4. Elements of Own Funds

4.1 Classification of co-operative shares as Common Equity

Amendment n. 3

Article 25 (1) (b) CRR 1
(Capital instruments of mutuals, cooperative societies or similar institutions in Common Equity Tier 1 items)

Text proposed by the Commission	*FEDERCASSE Suggestion for wording*
1. Common Equity Tier 1 items shall include any capital instrument issued by an institution under its statutory terms provided the following conditions are met: (a) the institution is of a type that is defined under applicable national law and which competent authorities consider to qualify as a mutual, cooperative society or a similar institution for the purposes of this Part; (b) the conditions laid down in Articles 26 and 27 are met; (c) the instrument does not possess features that could cause the condition of the institution to be weakened as a going concern during periods of market stress.	1. Common Equity Tier 1 items shall include any capital instrument issued by an institution under its statutory terms provided the following conditions are met: (a) the institution is of a type that is defined under applicable national law and which competent authorities consider to qualify as a mutual, cooperative society or a similar institution for the purposes of this Part; (b) the conditions laid down in Articles 26 and **as amended by Article 27** are met; (c) the instrument does not possess features that could cause the condition of the institution to be weakened as a going concern during periods of market stress.

Article 27 (1) CRR 1
(Capital instruments issued by mutuals, cooperative societies and similar institutions)

Text proposed by the Commission	*FEDERCASSE Suggestion for wording*
1. Capital instruments issued by mutuals, cooperative societies and similar institutions shall qualify as Common Equity Tier 1 instruments only if the conditions laid down in Article 26 and this Article are met.	1. Capital instruments issued by mutuals, cooperative societies and similar institutions shall qualify as Common Equity Tier 1 instruments only if the conditions laid down in Article 26 and **amended by** this Article are met.

Justification

The wording of the above relevant articles, especially their interference, is unclear: The wording of Article 25 (1)(b) stipulates that co-operative banks' instruments have to fulfill the criteria of both article 26 and 27. This would imply, however, that contradicting conditions have to be met (for example: it is not possible to meet both the requirements of article 26 (1) (f) and (g) and 27 (2) and (4)). Thus in order to avoid any misunderstandings, we suggest amending article 25 (1) (b) and 27 (1) as above point out.

4.2 Classification of co-operative shares as Common Equity- additional features

Amendment n. 4

Article 25 (2) CRR 1
(Capital instruments of mutuals, cooperative societies or similar institutions in Common Equity Tier 1 items)

Text proposed by the Commission	*FEDERCASSE Suggestion for wording*
2. EBA shall develop draft regulatory technical standards to specify the following: (a) the conditions according to which competent authorities may determine that a type of undertaking recognised under applicable national law qualifies as a mutual, cooperative society or similar institution for the purposes of this Part; (b) the nature and extent of the following: (i) the features that could cause the condition of an institution to be weakened as a going concern during periods of market stress; (ii) the market stress under which such features could cause the condition of the institution to be weakened as a going concern. EBA shall submit those draft regulatory technical standards to *(...)*.	2. EBA shall develop **a** draft regulatory technical standards to specify ~~the following~~ ~~(a)~~ the conditions according to which competent authorities may determine that a type of undertaking recognised under applicable national law qualifies as a mutual, cooperative society or similar institution for the purposes of this Part~~;~~. ~~(b) the nature and extent of the following:~~ ~~(i) the features that could cause the condition of an institution to be weakened as a going concern during periods of market stress;~~ ~~(ii) the market stress under which such features could cause the condition of the institution to be weakened as a going concern.~~ EBA shall submit ~~those~~ **that** draft regulatory technical standard~~s~~ to *(...)*.

Justification

The European Banking Authority (EBA, former Committee of European Banking Supervisors - CEBS) published its "Guidelines on Art. 57a" in June 2010 which inter alia set out the criteria that co-operative bank shares have to fulfil in order to be accepted as common equity Tier 1 Capital. Although these guidelines were designed under CRD II, they were elaborated with a view to Basel III criteria and their implementation in CRR 1. Articles 26-27 of the proposed CRR1 is in line with the substance of the EBA guidelines. Therefore, we think it is unnecessary that EBA has to developed other draft technical standards regarding features that co-operative bank shares have to possess in order to qualify as common equity Tier 1 Capital.

4.3 Prudential filters

Amendment n. 5

Article 30
(Cash flow hedges and changes in the value of own liabilities)

Text proposed by the Commission	*FEDERCASSE Suggestion for wording*

Institutions shall not include the following items in any element of own funds: (a) the fair value reserves related to gains or losses on cash flow hedges of financial instruments that are not valued, including projected cash flows; (b) gains or losses on liabilities of the institution that are valued at fair value that result from changes in the own credit standing of the institution.	Institutions shall not include the following items in any element of own funds: (a) the fair value reserves related to gains or losses on cash flow hedges of financial instruments that are not valued, including projected cash flows; (b) gains or losses on liabilities of the institution that are valued at fair value that result from changes in the own credit standing of the institution.; (c) **unrealized gains or losses on EU sovereign debt that are valued at fair value and held in the available for sale category.** **Until the review of the IFRS due to eliminate the available for sale category, EBA shall draft technical standards to specify the conditions according to which letter c) shall apply.**

Justification

During phases of high volatility, like the current one in the sovereign bond markets, in the absence of prudential filters, the inclusion of unrealized gain and losses in the supervisory capital might imply an unjustified volatility of the said capital as the result of sudden changes in the price of the sovereign bonds which- however - are not related to long-lasting changes in the credit fundamentals of the issuers. As communicated by the IASB, the measurement changes to IFRS 9 will be reviewed once the later phases of replacement of IAS 39 will have been finalized. The forthcoming replacement of IAS 39 by IFRS 9 will fundamentally change the classification and measurement of financial instruments and, therefore, also the extent to which unrealized fair value gains and losses will be recognized in the financial statements. In particular, IFRS 9 will cancel the use of Available-For-Sale assets, as financial assets will be recognized at either fair value through P/L or amortized cost. We strongly suggest to maintain the prudential filter, which applies to unrealised gains and losses, at least until IASB has finalized its work.

4.4 Deductions of deferred tax assets

First of all, it is worth mentioning with regard to the Italian situation that, despite other European countries tax legislation, the national one tends to amplify the differences between accounting profit and taxable income, with the consequent recognition of significant amounts of deferred tax assets (DTAs).

In general for Italian banks, the most significant are:
- non-deductible write-downs of loans and receivables in the year;
- non-deductible provisions for risks and charges;
- alignment of goodwill.

For example, according to the Italian tax legislation write-downs of loans and receivables in each year are deductible for an amount equal to 0,3% (0,5% for new loans recognised in the fiscal years after 31 December 2009, limited to the excess of the average of new loans made in the two previous fiscal years) of the total loans and receivables recognised in the balance sheet. The yearly non-deductible write-downs of loans and receivables, which represents DTA, are deductible in the subsequent 18 fiscal years (which become nine for new loans recognised in the fiscal years after 31 December 2009).

Regarding BCCs, DTAs are particularly relevant with respect to the first two cases.

Moreover, in these cases an increase of DTAs would be recognised in downturn periods, with the generation of a procyclical effect, which is clearly opposed by Basel 3 and the related Commission legislative proposals.

Therefore, the recognition of DTAs in Italian bank financial statements is affected by those peculiarities of the national tax laws. In the light of these considerations, we think that any deduction from the common equity component (even if net of deferred tax liabilities) would, therefore, be contrary to one of the fundamental principles of the legislative proposals, namely the maximum harmonization of banking regulations.

A 2010 Italian law, as recently amended by Law n. 214/2011, provides that DTAs relating to non-deductible write-downs of loans and receivables in the year (and those related to goodwill and other intangible assets) are automatically transformed into a tax credit in case a bank is not profitable, is liquidated or is placed under insolvency proceedings. In the tax regime the tax credit can be offset against any tax liability of the bank or of any legal entity belonging to the same group as allowed under that national tax regime, and if the amount of such tax liabilities is lower than such tax credit, any exceeding amount of the tax credit will be cash refundable by the central government.

The Basel Committee in its updated version of *"Basel 3 definition of capital - Frequently asked questions"* has officially expressed the view that banks shall not deduct DTAs arising from temporary in such tax regimes, but apply a 100% risk weight.[3]

All this is in line with article 36(2)(c) of the proposed CRR1 which sets forth that DTAs arising from temporary differences shall not be deducted from common equity *"if in the event the institution incurs a loss, becomes insolvent or enters liquidation, (they) are replaced, on a mandatory and automatic basis in accordance with the applicable national law, with a claim on the central government of the Member State in which the institution is incorporated which shall absorb losses to the same degree as Common Equity Tier 1 instruments on a going concern basis and in the event of insolvency or liquidation of the institution."*

We would like to emphasize the importance of maintaining the current standpoint on the topic of DTAs in subsequent Parliamentary and Council debates, given that this correct and balanced approach enables these items of considerable importance to BCCs – and the whole the Italian banking industry - to be properly recognised.

4.5 Deductions of holdings of Common Equity within an IPS

Amendment n. 6

Article 46 (3) CRR 1
(Other exemptions from, and alternatives to, deduction where consolidation is applied)

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[3] Basel Committee on Banking Supervision, *www.bis.org/publ/bcbs211.pdf#page=14*.

Text proposed by the Commission	*FEDERCASSE Suggestion for wording*
3. Competent authorities may permit institutions not to deduct a holding of an item referred to in points (h) and (i) of Article 33(1) in the following cases: (a) where the holding is in a relevant entity which is included in the same supplementary supervision as the institution in accordance with Directive 2002/87/EC; (b) where an institution referred to in Article 25 has a holding in another such institution, or in its central or regional credit institution, and the following conditions are met: (i) where the holding is in a central or regional credit institution, the institution with that holding is associated with that central or regional credit institution in a network subject to legal or statutory provisions and the central or regional credit institution is responsible, under those provisions, for cash-clearing operations within that network; (ii) the institutions fall within the same institutional protection scheme referred to in Article 108(7); (iii) the competent authorities have granted the permission referred to in Article 108(7); (iv) the conditions laid down in Article 108(7) are satisfied; (v) the institution draws up and reports to the competent authorities the consolidated balance sheet referred to in point (e) of Article 108(7) no less frequently than own funds requirements are required to be reported under Article 95. (c) where a regional credit institution has a holding in its central or another regional credit institution and the conditions laid down in point (b)(i) to (v) are met.	3. Competent authorities may permit institutions not to deduct a holding of an item referred to in points (h) and (i) of Article 33(1) in the following cases: (a) where the holding is in a relevant entity which is included in the same supplementary supervision as the institution in accordance with Directive 2002/87/EC; (b) where an institution referred to in Article 25 has a holding in another such institution, or in its central or regional credit institution, **or in the parent undertaking of its central or regional credit institution**, and the following conditions are met: (i) where the holding is in a central or regional credit institution, the institution with that holding is associated with that central or regional credit institution in a network subject to legal or statutory **or contractual** provisions and the central or regional credit institution is responsible, under those provisions, for cash-clearing operations within that network; (ii) the institutions **referred to in Article 25 and its central or regional credit institution** fall within the same institutional protection scheme referred to in Article 108(7); (iii) the competent authorities have granted the permission referred to in Article 108(7); (iv) the conditions laid down in Article 108(7) are satisfied; (v) the institution draws up and reports to the competent authorities the ~~consolidated~~ balance sheet referred to in point (e) of Article 108(7) ~~no less frequently than own funds requirements are required to be reported under Article 95~~ **of the institutions that adhere to the scheme on an annual basis**. (c) where a regional credit institution has a holding in its central or another regional credit institution and the conditions laid down in point (b)(i) to (v) are met.

Justification

The specific company structures of Italian BCC network, as other European co-operative groups, in which many small banks own large institutions, such as a central institution makes the treatment of holdings rather incomparable with other interbank-holdings, because the holdings in the central institutions follow the governance and model of the specific cooperative cooperation system. In particular, the central institutions, typically a joint stock company, which adheres to the same IPS provides an infrastructure, which is essential for the proper functioning of the local banks. We therefore strongly appreciate that this principle and that article 46 (3)(b) provides for a solution to not deduct "strategic holdings" in an IPS.

However, we think that this rule does not reflect the reality of Italian BCC network and other co-operative banking groups in Europe. In some countries there is not a network subject to legal or statutory provisions and more importantly the central institutions may perform cash-clearing operations only under a legally-binding agreement. Moreover, the rules should be more open to consider countries, like Italy, where more than one central institution provides services for co-operative banks and/or the central institution is a subsidiary within banking group and co-operative banks hold shares in the parent undertaking.

We also think that the rule is too strict in some respects. In particular, we do not see the need for a consolidated balance sheet to reduce the choice of Art 108 (7) (e) (aggregated or consolidated balance sheet), because Art 108 (7) (e) also aims at avoiding double gearing within an IPS. Moreover it should be recognized that decentralized systems need an IPS which is not necessary for consolidated groups (Art 46 (2)). In order to clarify the legitimacy of that simplified consolidation for non-consolidating sectors, the word "consolidated" has to be deleted. A simplified method of consolidation is - amongst others - justified, as decentralized sectors fulfil an additional requirement (liability arrangements within the IPS) which is not asked of consolidated groups.

We therefore suggest to amend article 46 (3) as set out above.

4.6 EBA mandate regarding Article 46(5)

Amendment n. 7

Article 46(5) CRR 1
(Other exemptions from, and alternatives to, deduction where consolidation is applied)

Text proposed by the Commission	*FEDERCASSE Suggestion for wording*
5. EBA shall develop draft regulatory technical standards to specify the conditions of application of point (b) of paragraph 3. EBA shall submit those draft regulatory technical standards to the Commission by 1 January 2013. Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first sub-paragraph in accordance with the procedure laid down in Articles 10 to 14 of Regulation (EU) No 1093/2010	***Deleted***

Justification

Moreover, with regard to the multitude of the EBA mandates, we do not see the need for technical standards to further elaborate on rules which are already quite precise. The conditions set out in Article 46 (3) and Article 108 (7) (e) are sufficiently precise and already applied for a long time by application of the Directive 2006/48/EC in many countries. The provisions of Article 80 (8) of Directive 2006/48/EC (corresponding to the Article 108 (7) CRR I) and the provisions of Article 113 (4) (d) of Directive 2006/48/EC) are already applied for years.

It is therefore suggested to delete the relevant EBA mandate in article 46 (5).

4.7 Additional Tier 1 capital

Amendment n. 8

Article 49(1) CRR 1
(Additional Tier 1 Instruments)

Text proposed by the Commission	*FEDERCASSE Suggestion for wording*
1. Capital instruments shall qualify as Additional Tier 1 instruments only if the following conditions are met: (a) *(...)* (n) the provisions governing the instruments require the principal amount of the instruments to be written down, or the instruments to be converted to Common Equity Tier 1 instruments, upon the occurrence of a trigger event; (o) *(...)* 2. EBA shall develop draft regulatory technical standards to specify all the following: (a) the form and nature of incentives to redeem; (b) the nature of the write down of the principal amount; (c) *(...)*.	1. Capital instruments shall qualify as Additional Tier 1 instruments only if the following conditions are met: (a) *(...)* (n) the provisions governing the instruments require **the principal amount of the instruments, except for the provisions contained under Article 51, point (c) (i), to be written down temporarily or the instruments to be converted to instruments to Common Equity Tier 1 instruments, upon the occurrence of a trigger event;** (o) *(...)* 2. EBA shall develop draft regulatory technical standards to specify all the following: (a) the form and nature of incentives to redeem; (b) the nature **of the permanent and temporarily** write down of the principal amount; (c) *(...)*.

Justification

Article 49 (1n) states that the provisions governing the additional Tier 1 instruments require the principal amount of the instruments to be written down, or the instruments to be converted to Common Equity Tier 1 instruments, upon the occurrence of a trigger event (Common Equity Tier 1 ratio less than 5,125%).

In case the bank is not in liquidation, we believe the write down should be implemented on a temporarily basis only. If the bank capital ratios returned above the level which had triggered the write down, additional provisions governing the write-up of the principal amount should be included. The

write-up should occur only if the regulatory capital is restored above the trigger event, regardless of any capital increase possibly occurred in the meanwhile.
This is aligned with the principle that investors should not be worse off investing in Additional Tier 1 instruments compared to liquidation. Moreover, thanks to such features, by allowing write-down/write-up as an alternative to equity conversion, additional Tier 1 instruments could reach a wider investor base.
The need to absorb losses "on a going concern basis" ~~can~~ be pursued with a temporary write-down of the nominal and with the additional provision of a write-up when the bank's capital ratios were to return above the trigger event.
The amendment is furthermore needed to: i) avoid an increasing of the costs of funding for regulatory purposes; ii) give certainty to investors in respecting limits to underwriting/buying these securities.
Accordingly we propose to clarify (2 b) that EBA will develop draft regulatory technical standards to specify the nature of the permanent and temporarily write down of the principal amount.

<u>4.8 Minority Interest</u>

Amendment n. 9

Article 79 CRR 1
(Minority interests included in consolidated Common Equity Tier 1 capital)

Text proposed by the Commission	*FEDERCASSE Suggestion for wording*
Institutions shall determine the amount of minority interests of a subsidiary that is included in consolidated Common Equity Tier 1 capital by subtracting from the minority interests of that undertaking the result of multiplying the amount referred to in point (a) by the percentage referred to in point (b): (a) the Common Equity Tier 1 capital of the subsidiary minus the lower of the following: (i) the amount of Common Equity Tier 1 capital of that subsidiary required to meet the sum of the requirement laid down in point (a) of Article 87(1) and the combined buffer referred to in Article 122(2) of Directive [inserted by OP]; (ii) the amount of consolidated Common Equity Tier 1 capital that relates to that subsidiary that is required on a consolidated basis to meet the sum of the requirement laid down in point (a) of Article 87(1) and the combined buffer referred to in Article 122(2) of Directive [inserted by OP]; (b) *(...)*	Institutions shall determine the amount of minority interests of a subsidiary that is included in consolidated Common Equity Tier 1 capital by subtracting from the minority interests of that undertaking the result of multiplying the amount referred to in point (a) by the percentage referred to in point (b): (a) the Common Equity Tier 1 capital of the subsidiary minus the **higher** ~~lower~~ of the following: (i) the amount of Common Equity Tier 1 capital of that subsidiary required to meet the sum of the requirement laid down in point (a) of Article 87(1), ~~and~~ the combined buffer referred to in Article 122(2) of Directive [inserted by OP] **and any additional Common Equity Tier 1 capital requirements, including Pillar 2**; (ii) the amount of consolidated Common Equity Tier 1 capital that relates to that subsidiary that is required on a consolidated basis to meet the sum of the requirement laid down in point (a) of Article 87(1), ~~and~~ the combined buffer referred to in Article 122(2) of

	Directive [inserted by OP] **and any additional Common Equity Tier 1 capital requirements, including Pillar 2**; (b) *(...)*

Article 80 CRR 1
(Qualifying Tier 1 instruments included in consolidated Tier 1 capital)

Text proposed by the Commission	*FEDERCASSE Suggestion for wording*
Institutions shall determine the amount of qualifying Tier 1 capital of a subsidiary that is included in consolidated Tier 1 capital by subtracting from the qualifying Tier 1 capital of that undertaking the result of multiplying the amount referred to in point (a) by the percentage referred to in point (b). (a) the lower of the following: (i) the amount of Tier 1 capital of the subsidiary required to meet the sum of the requirement laid down in point (b) of Article 87(1) and the combined buffer referred to in Article 122(2) of Directive [inserted by OP]; (ii) the amount of consolidated Tier 1 capital that relates to the subsidiary that is required on a consolidated basis to meet the sum of the requirement laid down in point (b) of Article 87(1) and the combined buffer referred to in Article 122(2)of Directive [inserted by OP]; (b) *(...)*	Institutions shall determine the amount of qualifying Tier 1 capital of a subsidiary that is included in consolidated Tier 1 capital by subtracting from the qualifying Tier 1 capital of that undertaking the result of multiplying the amount referred to in point (a) by the percentage referred to in point (b). (a) the **higher** ~~lower~~ of the following: (i) the amount of Tier 1 capital of the subsidiary required to meet the sum of the requirement laid down in point (b) of Article 87(1), ~~and~~ the combined buffer referred to in Article 122(2) of Directive [inserted by OP] **and any additional Tier 1 capital requirements, including Pillar 2**; (ii) the amount of consolidated Tier 1 capital that relates to the subsidiary that is required on a consolidated basis to meet the sum of the requirement laid down in point (b) of Article 87(1), ~~and~~ the combined buffer referred to in Article 122(2) of Directive [inserted by OP] **and any additional Tier 1 capital requirements, including Pillar 2**; (b) *(...)*

Article 82 CRR 1
(Qualifying own funds included in consolidated own funds)

Text proposed by the Commission	*FEDERCASSE Suggestion for wording*
Institutions shall determine the amount of qualifying own funds of a subsidiary that is included in consolidated own funds by subtracting from the qualifying own funds of that undertaking the result of multiplying the amount referred to in point (a) by the percentage	Institutions shall determine the amount of qualifying own funds of a subsidiary that is included in consolidated own funds by subtracting from the qualifying own funds of that undertaking the result of multiplying the amount referred to in point (a) by the percentage

referred to in point (b): (a) the lower of the following: (i) the amount of own funds of the subsidiary required to meet the sum of the requirement laid down in point (c) of Article 87(1) and the combined buffer referred to in Article 122(2) of Directive [inserted by OP]; (ii) the amount of own funds that relates to the subsidiary that is required on a consolidated basis to meet the sum of the requirement laid down in point (c) of Article 87(1) and the combined buffer referred to in Article 122(2) of Directive [inserted by OP]; (b) *(...)*	referred to in point (b): (a) the **higher** ~~lower~~ of the following: (i) the amount of own funds of the subsidiary required to meet the sum of the requirement laid down in point (c) of Article 87(1)**,** ~~and~~ the combined buffer referred to in Article 122(2) of Directive [inserted by OP] **and any additional own funds requirements, including Pillar 2**; (ii) the amount of own funds that relates to the subsidiary that is required on a consolidated basis to meet the sum of the requirement laid down in point (c) of Article 87(1), ~~and~~ the combined buffer referred to in Article 122(2) of Directive [inserted by OP] **and any additional own funds requirements, including Pillar 2**; (b) *(...)*

Justification

Capital that only meet the regulatory minimum level and the combined buffer referred to in Article 122(2) of proposed CRD 4 could be insufficient to cover the risks of subsidiaries. Supervisors may require a capital base that significantly exceeds this regulatory level.

We believe that the level of capital effectively required to a subsidiary by competent authorities shall be taken into account when calculating the minority interests that is included in consolidated common equity Tier 1 capital, as this measure reflects supervisors' assessment of the subsidiary's actual risks. Therefore, we think that any surcharges required by supervisors to cover the contribution of a subsidiary to the consolidated requirements (e.g. Pillar II capital) should be recognize.

The same treatment should be apply to Additional Tier 1 capital and Tier 2 capital of subsidiaries fully consolidated.

Moreover if a competent authority derogates from the application of prudential requirements on an individual basis, as laid down in Article 6, calculation of qualifying own funds included in consolidated own funds should be done without taking into account the individual waiver. Derogation from the application of prudential requirements on an individual basis is intended to provide banking groups with more flexibility in capital management. This can only be achieved by deducting the higher rather than the lower of the: (i) stand alone own funds requirements; and (i) the consolidated own funds requirements. This amendment is proposed for the sake of achieving a level playing field and to discourage parent companies from pursuing the implementation of a riskier capital management policy in order to maximize the recognition of minority interests.

5. Loss Absorbency at the point of non-viability

Amendment n. 10

Recital 27 CRR 1
(Loss absorbency at the point of non-viability)

Text proposed by the Commission	*Federcasse Suggestion for wording*
(27) In line with the decision of the BCBS, as endorsed by the GHOS on 10 January 2011, all Additional Tier 1 and Tier 2 instruments of an institution should be fully and permanently written down or converted fully into Common Equity Tier 1 capital at the point of non-viability of the institution.	(27) In line with the decision of the BCBS, as endorsed by the GHOS on 10 January 2011, all Additional Tier 1 *and Tier 2* instruments of ~~an~~ **a systemically important financial institution** ~~institution~~ should be fully and permanently written down or converted fully into Common Equity Tier 1 capital at the point of non-viability of the institution.

Justification

Recital 27 of the proposed CRD IV Regulation specifies that "in line with the decision of the BCBS, as endorsed by the GHOS on 10 January 2011, all Additional Tier 1 and Tier 2 instruments of an institution should be fully and permanently written down or converted fully into Common Equity Tier 1 capital at the point of non-viability of the institution".

The requirements to ensure loss absorbency at the point of non-viability should not be applied to all banks but should be limited to (global) systematically important financial institutions (SIFIs).
In our view loss absorbing capacity beyond the common standards, even at the point of non-viablity, is a macroprudential tool to address the "cross-sectional dimension" of system-wide risk. The key principle in this context is to ensure that the standards are calibrated with respect to the contribution that each institution makes to the system as a whole, not just with respect to its riskiness on a standalone basis. SIFIs play a disproportionate role in extreme events. Many small local banks would have to fail simultaneously to generate the same impact as that of the failure of a single, large internationally active institution. This provides support for this kind of measure and in general for tighter prudential standards for SIFIs.

In the second place, the requirement for a permanent principal write-down or conversion into Common Equity Tier 1 instruments, as set out in the Basel Committee press release of 13 January 2011 and laid down in the EC consultative document "Technical details of a possible EU Framework for Bank Recovery and Resolution", could lead to a serious disadvantages for BCCs. The number and the amount of BCCs shares a member can hold is limited. Furthermore, in order to become a member of a BCC, the applier must be resident or continuously operate in the area of competence of the bank. Admittance to the BCCs follows a transparent admission process that is laid down in the law and in the statutes. Suddenly members (existing shareholders) encounter new shareholders with a different view and interest, which threatens the co-operative structure and identity of the bank.
Shares issued by BCCs are not listed and thus investors in Additional Tier 1 or Tier 2 capital instruments could find themselves invested into amounts of cooperative shares that they cannot sell at any time, but rather have to keep, most possibly even for long periods. Additional Tier 1 or Tier 2 capital instruments issued by BCCs would be significant unattractive and very expensive. This would be a

competitive disadvantage. Moreover, BCCs issue capital instruments and debt securities in retail markets. Issuing financial instruments with write down or conversation features could create problems regarding the appropriateness of those instruments for retail clients and could affect the confidence relationship between the BCCs and their typical investors.
Therefore, the requirement for a permanent principal write-down or conversion into shares at the point of non-viability could:

(a) *create important legal and governance problems for BCCs;*
(b) *could have the effect of increasing banks' cost of funding and encumber their capacity to obtain funds on the market.*

This would not only require a modification of BCCs capital structure and BCCs identity, but it would also be in complete opposition with the cooperative banking model. If these mechanism would be put in practice, there will be far-reaching changes on the way in which BCCs operate on a day to day basis.

We therefore call for the application of the requirements to ensure loss absorbency at the point of non-viability exclusively to SIFIs.

6. Capital Requirements

6.1 Overreliance on external ratings

The overreliance on external ratings should be limited at large. We also agree that all banks should have their own credit opinion, but that does not mean the burden would unwarrantedly be borne by the smaller banks.
Yet the principle of proportionality should be regarded, letting small banks enough flexibility to choose between the three methodologies envisaged in the Basel 2 framework and to develop and use internal methodologies which are not overly complex like IRB models.

6.2 Exposures to institutions

Amendment n. 11

Article 108 (2a) CRR 1
(Calculation of risk weighted exposure amounts)

Text proposed by the Commission	*Federcasse Suggestion for wording*
	2a. For the purposes of calculating risk-weighted exposure amounts for exposures to institutions, Member States shall decide whether to adopt the method based on the credit quality of the central government of the jurisdiction in which the institution is incorporated or the method based on the credit quality of the counterparty institution in accordance with article 114 ss.

Justification

The regulation does not maintain the option of the central government risk weight based method regarding the determination of the risk weights to institutions under article 80 (3) of Directive 2006/48/EC. A removal of this option is likely to translate into a de facto risk weighting increase for many institutions, the impact of which on the capital requirement has not been assessed. This is especially true for rated medium/small institutions and could have a seriously negative impact on these institutions' access to funding. Moreover, the removal of the central government risk weight based method for institutions is in direct conflict with the aim of reducing the reliance of banking supervision on external ratings.
It is therefore suggested to amend article 108 by reintroducing the substance of article 80 (3), in line with Basel 2 framework.

6.3 Treatment of SME loans and risk weight for retail portfolios

6.3.1 Balancing Factor

Amendment n. 12

The introduction of the capital conservation buffer involves an increase from 8% to 10.5% in the overall minimum capital requirements. This is a 31.25% increase in the current level. This increase in the overall capital requirement will imply that with the same amount of capital a bank can grant fewer loans. This may affect in particular those entities that very much rely on loans, especially small and medium enterprises (SMEs).
We therefore suggest introducing a multiplier (or **balancing factor**) in the transposition of Basel 3 to CRD IV to be applied in the total RWA calculation for loans to SMEs. It would be calculated as a multiplier that brings the final RWA to a level which, by applying the future standard capital ratio (10.5%), gives a capital requirement equivalent to that obtained by applying the current 8% ratio to an RWA calculated according to current rules. The inclusion of a balancing factor of 76.19% into the RWA calculation formula would hence be appropriate: **RWACRRI = 76.19% * RWAB3.**

6.3.2 Increase the retail ratio

Amendment n. 13

Article 118 (1)(c) CRR 1
(Retail exposures)

Text proposed by the Commission	*Federcasse Suggestion for wording*
(c) the total amount owed to the institution and parent undertakings and its subsidiaries, including any exposure in default, by the obligor client or group of connected clients, but excluding claims or contingent claims secured on residential property collateral, shall not, to the knowledge of the institution, exceed EUR 1 million. The institution shall take reasonable steps to acquire this knowledge.	(c) the total amount owed to the institution and parent undertakings and its subsidiaries, including any exposure in default, by the obligor client or group of connected clients, but excluding claims or contingent claims secured on residential property collateral, shall not, to the knowledge of the institution, exceed EUR ~~1~~ **2** million. The institution shall take reasonable steps to acquire this knowledge.

Justification

We propose that the threshold for retail exposures has to be raised up to EUR 2 million instead of 1 million.

7. Capital Buffers

7.1 Capital conservation buffer

Amendment n. 14

Article 131 (4) CRD 4
(Restrictions on distributions)

Text proposed by the Commission	*Federcasse Suggestion for wording*
4. Member States shall require institutions to calculate the MDA by multiplying the sum calculated in accordance with point (a) by the factor determined in accordance with point (b). The MDA shall be reduced by any of the actions referred to in points (a), (b) or (c) of paragraph 2.	4. Member States shall require institutions to calculate the MDA by multiplying the sum calculated in accordance with point (a) by the factor determined in accordance with point (b). The MDA shall be reduced by any of the actions referred to in points (a), (b) or (c) of paragraph 2.
(a) The sum to be multiplied shall consist of: (i) interim profits not included in Common Equity Tier 1 pursuant to Article 24(2) of Regulation [inserted by OP] that have been generated since the most recent decision on the distribution of profits or any of the actions referred to in points (a), (b) or (c) of paragraph 2; plus (ii) year-end profits not included in Common Equity Tier 1 pursuant to Article 24(4) of Regulation [inserted by OP] that have been generated since the most recent decision on the distribution of profits or any of the actions referred to in points (a), (b) or (c) of paragraph 2; minus *(...)*	(a) The sum to be multiplied shall consist of: (i) interim profits not included in Common Equity Tier 1 pursuant to Article 24(2) of Regulation [inserted by OP] that have been generated since the most recent decision on the distribution of profits or any of the actions referred to in points (a), (b) or (c) of paragraph 2; plus (ii) year-end profits not included in Common Equity Tier 1 pursuant to Article 24(4) of Regulation [inserted by OP] that have been generated since the most recent decision on the distribution of profits or any of the actions referred to in points (a), (b) or (c) of paragraph 2; **plus** **(iii) any net inflow of Common Equity Tier 1 capital instruments of institutions referred to under article 25 of the Regulation [inserted by OP]** Minus *(.)*

Justification

As co-operative companies, BCCs are characterized by the principle of "open membership" with limits to the nominal value of each single share and also with restrictions to the global nominal value of the shares which can be hold by each member. Therefore, capital structure of the BCC is highly granular

(the average amount of the share capital of each shareholder is relatively low while the number of members is relatively high). For any relevant period there are a certain inflow and outflow of capital, since members come and go. BCCs are non-listed credit institutions and redemption of shares, together with an almost permanent issue of shares, is a substitute for trading these instruments.
We think that the principle of "open membership" should not be unduly restricted by the capital conservation buffer requirement. Italian law already provides a "system of capital conservation" for BCCs which must allocate 70 per cent of yearly net profits to legal reserve in order to increase and reinforce the capital. In our view, taking also into account that (partial) retention of earnings is mandatory for BCCs, even when the prudential situation does not make it necessary, the capital conservation rules should be flexible enough to take "co-operative realities" into consideration, especially regarding redemption. At least, in order to reflect the specific governance of BCCs, the rules should be focused on the net between inflow and outflow of capital over a given period.

Amendment n. 15

Article 132 CRD 4
(Capital Conservation Plan)

Text proposed by the Commission	*FEDERCASSE Suggestion for wording*
1. Where an institution fails to meet its Combined Buffer Requirement, it shall prepare a capital conservation plan and submit it to the competent authority no later than 5 working days after it identified that it was failing to meet that requirement. 2. *(...)*	1. Where an institution fails to meet its Combined Buffer Requirement, it shall prepare a capital conservation plan and submit it to the competent authority no later than 5 working days after it identified that it was failing to meet that requirement, **unless the competent authority authorises a longer delay. Competent authorities shall only grant such authorisations based on the individual situation of a credit institution and taking into account the nature, scale and complexity of the institution's activities.** 2. *(...)*

Justification
BCCs, as co-operative banks, cannot raise common equity on capital markets. Due to their structural limitations to increase capital the cut down of balance sheets will be the only option to envisage for higher capital ratios in the short run. Therefore it should be stated that competent authorities may grant a longer delay to submit a capital conservation plan taking account of the principle of proportionality and of the individual situation of the bank..

7.2 Countercyclical capital buffer

Amendment n. 16

We would like to point out that while for each internationally active bank the countercyclical capital buffer will reflect the geographic composition of its portfolio of credit exposures, a similar treatment has not been provided for banks operating at a local level as BCCs. We still take the view that regulators