverbandes Öffentlicher Banken Deutschlands GmbH (Entschädigungseinrichtungs-Finanzierungsverordnung, EntschFinV)

Signed into law on 5 January 2016 (Federal Law Gazette I, p.9)

September 2016

\* This unofficial translation is provided by the Association of German Banks for information purposes only.  
The original German text is binding in all respects.

**Preamble**

Pursuant to Section 33(1), sentence 1, numbers 1 to 3 and 6 of the Deposit Guarantee Act (Einlagensicherungsgesetz) of 28 May 2015 (Federal Law Gazette I, p. 786), the Federal Ministry of Finance, after hearing the Compensation Scheme of German Private Banks (Entschädigungseinrichtung dt. Banken GmbH) and the Compensation Scheme of the Association of German Public Banks (Entschädigungseinrichtung des Bundesverbandes Öffentlicher Banken Deutschlands GmbH), hereby issues the following Regulation:

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**Part 1**  
**General provisions**

**Section 1**  
**Scope and subject matter**

- (1) This Regulation applies to
1. the Compensation Scheme of German Private Banks and the Compensation Scheme of the Association of German Public Banks (compensation schemes), as well as
  2. CRR credit institutions within the meaning of Section 1 of the Deposit Guarantee Act that are assigned to a compensation scheme.
- (2) This Regulation sets out the further details of the funding of the compensation schemes and further provisions on
1. the methods for calculating contributions in accordance with Section 19(2) to (4) of the Deposit Guarantee Act,
  2. the calculation and collection of contributions and payments,
  3. the collection of default interest for late contributions and payments, and
  4. the recognition of payment commitments and associated financial collateral.

**Section 2**  
**Definitions**

- (1) In this Regulation, "covered deposits of a CRR credit institution" means the deposits in accordance with Section 8(1) of the Deposit Guarantee Act.
- (2) In this Regulation, "payment commitments" means the contractually established payment commitments of the CRR credit institutions that can be recognised as available financial means of the compensation scheme in accordance with Section 18(2) of the Deposit Guarantee Act.
- (3) In this Regulation, "financial collateral" means low-risk debt securities or cash.
- (4) In this Regulation, "low-risk debt securities" means assets within the meaning of Section 18(1), sentence 2 of the Deposit Guarantee Act that are eligible as financial collateral for payment commitments under Section 28(1) of this Regulation.

(5) In this Regulation, "cash collateral" means cash collateral within the meaning of Article 2(1)(d) of Directive 2002/47/EC of the European Parliament and of the Council of 6 June 2002 on financial collateral arrangements (OJ L 168 of 27.6.2002, p. 43), which was amended by Directive 2014/59/EU (OJ L 173 of 12.6.2014, p. 190), provided this cash collateral is eligible as financial collateral for payment commitments under Section 28(1) of this Regulation.

**Part 2**  
**Contributions and payments**

**Chapter 1**  
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**Obligation to pay contributions and collection of contributions**

**Section 3**  
**Obligation to pay contributions**

(1) CRR credit institutions which are assigned to the compensation scheme in the respective contribution assessment year shall pay an annual contribution in accordance with Section 26(1), sentence 1 of the Deposit Guarantee Act. The annual contribution shall be reduced by 75% for CRR credit institutions which withdraw from the compensation scheme between 1 October and 31 December before contributions are due, by 50% for CRR credit institutions which withdraw between 1 January and 31 March before contributions are due, and by 25% for CRR credit institutions which withdraw between 1 April and 30 June before contributions are due.

(2) A CRR credit institution's obligation to pay contributions ends as soon as the CRR credit institution's authorisation has expired or been uncontestedly revoked.

**Section 4**  
**Contribution notice and payment commitment**

- (1) The compensation scheme shall levy the annual contribution at the end of a contribution assessment year by means of a contribution notice.
- (2) The level of the contribution to be fixed shall be the annual contribution minus the amount that the CRR credit institution provides by assuming a payment commitment in accordance with Sections 19 to 22.

(3) The amount to be provided by assuming a payment commitment may only be deducted under subsection (2) if the conditions for assuming a payment commitment in accordance with Sections 19 and 20 have been fulfilled. If, after fixing the contribution in accordance with subsection (2), the compensation scheme finds that the conditions for assuming a payment commitment have not been fulfilled, or if the payment commitment agreement is null and void or has been terminated, the compensation scheme shall fix the amount covered by the payment commitment by means of an additional contribution notice.

(4) The contribution shall be due when the contribution notice in accordance with subsection (1) or an additional contribution notice in accordance with subsection (3) has been announced.

**Footnote** (+++ Section 4: as regards application, cf. Section 34(2) +++)

## **Division 2**

### **Risk-based calculation of contributions**

#### **Title 1**

#### **General provisions**

#### **Section 5**

#### **Calculation of contributions and surcharge to cover administrative costs**

(1) A CRR credit institution's annual contribution shall be calculated in accordance with Section 7 in such a way that the sum of all annual contributions reaches at least the annual target level in accordance with Section 6.

(2) The annual contribution

1. for CRR credit institutions assigned to the Compensation Scheme of German Private Banks shall be at least EUR 20 000, and
2. institutions assigned to the Compensation Scheme of the Association of German Public Banks, at least EUR 6 500; if the CRR credit institution benefits from Anstaltslast<sup>1</sup>, Gewährträgerhaftung<sup>2</sup> or a refinancing guarantee, the annual contribution shall be at least EUR 3 250.

(3) In addition to the annual contribution, a flat-rate surcharge may be levied to cover the administrative and other costs incurred by the compensation scheme in the course of its activities. The surcharge

1. for CRR credit institutions assigned to the Compensation Scheme of German Private Banks shall not exceed EUR 12 500 and
  2. for credit institutions assigned to the Compensation Scheme of the Association of German Public Banks, EUR 40 000,
- plus in each case 0.5% of the CRR credit institution's annual contribution. The surcharge shall be fixed together with the respective annual contribution and shown separately in the contribution notice. The compensation scheme may also levy a surcharge for contribution assessment years in which no annual contribution is levied.

## **Section 6**

### **Annual target level**

(1) To ensure that the target level in accordance with Section 17(2), sentence 1 of the Deposit Guarantee Act is reached, the compensation scheme shall set an annual target level in each contribution assessment year.

(2) The annual target level shall be set by 15 August of each year. For this purpose, the difference between the available financial means at this point in time and the target level shall be divided by the number of years remaining until the end of the respective accumulation phase within the meaning of Section 17(2) and (3) of the Deposit Guarantee Act.

(3) A new accumulation phase to be determined in accordance with Section 17(3) of the Deposit Guarantee Act shall begin with the contribution assessment year following the contribution assessment year in which the target level shortfall occurred. The new accumulation phase shall not exceed six years.

(4) The annual target level on which the calculation in accordance with subsection (1) is based shall be established on the basis of the covered deposits of all CRR credit institutions as at 31 December of the preceding year.

<sup>1</sup> Liability assumed by the public owners for the economic viability of the credit institution.

<sup>2</sup> Statutory guarantee of joint and several liability of the public owners to the creditors of the credit institution.

(5) The compensation scheme may raise or lower the annual target level to reflect developments in the business cycle. When it does so, the respective phase of the business cycle and the potential impact of pro-cyclical contributions on the CRR credit institutions' financial position shall be taken into account.

(6) The annual target level may be raised by means of a flat-rate surcharge if this appears necessary in view of a forecasted growth in covered deposits until the target level is reached.

**Section 7**  
**Calculation formula**

(1) The annual contribution shall be calculated by applying the following formula:

$$C_i = \max. \{MC_i; (CR \times ARW_i \times CD_i \times \mu)\}$$

Where:

- $C_i$  = annual contribution from CRR credit institution
- $MC_i$  = minimum contribution in accordance with Section 5(2)
- $CR$  = contribution rate
- $ARW_i$  = aggregate risk weight for CRR credit institution
- $CD_i$  = covered deposits of CRR credit institution
- $\mu$  = adjustment coefficient

The annual contribution shall be either the minimum contribution  $MC_i$  or the result of the formula  $CR \times ARW_i \times CD_i \times \mu$ , whichever is higher.

(2) The contribution rate shall be identical for all CRR credit institutions that are members of the same compensation scheme. The compensation scheme shall determine the contribution rate on a yearly basis by 15 August by dividing the annual target level set in accordance with Section 6 by the sum of covered deposits of all CRR credit institutions as at 31 December of the preceding year.

(3) The aggregate risk weight for the CRR credit institution shall be a percentage calculated on the basis of several risk indicators in accordance with Sections 8 to 12.

(4) The covered deposits of the CRR credit institution shall be the covered deposits that are held by the CRR credit institution as at 31 December of the

preceding year and that must be reported in accordance with Section 17(4) of the Deposit Guarantee Act.

(5) The compensation scheme shall use the adjustment coefficient to adjust the sum of the annual contributions of all CRR credit institutions that would be produced by calculating the annual contributions on the basis of the contribution rate, the aggregate risk weight and the covered deposits of each CRR credit institution using the formula  $C_i = CR \times ARW_i \times CD_i$  (unadjusted annual contributions) to the annual target level. The adjustment coefficient shall be calculated by applying the following formula:

$$\mu = \frac{\text{Annual target level}}{\text{Sum of unadjusted annual contributions}}$$

The compensation scheme shall be entitled to lower or raise the adjustment coefficient if this is necessary due to developments in the business cycle and the pro-cyclical impact of the annual contributions.

**Title 2**

**Calculation of the aggregate risk weight for CRR credit institutions assigned to the Compensation Scheme of German Private Banks**

**Section 8**

**Calculation of the aggregate risk weight**

(1) The aggregate risk weight for CRR credit institutions assigned to the Compensation Scheme of German Private Banks shall be calculated on the basis of a credit quality grade. The credit quality grade shall be based on a risk assessment of the CRR credit institution by the Compensation Scheme of German Private Banks using risk categories and risk indicators in accordance with Sections 9 and 10 and with Annex 1.

(2) For each credit quality grade, the aggregate risk weight shall be as follows:

|                       |     |     |     |      |      |      |      |      |      |      |
|-----------------------|-----|-----|-----|------|------|------|------|------|------|------|
| Credit quality grade  | 0   | 1   | 2   | 3    | 4    | 5    | 6    | 7    | 8    | 9    |
| Aggregate risk weight | 50% | 75% | 90% | 100% | 110% | 125% | 140% | 160% | 180% | 200% |

(3) By way of derogation from subsections (1) and (2), an aggregate risk weight of 110% shall apply to newly established CRR credit institutions until and including completion of the second full financial year.

## Section 9

### Risk categories, risk indicators and risk weighting

(1) The Compensation Scheme of German Private Banks shall base its assessment of the CRR credit institution's risk on the following risk categories:

1. capital
2. liquidity and funding
3. asset quality
4. business model and management, and
5. potential losses for the compensation scheme.

The risk categories shall be assigned risk indicators in accordance with Annex 1.

(2) Weighting of the risk categories and risk indicators and calculation of the credit quality grades shall be performed in accordance with Annex 1.

(3) Further details of risk assessment for the risk categories specified in subsection (1) are set out in Annex 1. Risk assessment for the risk category set out under subsection (1) number 4 shall also be performed on the basis of ratings in accordance with Section 10.

## Section 10

### Ratings-based risk assessment

(1) Ratings-based risk assessment shall be based solely on current credit ratings issued by a recognised credit rating company in the form of full ratings with a forecast period of one year. Current credit ratings means ratings which the CRR credit institution or a third party has commissioned with respect to the creditworthiness of the CRR credit institution and are valid on 31 May of the respective contribution assessment year. Current credit ratings for CRR credit institutions within the meaning of Section 53(1), sentence 1 of the Banking Act (Kreditwesengesetz) shall also include ratings issued with respect to the creditworthiness of their undertaking abroad.

(2) Recognised credit rating companies means companies which

1. are registered as credit rating agencies in accordance with Article 14 of Regulation (EC) No 1060/2009 of the European Parliament and of the Council of 16 September 2009 on credit rating agencies (OJ L 302 of 17.11.2009, p. 1, L 350 of 29.12.2009, p. 59, L 145 of 31.5.2011,

p. 57) in the version valid at the respective time or

2. are certified as credit rating agencies in accordance with Article 5 of Regulation (EC) No 1060/2009 and
3. have at least five years' experience as credit rating agencies performing the credit-rating of CRR credit institutions or at least ten years' experience as credit rating agencies performing credit assessments of CRR credit institutions for deposit guarantee schemes.

The CRR credit institutions shall, on request, furnish the Compensation Scheme of German Private Banks with suitable proof that the conditions specified in sentence 1, numbers 1 and 2 have been fulfilled.

(3) The Compensation Scheme of German Private Banks shall map a rating score class to each credit assessment category used by a recognised credit rating company in accordance with the rules laid down in Article 136 of Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (OJ L 176 of 27.6.2013, p.1, L 208 of 2.8.2013, p. 68, L 321 of 30.11.2013, p. 6, L 193 of 21.7.2015, p. 166), which was amended by Delegated Regulation (EU) No 2015/62 (OJ L 11 of 17.1.2015, p. 37). The Compensation Scheme of German Private Banks shall publish the mapping of the rating score classes on its website.

(4) The CRR credit institutions shall send the Compensation Scheme of German Private Banks all the current credit ratings relating to them within the meaning of subsection (1) to enable it to perform the risk assessment. Where CRR credit institutions do not have a current rating, they shall obtain one. Sentence 2 shall not apply to CRR credit institutions within the meaning of Section 53(1), sentence 1 of the Banking Act which submit all the credit ratings for their undertaking domiciled abroad if these ratings meet the requirements set in subsection (1).

**Title 3**

**Calculation of the aggregate risk weight for CRR credit institutions assigned to the Compensation Scheme of the Association of German Public Banks**

**Section 11**

**Calculation of the aggregate risk weight**

(1) The aggregate risk weight for CRR credit institutions assigned to the Compensation Scheme of the Association of German Public Banks shall be calculated on the basis of a risk class. The risk class shall be based on a risk assessment of the CRR credit institution by the Compensation Scheme of the Association of German Public Banks using risk categories and risk indicators in accordance with Section 12 and with Annex 2.

(2) For each risk class, the aggregate risk weight shall be as follows:

| Risk class            | 0    | 1    | 2     | 3     | 4     | 5     |
|-----------------------|------|------|-------|-------|-------|-------|
| Aggregate risk weight | 50 % | 75 % | 100 % | 125 % | 150 % | 200 % |

3) By way of derogation from subsections (1) and (2), an aggregate risk weight of 125% shall apply to newly established CRR credit institutions until and including completion of the second full financial year.

**Section 12**

**Risk categories, risk indicators and risk weighting**

(1) The Compensation Scheme of the Association of German Public Banks shall base its assessment of the CRR credit institution's risk on the following risk categories:

1. capital
2. liquidity and funding
3. asset quality
4. business model and management, and
5. potential losses for the compensation scheme.

The risk categories shall be assigned risk indicators in accordance with Annex 2.

(2) Weighting of the risk categories and risk indicators and aggregation of the risk indicators to produce an aggregate risk weight shall be performed in accordance with Annex 2.

**Chapter 2**

**One-off payment**

**Section 13**

**Obligation to make payment**

(1) In addition to paying the annual contribution, CRR credit institutions newly assigned to a compensation scheme shall be required to make a one-off payment calculated in accordance with Section 14.

(2) CRR credit institutions which

1. were assigned to the compensation scheme prior to the entry into force of the Deposit Guarantee Act and made a one-off payment to it on the basis of Section 8(2), sentence 4 of the Deposit Guarantee and Investor Compensation Act (Einlagensicherungs- und Anlegerechtschädigungsgesetz) of 16 July 1998 (Federal Law Gazette I, p. 1842), which was last amended by Article 2 of the Act of 28 May 2015 (Federal Law Gazette I, p. 786), in conjunction with

(a) Section 2(1), sentence 1 or (2), sentence 4 of the Regulation on Contributions to the Compensation Scheme of German Private Banks (EdB-Beitragsverordnung) of 10 July 1999 (Federal Law Gazette I, p. 1540), which was last amended by Article 5 of the Regulation of 30 January 2014 (Federal Law Gazette I, p. 322), or with

(b) Section 2(1) of the Regulation on Contributions to the Compensation Scheme of the Association of German Public Banks (EdVÖB-Beitragsverordnung) of 10 July 1999 (Federal Law Gazette I, p. 1538), which was last amended by Article 4 of the Regulation of 30 January 2014 (Federal Law Gazette I, p. 322),

or

2. were created, by way of transformation, from CRR credit institutions previously affiliated to the compensation scheme, provided these CRR



credit institutions have already paid annual contributions in the year of admission,

shall be exempted from the requirement to pay the one-off payment.

**Section 14**  
**Calculation and due date**

(1) The one-off payment shall be 0.2% of the covered deposits held by the CRR credit institution on 31 December of the preceding year, but at least EUR 25 000.

(2) The one-off payment shall be due when the notice concerning the payment has been announced.

**Chapter 3**  
**Rules of procedure**

**Section 15**

**Obligation to submit documentation and proof**

(1) The compensation scheme shall specify the arrangements for notification of the amount of covered deposits stipulated under Section 17(4) of the Deposit Guarantee Act and publish these on its website. The CRR credit institutions shall be required to confirm to the compensation scheme the factual and arithmetical accuracy of the information they report. The compensation scheme may verify the accuracy of such notification.

(2) CRR credit institutions shall deliver to the compensation scheme by 30 June of the respective contribution assessment year the following information and documents for calculation of the annual contribution:

1. the annual financial statements (annual accounts) within the meaning of Section 26(1), sentences 1 and 2 of the Banking Act for the financial year ending before 1 March of the respective contribution assessment year and for the preceding year,
2. the notifications in accordance with the requirements of Commission Implementing Regulation (EU) No 680/2014 of 16 April 2014 laying down implementing technical standards with regard to supervisory reporting of institutions accord-

ing to Regulation (EU) 575/2013 of the European Parliament and of the Council (OJ L 191 of 28.6.2014, p. 1) and Commission Implementing Regulation (EU) No 2015/79 of 18 December 2014 amending Implementing Regulation (EU) No 680/2014 laying down implementing technical standards with regard to supervisory reporting of institutions according to Regulation (EU) No 575/2013 of the European Parliament and of the Council as regards asset encumbrance, single data point model and validation rules (OJ L 14 of 21.1.2015, p. 1) as at the balance sheet date of the financial year ending before 1 March of the respective contribution assessment year and as at the balance sheet date of the preceding year,

3. the overview template for own funds in accordance with Article 72 of Regulation (EU) No 575/2013, in conjunction with Section 10a of the Banking Act, as at the balance sheet date of the financial year ending before 1 March of the respective contribution assessment year and as at the balance sheet date of the preceding year,
4. the completed reporting template for the financial information in accordance with Section 25(1), sentence 1 of the Banking Act as at the balance sheet date of the financial year ending before 1 March of the respective contribution assessment year and as at the balance sheet date of the preceding year, and
5. the completed compensation scheme questionnaire to gather additional information as at the balance sheet date of the financial year ending before 1 March of the respective contribution assessment year and as at the balance sheet date of the preceding year.

(3) CRR credit institutions assigned to the Compensation Scheme of German Private Banks shall be obligated to additionally deliver to the compensation scheme by 30 June of the respective contribution assessment year the following information and documents:

1. the statement of assets and liabilities, together with a statement of income and expenses, and for branches of undertakings domiciled abroad the notes thereon referred to in Section 53(2)

number 2 of the Banking Act, and,

2. for the purpose of preparing the risk assessment, all current credit ratings relating to them or the credit ratings obtained for submission to the compensation scheme within the meaning of Section 10.

(4) The documents specified in subsection (2) number 1 and subsection (3) number 1 must bear an unconditional audit certificate issued by the auditor. Annual financial statements or a statement of assets and liabilities bearing a conditional audit certificate shall only be taken into account by the compensation scheme if the objections made by the auditor do not relate to the risk indicators and risk categories on which the risk assessment in accordance with Sections 8 to 12 and Annexes 1 and 2 is based.

(5) Subsections (2) to (4) shall not apply to newly established CRR credit institutions whose aggregate risk weight is governed by Section 8(3) or Section 11(3).

(6) The obligations under subsections (2) to (4) shall continue to apply even after the target level in accordance with Section 17(2), sentence 1 of the Deposit Guarantee Act has been reached.

### **Section 16**

#### **Provisional and final fixing of contributions**

(1) Should a CRR credit institution fail to submit the information and documents required for calculation of the annual contribution in good time or in full, the compensation scheme shall be authorised to calculate and provisionally fix the annual contribution in accordance with subsections (2) to (4). The contribution shall be due when the contribution notice has been announced.

(2) If the amount of a CRR credit institution's covered deposits in accordance with Section 17(4) of the Deposit Guarantee Act is not made known to the compensation scheme by 15 August of the respective contribution assessment year, the compensation scheme shall estimate the amount of covered deposits and base calculation of the provisional annual contribution on 1.35 times the estimated amount of covered deposits. When estimating the covered deposits, it shall take into account

the size and structure of the business of the CRR credit institution and of a group of comparable CRR credit institutions, drawing on appropriate documents.

(3) If a CRR credit institution fails to submit the information and documents required for the risk assessment in accordance with Section 15(2) and (3) in good time or in full, the compensation scheme shall estimate the CRR credit institution's risk and shall base calculation of the provisional annual contribution on the next higher credit quality grade in accordance with Section 8(2) or the next higher risk class in accordance with Section 11(2). When estimating the CRR credit institution's risk, it shall take into account the CRR credit institution's credit quality grades or risk classes from the last two preceding contribution assessment years and any changes in the CRR credit institution's assets, financial or earnings situation of which it has become aware through appropriate documents.

(4) The compensation scheme shall recalculate and finally fix the CRR credit institution's annual contribution taking into account the information and documents subsequently submitted by 31 December.

(5) The values specified in subsections (2) and (3) shall be deemed final unless the CRR credit institution has subsequently submitted the required information and documents by expiry of the deadline set in subsection (4).

(6) The CRR credit institution shall subsequently settle any difference between the provisionally fixed annual contribution and the finally fixed annual contribution. The difference shall be due when the final notice concerning the annual contribution is announced.

### **Section 17**

#### **Cut-off date**

(1) Information and documents submitted after 31 December of the following contribution assessment year shall no longer be taken into account by the compensation scheme for calculating contributions for the CRR credit institutions.

(2) The date specified in subsection (1) shall be a cut-off date.

### **Section 18**

#### **Default interest**

If the respective contribution or a provisional contribution is not paid or the respective payment is not made by expiry of a period of one month from the due date, the compensation scheme shall collect default interest. The compensation scheme shall refrain from collecting default interest unless the default interest exceeds EUR 50. The provisions of the Civil Code (Bürgerliches Gesetzbuch [BGB]) on debtor default shall apply accordingly in addition.

### **Part 3**

#### **Payment commitments and financial collateral**

#### **Chapter 1**

##### **Payment commitments**

#### **Section 19**

##### **Permission to assume payment commitments**

(1) The compensation scheme may allow the CRR credit institutions assigned to it to provide up to 30% of their annual contribution in any contribution assessment year by assuming a contractual payment commitment. All CRR credit institutions that by 15 August of the contribution assessment year have fully made available the information and documents required in accordance with Section 17(4) of the Deposit Guarantee Act and Section 15(2) to (4) of this Regulation shall be allowed to assume a payment commitment for the same percentage of the respective annual contribution. The CRR credit institutions do not have a right to permission to assume a payment commitment either on the merits or in respect of any amount.

(2) By way of derogation from subsection (1), sentence 1, the compensation scheme may allow the CRR credit institutions assigned to it to provide up to 100% of their annual contribution in any contribution assessment year by assuming a payment commitment if

1. the compensation scheme's available financial means, minus the payment commitments assumed by the CRR credit institutions as a whole, have reached at least 70% of the target level and

2. the total amount of the payment commitments which the CRR credit institutions are allowed to assume would not exceed 30% of the available financial means after collection of contributions in the contribution assessment year.

An individual CRR credit institution shall only be allowed to assume a payment commitment in accordance with sentence 1 if the payment commitments assumed by the CRR credit institution do not as a whole amount to more than 30% of the CRR credit institution's share of the available financial means.

#### **Section 20**

##### **Conditions for assuming payment commitments**

The assumption of a payment commitment in a contribution assessment year presupposes that the CRR credit institution concerned

1. and the compensation scheme have concluded a master agreement for payment commitments in accordance with Section 21 and a master agreement for financial collateral in accordance with Section 27, which shall be concluded once only but no later than 30 June of a contribution assessment year, and
2. and the compensation scheme have agreed, no later than 1 September of the respective contribution assessment year, on the assumption of a payment commitment in accordance with Section 22 for the contribution assessment year and that the CRR credit institution concerned has secured the payment commitment by providing financial collateral in accordance with Section 26.

The dates specified in sentence 1 shall be cut-off dates. A CRR credit institution shall not be obligated to provide a payment commitment.

#### **Section 21**

##### **Master agreement for payment commitments**

(1) The master agreement shall form the basis for concluding payment commitment agreements in accordance with Section 22 in the individual contribution assessment years. The master agreement

shall regulate the content of the agreements and the procedure for concluding the agreements.

(2) The compensation scheme shall use a standard template for the master agreement. The agreement template shall be notified to the Federal Financial Supervisory Authority (BaFin).

(3) The master agreement shall be signed by the CRR credit institution's legal representatives. The CRR credit institution shall furnish the compensation scheme with suitable proof that the persons acting on its behalf are authorised to represent it. If the payment commitment agreements in accordance with Section 22 are not to be concluded by the CRR credit institution's legal representatives, the persons authorised to represent it shall be named in the master agreement.

**Section 22**  
**Agreements for the assumption of payment commitments**

(1) Individual agreements for the assumption of payment commitments shall be concluded on the basis of the master agreement in the respective contribution assessment years. These agreements shall in particular specify that

1. the level of payment commitments shall depend on what percentage of annual contributions the compensation scheme has allowed to be provided by way of payment commitments in accordance with Section 19;
2. payment commitments shall be irrevocable and non-terminable;
3. the respective payment commitment shall be secured by certain financial collateral in accordance with Sections 25 to 30;
4. the CRR credit institution shall submit to immediate enforcement with regard to the payment commitment (Section 61(1) of the Administrative Procedure Act (Verwaltungs-ver-fahrensgesetz));
5. the transfer of payment commitment agreements to other CRR credit institutions in accordance with Section 24 shall be allowed;

6. the CRR credit institution shall be obligated to notify the compensation scheme of all circumstances referred to in Section 31;

7. agreements for the assumption of payment commitments shall obviate the need to issue contribution notices in accordance with Section 4(1) for the contribution amounts provided by way of the payment commitments (Section 54, sentence 2 of the Administrative Procedure Act).

(2) The compensation scheme shall use a standard template for the agreements for the assumption of payment commitments, to be agreed as an annex to the master agreement pursuant to Section 21. The template shall be notified to the Federal Financial Supervisory Authority.

**Section 23**  
**Request for and due date of payment**

(1) The compensation scheme shall request the payment under the payment commitment in full or in partial amounts if it needs the payment to compensate depositors in accordance with Sections 5 to 9 of the Deposit Guarantee Act or for loss absorption amounts in accordance with Section 145 of the Recovery and Resolution Act (Sanierungs- und Abwicklungsgesetz) in the course of the resolution of a CRR credit institution. The payment shall become due when the request is received by the CRR credit institutions.

(2) The compensation scheme shall request the payment from all the CRR credit institutions that have assumed payment commitments, in each case of a proportionately equal amount, if the sum of all payment commitments exceeds 30% of the available financial means and if the share of payment commitments in relation to the available financial means cannot be reduced in any other way.

(3) The compensation scheme shall request the payment from an individual CRR credit institution that has assumed a payment commitment

1. if the sum of the CRR credit institution's payment commitments exceeds 30% of the CRR credit institution's share of the available financial means and cannot be reduced in any other way;

2. if the CRR credit institution fails to replace financial collateral in accordance with Section 27(3) number 5 or fails to do so in good time or in full;
3. if the CRR credit institution fails to provide further financial collateral in accordance with Section 27(3) number 6 or fails to do so in good time or in full;
4. if the CRR credit institution's authorisation has expired or been revoked;
5. if reorganisation measures within the meaning of Article 2 of Directive 2001/24/EC of the European Parliament and of the Council of 4 April 2001 on the reorganisation and winding-up of credit institutions (OJ L 125 of 5.5.2001, p. 15), as amended by Directive 2014/59/EU (OJ L 173 of 12.6.2014, p. 190), are ordered for the CRR credit institution, but not if early intervention measures or crisis management measures within the meaning of Articles 27 and 2(1) number 102 of Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU and Regulations (EU) No 1093/2010 and (EU) No 648/2012 of the European Parliament and of the Council (OJ L 173 of 12.6.2014, p. 190) are ordered;
6. if winding-up proceedings within the meaning of Article 2 of Directive 2001/24/EC have been initiated for the CRR credit institution's assets in accordance with the respectively applicable statutory provisions.

(4) The request in accordance with subsections (1) to (3) shall be made in writing, electronically or orally, stating the reason for the request in accordance with subsection (1), sentence 1, with confirmation of receipt to be provided by the CRR credit institution. No reason beyond that specified in sentence 1 shall be required for the request.

(5) If a CRR credit institution has paid part of the annual contribution that forms the basis for calcu-

lating extraordinary contributions and extraordinary payments in accordance with Section 27(3), sentence 1 of the Deposit Guarantee Act by assuming a payment commitment, the payment commitment shall be deemed to be due for the purpose of calculating the extraordinary contributions or extraordinary payments as soon as the part of the contribution fixed by means of the contribution notice in accordance with Section 4(1) has become due. Subsection (1), sentence 2 shall remain unaffected thereby.

## **Section 24**

### **Transfer of payment commitments**

(1) The CRR credit institutions shall be entitled, subject to the approval of the compensation scheme, to transfer agreements for the assumption of payment commitments in accordance with Section 22 to other CRR credit institutions that have concluded master agreements with the compensation scheme in accordance with Section 21. The transferee CRR institution must take over all the obligations resulting from the agreement for the assumption of payment commitments without limitation, and must, in particular, submit to immediate enforcement by the compensation scheme with respect to the payment commitment it takes over. Following transfer, the transferee CRR credit institution shall assume the position of the transferor CRR credit institution with respect to the financial collateral provided in accordance with Sections 26 and 27 for the transferred payment commitments if and to the extent that the transferee CRR credit institution does not provide financial collateral of its own in accordance with Section 27.

(2) The compensation scheme shall approve a transfer in accordance with sentence 1 if

1. the transferee CRR credit institution simultaneously takes over all or a significant part of the transferor CRR credit institution's covered deposits by way of universal or individual succession,
2. after transfer the transferee CRR credit institution's payment commitments do not exceed 30% of the sum of the annual contributions collected from the transferee CRR credit institution, and

3. the conditions pursuant to subsection (1), sentences 2 and 3 have been fulfilled.

(3) If a CRR credit institution transfers part of the covered deposits to a CRR credit institution that is assigned to the other compensation scheme, subsections (1) and (2) shall apply accordingly, subject to the proviso that the payment commitments and the associated financial collateral are transferred by way of an agreement within the meaning of Section 32(1) number 2.

## **Chapter 2 Financial collateral**

### **Section 25 Collateralisation of payment commitments**

The CRR credit institution shall provide financial collateral to secure the payment commitments. The market value of the financial collateral less a haircut in accordance with Section 30 (haircut-adjusted value) must always correspond to the total amount of the payment commitments assumed by the CRR credit institution.

### **Section 26 Provision of financial collateral**

(1) Financial collateral shall consist exclusively of low-risk debt securities or cash collateral. The compensation scheme may specify in the individual contribution assessment years that the financial collateral shall be provided in a certain ratio or exclusively in the form of low-risk debt securities or of cash collateral. The CRR credit institutions shall have no right to elect to provide the financial collateral partially or fully in the form of low-risk debt securities or cash collateral.

(2) The financial collateral must be at the disposal of, and realisable by, the compensation scheme without prior rights of third parties impeding a liquidation of the assets. In particular, it must not be encumbered by any third-party rights and there must be no third party rights to object to a liquidation of the assets or to successfully assert their own claim to those assets.

(3) The financial collateral may be provided by way of title transfer or pledge. The CRR credit institutions shall have no right to permission to provide financial collateral in one of the two forms.

(4) In the event that financial collateral is provided by way of title transfer, the low-risk debt securities or cash collateral shall be transferred to the ownership of the compensation scheme by way of credit to a securities or cash account of the compensation scheme.

(5) In the event that financial collateral is provided by way of pledge, the financial collateral shall be transferred to a securities or cash account of the collateral-providing CRR credit institution maintained at a CRR credit institution designated by the compensation scheme or at Deutsche Bundesbank, and the collateral shall be pledged to the compensation scheme.

### **Section 27 Master agreement for financial collateral**

(1) The basis for providing financial collateral in connection with the conclusion of agreements for the assumption of payment commitments in the individual contribution assessment years in accordance with Section 26 shall be a master agreement for financial collateral. The master agreement shall definitively govern the composition of the financial collateral and procedure for providing the financial collateral. The master agreement shall be signed by the legal representatives of the CRR credit institution. The CRR credit institution shall furnish the compensation scheme with suitable proof of their authority to represent the credit institution.

(2) The compensation scheme shall use separate master agreements, based on templates of identical design, for the provision of financial collateral by way of title transfer and by way of pledge. The agreement templates shall be notified to the Federal Financial Supervisory Authority.

(3) The master agreement for financial collateral shall specify, in particular,

1. which low-risk debt securities or cash collateral may form part of the financial collateral;
2. that the haircut-adjusted value of the financial collateral must always equal at least the sum of all the payment commitments assumed by a CRR credit institution;
3. that the CRR credit institution shall guarantee that assets provided as financial collateral have not been, and will not be, otherwise provided to

third parties as collateral or used to secure other obligations towards the compensation scheme;

4. that, once the financial collateral is provided, the CRR credit institution shall no longer be entitled to dispose of the assets comprising this financial collateral if the financial collateral is provided in the form of a pledge;
5. that the CRR credit institution shall be entitled, without prejudice to number 7, to swap financial collateral provided that the criteria set out in numbers 1 and 2 are continuously met;
6. that, if the haircut-adjusted value of the sum of all the financial collateral provided by a CRR credit institution falls below the sum of all the payment commitments assumed by that CRR credit institution (coverage shortfall), the CRR credit institution shall be required to transfer additional financial collateral of a haircut-adjusted value which at least equals the amount of the shortfall in coverage; alternatively, the CRR credit institution may meet its payment commitments by making a payment to the compensation scheme in the amount of the coverage shortfall;
7. that the CRR credit institution shall replace financial collateral with other suitable financial collateral if the former has fallen due, if it no longer meets the requirements set out in Section 28(1), or in other cases agreed upon by the CRR credit institution and the compensation scheme;
8. that the compensation scheme shall realise the financial collateral in accordance with Section 33 if, upon request for a payment in accordance with Section 23, the CRR credit institution fails to pay the amount owed under the payment commitment, or fails to do so in good time or in full; and
9. that the CRR credit institution shall be entitled to any income from the financial collateral.

**Section 28**  
**Eligible financial collateral**

- (1) The compensation scheme may place restrictions on, or set criteria to be met by, the low-

risk debt securities or cash collateral which are eligible as financial collateral. In doing so, it shall consider credit and market risks of the issuers, the liquidity of the relevant assets, and concentration and currency risks. The compensation scheme shall publish the eligible low-risk debt securities or cash collateral on its website.

- (2) The compensation scheme shall take suitable measures to limit any risks arising from a difference between the currency of the covered deposits and the currency of the financial collateral provided by the CRR credit institution.

**Section 29**  
**Management of financial collateral**

(1) The compensation scheme may designate a third party to manage the financial collateral. In this case, an agreement shall be concluded between the compensation scheme, the CRR credit institution and the collateral manager.

- (2) The cost of the collateral management shall be borne by the CRR credit institutions. If collateral is managed by a third party, the CRR credit institutions' obligation to bear the cost shall be governed by the agreement.

**Section 30**  
**Haircuts, valuation**

(1) The compensation scheme shall set haircuts for the financial collateral provided and publish them on its website.

- (2) It shall use these to determine the haircut-adjusted value of the financial collateral. No haircut shall be applied to cash collateral denominated in euros.

(3) The haircuts shall reflect the credit risk, market risk and liquidity risk of the respective financial collateral, an evaluation of the expected losses in the event of a sale and the expected period of time until the sale of the financial collateral is complete. Different haircuts may be applied depending on the type of issuer and the credit quality thereof, the maturity of the low-risk debt securities and the currency in which the financial collateral is denominated.

- (4) The compensation scheme shall ensure that the financial collateral provided is valued on each

working day. Amounts not denominated in euros shall be converted into euros.

### **Chapter 3**

#### **Notification requirement, withdrawal and liquidation**

##### **Section 31**

#### **Notification and information requirements**

(1) A CRR credit institution which has assumed a payment commitment in accordance with Section 19 shall notify the compensation scheme without delay of all circumstances which could adversely affect the ability of the CRR credit institution to meet the payment commitment or to comply with the master agreement for financial collateral.

(2) This notification requirement shall apply, in particular, to

1. downgrades of the CRR credit institution by external credit rating agencies issuing solicited ratings,
2. any material prudential or business changes, and
3. any deterioration in the value of the low-risk debt securities provided as financial collateral.

(3) The compensation scheme may include in the master agreement further notification or information requirements to be met by the CRR credit institutions with respect to the financial collateral provided.

##### **Section 32**

#### **Assignment to another compensation scheme, withdrawal from the compensation scheme**

(1) If a CRR credit institution switches to another compensation scheme in accordance with Section 24(2) or (3) of the Deposit Guarantee Act and if contributions are transferred in accordance with Section 25(2) of the Deposit Guarantee Act, the hitherto responsible compensation scheme may

1. liquidate the financial collateral corresponding to payment commitments and transfer the proceeds of the liquidation to the other compensation scheme or
2. agree with the CRR credit institution and the other compensation scheme to transfer the payment commitments and the corresponding financial collateral to the other compensation scheme.

(2) If the switch to another compensation scheme is the result of a resolution measure within the meaning of Section 2(3) number 5 of the Recovery and Resolution Act, the hitherto responsible compensation scheme shall consult with the resolution authority prior to deciding how to handle the payment commitments in accordance with subsection (1). When making this decision, the hitherto responsible compensation scheme shall take into account the resolution objectives set out in Section 67 of the Recovery and Resolution Act, including the protection of depositors.

(3) If a CRR credit institution withdraws from the compensation scheme, the compensation scheme shall ensure the availability of the payment commitments assumed by the CRR credit institution unless these have been transferred to another compensation scheme pursuant to subsection (1) number 2. To this end, the compensation scheme may

1. cause the CRR credit institution's payment commitments to become due,
2. permit the payment commitments assumed by the CRR credit institution to continue despite the termination of membership and require these commitments to be met at a point in time specified by the compensation scheme, or
3. agree to a transfer of the payment commitments to a legal successor in accordance with Section 24.

When making its decision in accordance with sentence 2, the compensation scheme shall choose the measure which places the least burden on the CRR credit institution.

##### **Section 33**

#### **Liquidation and release of financial collateral**



**Section 35****Entry into force, annulment**

(1) Should the conditions for a liquidation of the financial collateral in accordance with Section 27(3) number 8 be met, the compensation scheme shall realise the financial collateral in accordance with the terms of the master agreement or appropriate the collateral.

(2) Should a CRR credit institution fulfil a payment commitment in accordance with Section 23, the compensation scheme shall remove the lien on the financial collateral or return the financial collateral to the CRR credit institution unless the financial collateral is required to secure continuing payment commitments.

This regulation shall enter into force on the day after its promulgation. At the same time the Regulation on Contributions to the Compensation Scheme of German Private Banks of 10 July 1999 (Federal Law Gazette I p. 1540), last amended by Article 5 of the Regulation of 30 January 2014 (Federal Law Gazette I p. 322), and the Regulation on Contributions to the Compensation Scheme of the Association of German Public Banks of 10 July 1999 (Federal Law Gazette I p. 1538), last amended by Article 4 of the Regulation of 30 January 2014 (Federal Law Gazette I p. 322), shall cease to have effect.

**Part 4****Transitional and final provisions****Section 34****Transitional provisions**

(1) Annual contributions for contribution assessment years ending before 30 September 2015 and one-off payments for contribution assessment years ending before 30 September 2014 shall be collected in accordance with the Regulation on Contributions to the Compensation Scheme of German Private Banks or the Regulation on Contributions to the Compensation Scheme of the Association of German Public Banks in the versions in force until the end of 11 January 2016.

(2) Sections 3 to 12 shall be applied for the first time to the annual contribution for the contribution assessment year ending on 30 September 2016.

(3) The compensation scheme shall have the right to collect by 31 March an advance payment on the annual contribution in the contribution assessment year in which the accumulation phase pursuant to Section 17(2) of the Deposit Guarantee Act ends if this is the only way in which the target level can be reached in good time. The amount of the advance payment shall be the amount of the annual contribution collected in the previous contribution assessment year. The assumption of a payment commitment may be permitted in place of the advance payment. The contribution assessment year pursuant to sentence 1 shall be the full year until the end of the accumulation phase within the meaning of Section 6(2) and (3).

**Annex I  
(to Section 8(1) and Section 9)**

**Risk assessment on the basis of risk categories and risk indicators for CRR credit institutions assigned to the Compensation Scheme of German Private Banks**

**(Source of the information: Federal Law Gazette I 2016, 21 - 23)**

**I. Risk categories and risk indicators**

The following risk categories and risk indicators shall be incorporated into the risk assessment with the following weighting:

| Risk categories and risk indicators |   | Weighting   | Description  |
|-------------------------------------|---|---|--|
| 1.                                  | Capital   | 18%   |  |
| 1.1                                 | Leverage ratio  | 9%  | Tier 1 capital/Balance-sheet + off-balance sheet positions   |
| 1.2                                 | Common equity Tier 1 (CET1) ratio   | 9%  | CET1 capital/Risk-weighted assets  |
| 2.                                  | Liquidity and funding   | 18%   |  |
| 2.1                                 | Liquidity coverage ratio (LCR)  | 18%<br>From 2019:<br>9%   | High-quality liquid assets/Risk-weighted net cash outflows   |
| 2.2                                 | Net stable funding ratio (NSFR)   | 0%<br>From 2019:<br>9%  | From 2019:<br>Amount of available stable funding/Amount of required stable funding                                     |
| 3.                                  | Asset quality   | 13%   |  |
| 3.1                                 | Non-performing loans ratio (NPL ratio)  | 13%   | Non-performing loans (gross) + loans for which specific loan loss provisions have been established (gross)/Total loans |
| 4.                                  | Business model and management   | 38%   |  |
| 4.1                                 | Ratio of risk-weighted assets (RWAs) to total assets  | 6.5%  | Risk-weighted assets/Total assets  |
| 4.2                                 | Return on average assets  | 6.5%  | Net income/Average total assets  |
| 4.3                                 | Rating  | 25%<br>For building and loan associations ( <i>Bausparkassen</i> ) which exercise the option in no. 4.4:<br>18.5% | Rating   |
| 4.4                                 | Technical security reserve ratio within the meaning of Section 6(2) of the <i>Bausparkassen Act</i> | Optional for building and loan associations:<br>6.5%  | Technical security reserve/Deposits  |
| 5.                                  | Potential losses for the Compensation Scheme of German Private Banks                                | 13%   |  |
| 5.1                                 | Potential loss ratio  | 13%   | Book value of unencumbered assets/Covered deposits   |
| Total                               |   | 100%  |  |

The share of the risk indicators in the credit quality grade pursuant to Section 8(2) is calculated on the basis of the weighting in column 2 of the above table.

**II. Description of the risk indicators in column 3 of the table in point I**

- 1.1 Leverage ratio in accordance with Implementing Regulation (EU) No 680/2014, template C 47.00, row 340, column 010.
- 1.2 Common equity Tier 1 ratio in accordance with Implementing Regulation (EU) No 680/2014, template C 03.00, row 010, column 010.  
If the waiver pursuant to Section 2a of the Banking Act in conjunction with Article 7 of Regulation (EU) No 575/2013 is applied, the group-level ratio shall be used.  
For CRR credit institutions which are covered by the provisions of Section 53c, number 2 of the Banking Act, the ratio of the banking group shall be used.
- 2.1 LCR in accordance with Implementing Regulation (EU) No 680/2014, template C 76.00.  
If the waiver pursuant to Section 2a of the Banking Act in conjunction with Article 8 of Regulation (EU) No 575/2013 is applied, the ratio at group level shall be used.
- 2.2 Net stable funding ratio (NSFR)  
The Net Stable Funding Ratio disclosure standards published by the Basel Committee on Banking Supervision on 22 June 2015 require the mandatory disclosure of the NSFR for reporting periods after 1 January 2018. From 2019, the NSFR shall receive a weighting of 9% in accordance with Implementing Regulation (EU) No 680/2014.  
If the waiver pursuant to Section 2a of the Banking Act in conjunction with Article 8 of Regulation (EU) No 575/2013 is applied, the ratio at group level shall be used.
- 3.1 Non-performing loans ratio in accordance with the Financial and Internal Capital Adequacy Information Regulation (Finanz- und Risikotragfähigkeitsinformationen-verordnung), templates for financial information pursuant to Section 25(1), sentence 1 of the Banking Act.  
Delinquent loans (excluding loans for which specific loan loss provisions have been established) less collateral provided for these loans plus loans for which specific loan loss provisions have been established before the deduction of specific loan loss provisions less collateral provided for these loans proportional to the amount of total loans.
- 4.1 Ratio of risk-weighted assets (RWAs) to total assets  
RWAs: total risk exposure amount in accordance with Implementing Regulation (EU) No 680/2014, template C 02.00, row 010, column 010.  
Total assets according to the annual financial statements prepared in accordance with point III. If the waiver pursuant to Section 2a of the Banking Act in conjunction with Article 7 of Regulation (EU) No 575/2013 is applied, the group-level ratio shall be used.  
For CRR credit institutions which are covered by the provisions of Section 53c, number 2 of the Banking Act, the ratio of the banking group shall be used.
- 4.2 Return on average assets  
Net income according to item 19 of the profit and loss account form in accordance with the Accounting Regulation for Credit Institutions (Kreditinstituts-Rechnungslegungsverordnung), adjusted for increases or reductions in the contingency reserves pursuant to Section 340f of the Commercial Code (Handelsgesetzbuch) and in the special reserve pursuant to Section 340g of the Commercial Code.  
Average total assets shall be the arithmetic mean of the total assets as reported in the annual financial statements and the total assets as reported in the annual financial statements for the year preceding the annual financial statements of the previous year.
- 4.3 Rating  
The rating shall be based on quantitative and qualitative macroeconomic and microeconomic aspects. Assessment levels shall comprise the market environment, assets, financial and earnings situation, business model and strategy, and the corporate structure and management of the CRR credit institution. In addition, the risk situation shall be evaluated.

Building and loan associations shall have the option of selecting the business-model-specific technical security reserve ratio under no. 4.4 in addition to the rating. Should this option be exercised, the weighting of the rating shall be reduced to 18.5 per cent.

- 4.4 Technical security reserve ratio within the meaning of Section 6(2) of the Bausparkassen Act as a proportion of deposits.

Building and loan associations shall have the option of selecting the technical security reserve ratio in addition to the rating under no 4.3.

- 5.1 Potential loss ratio

Book value of unencumbered assets in accordance with Implementing Regulation (EU) No 2015/79, template F 32.01, row 010, column 060 as a proportion of the covered deposits in accordance with the reporting by the CRR credit institution pursuant to Section 17(4), sentence 1 of the Deposit Guarantee Act.

If the waiver pursuant to Section 2a of the Banking Act in conjunction with Article 7 of Regulation (EU) No 575/2013 is applied, the group-level ratio shall be used.

### **III. Basis for calculating the risk indicators**

The basis for calculating the risk indicators shall be the assets, financial and earnings situation of the CRR credit institution at the end of the last business year ending before 1 March of the respective contribution assessment year. The financial data to be used for the purposes of this annex shall be based on the annual financial statements of the CRR credit institution or the corresponding statement of assets and liabilities, together with a statement of income and expenses and notes in accordance with Section 53(2) number 2 of the Banking Act.

### **IV. Calculation of the credit quality grade**

The credit quality grade in accordance with Section 8(2) shall be calculated as follows:

1. The risk indicators shall be calculated in accordance with column 3 of the table in point I.
2. The risk indicator value thus calculated shall determine the level of the individual risk score (IRS) of a risk indicator. The IRSs shall lie between 0 for "very low risk" and 100 for "very high risk".
3. The IRS of each risk indicator shall be multiplied by the corresponding weighting in column 2 of the table in point I. The weighted IRSs shall be aggregated and, on the basis of the total, assigned a credit quality grade between 0 for "highest credit quality" and 9 for "lowest credit quality" in accordance with Section 8(2).

**Annex II (to Section 11(1) and Section 12)**

**Risk assessment on the basis of risk categories and risk indicators for CRR credit institutions assigned to the Compensation Scheme of the Association of German Public Banks**

(Source of the information: Federal Law Gazette I 2016, 24 - 26)

**I. Risk categories and risk indicators**

The following risk categories and risk indicators shall be incorporated into the risk assessment with the following weighting:

| Risk categories and risk indicators  | Weighting               | Description  |
|--|-------------------------|--|
| Capital  | 21%                     |  |
| Leverage ratio   | 10.5%                   | Tier 1 capital/Balance-sheet + off-balance sheet positions   |
| Common equity Tier 1 (CET1) ratio  | 10.5%                   | CET1 capital/Risk-weighted assets  |
| Liquidity and funding  | 18%                     |  |
| Liquidity coverage ratio (LCR)   | 18%<br>From 2019:<br>9% | High-quality liquid assets/Risk-weighted net cash outflows   |
| Net stable funding ratio (NSFR)  | 0%<br>From 2019:<br>9%  | From 2019:<br>Amount of available stable funding/Amount of required stable funding                                     |
| Asset quality  | 15%                     |  |
| Non-performing loans ratio (NPL ratio)   | 15%                     | Non-performing loans (gross) + loans for which specific loan loss provisions have been established (gross)/Total loans |
| Business model and management  | 31%                     |  |
| Ratio of risk-weighted assets (RWAs) to total assets                                   | 8%                      | Risk-weighted assets/Total assets  |
| Return on average assets   | 8%                      | Net income/Average total assets  |
| <i>Anstaltslast<sup>3</sup>, Gewährträgerhaftung<sup>4</sup> or funding guarantee</i>  | 15%                     | Existence (yes/no)   |
| Potential losses for the Compensation Scheme of the Association of German Public Banks | 15%                     |  |
| Potential loss ratio   | 15%                     | Book value of unencumbered assets/Covered deposits   |
| Total  | 100%                    |  |

The share of the risk indicators in the risk class pursuant to Section 11(2) is calculated on the basis of the weighting in column 2 of the above table.

**II. Description of the risk indicators in column 3 of the table in point I**

- 1.1 Leverage ratio in accordance with Implementing Regulation (EU) No 680/2014, template C 47.00, row 340, column 010.
- 1.2 Common equity Tier 1 ratio in accordance with Implementing Regulation (EU) No 680/2014, template C 03.00, row 010, column 010.  
If the waiver pursuant to Section 2a of the Banking Act in conjunction with Article 7 of Regulation (EU) No 575/2013 is applied, the group-level ratio shall be used.

<sup>3</sup> Liability assumed by the public owners for the economic viability of the credit institution. Liability assumed by the public owners for the economic viability of the credit institution.

<sup>4</sup> Statutory guarantee of joint and several liability of the public owners to the creditors of the credit institution.

- 2.1 LCR in accordance with Implementing Regulation (EU) No 680/2014, template C 76.00, row 010, column 010.  
If the waiver pursuant to Section 2a of the Banking Act in conjunction with Article 8 of Regulation (EU) No 575/2013 is applied, the ratio at group level shall be used.
- 2.2 Net stable funding ratio (NSFR)  
The Net Stable Funding Ratio disclosure standards published by the Basel Committee on Banking Supervision on 22 June 2015 require the mandatory disclosure of the NSFR for reporting periods after 1 January 2018. From 2019, the NSFR shall receive a weighting of 9% in accordance with Implementing Regulation (EU) No 680/2014.  
If the waiver pursuant to Section 2a of the Banking Act in conjunction with Article 8 of Regulation (EU) No 575/2013 is applied, the ratio at group level shall be used.
- 3.1 Non-performing loans ratio in accordance with the Financial and Internal Capital Adequacy Information Regulation, templates for financial information pursuant to Section 25(1), sentence 1 of the Banking Act.  
Delinquent loans (excluding loans for which specific loan loss provisions have been established) plus loans for which specific loan loss provisions have been established before the deduction of specific loan loss provisions; established specific loan loss provisions and collateral in line with customary banking requirements shall not be taken into account.
- 4.1 Ratio of risk-weighted assets (RWAs) to total assets  
RWAs: total risk exposure amount in accordance with Implementing Regulation (EU) No 680/2014, template C 02.00, row 010, column 010.  
Total assets according to the annual financial statements prepared in accordance with point III. If the waiver pursuant to Section 2a of the Banking Act in conjunction with Article 7 of Regulation (EU) No 575/2013 is applied, the group-level ratio shall be used.
- 4.2 Return on average assets  
Net income according to item 19 of the profit and loss account form in accordance with the Accounting Regulation for Credit Institutions, adjusted for increases or reductions in the contingency reserves pursuant to Section 340f of the Commercial Code and in the special reserve pursuant to Section 340g of the Commercial Code.  
Average total assets shall be the arithmetic mean of the total assets as reported in the annual financial statements and the total assets as reported in the annual financial statements for the year preceding the annual financial statements of the previous year.
- 4.3 Anstaltslast, Gewährträgerhaftung or a funding guarantee of a development bank may have been granted by the public sector in the form of Anstaltslast, Gewährträgerhaftung or a funding guarantee.
- 5.1 Potential loss ratio  
Book value of unencumbered assets in accordance with Implementing Regulation (EU) No 2015/79, template F 32.01, row 010, column 060 as a proportion of the covered deposits as at 31 December in accordance with the reporting by the CRR credit institution pursuant to Section 17(4), sentence 1 of the Deposit Guarantee Act.  
If the waiver pursuant to Section 2a of the Banking Act in conjunction with Article 7 of Regulation (EU) No 575/2013 is applied, the group-level ratio shall be used.

### **III. Basis for calculating the risk indicators**

The basis for calculating the risk indicators shall be the assets, financial and earnings situation of the CRR credit institution at the end of the last business year ending before 1 March of the respective contribution assessment

year. The financial data to be used for the purposes of this annex shall be based on the annual financial statements of the CRR credit institution and the reports submitted by the CRR credit institution for prudential purposes.

**IV. Calculation of the risk classes**

The risk class in accordance with Section 11(2) shall be calculated as follows:

1. The risk indicators shall be calculated in accordance with column 3 of the table in point I.
2. On the basis of the risk indicator value thus calculated, the CRR credit institution shall, with the exception of the indicator in no. 4.3 in point I, be assigned to one of three risk buckets (good/normal/poor); the risk indicator in no. 4.3 in point I shall be assigned to one of two risk buckets (good/normal).
3. The risk bucket shall determine the level of the individual risk score (IRS) of a risk indicator. The IRS shall be 0 for the "good" bucket, 50 for the "normal" bucket and 100 for the "poor" bucket.
4. The IRS of each risk indicator shall be multiplied by the corresponding weighting in column 2 of the table in point I, and aggregated within the individual risk categories in accordance with column 1 of the table in point I in order to determine the IRS of a risk category.
5. The weighted and aggregated IRSs shall, on the basis of their cumulative value, be assigned to a risk class in accordance with Section 11(2), with 0 standing for "lowest risk" and 5 for "highest risk".