10.8.2 Definition of operational deposits

Amendment n. 33

Article 410(4)(a) CRR 1
(Outflows on other liabilities)

Text proposed by the Commission	*FEDERCASSE Suggestion for wording*
Clearing, custody or cash management services referred to in point (a) only covers such services to the extent that they are rendered in the context of an established relationship on which the depositor has substantial dependency. They shall not merely consist in correspondent banking or prime brokerage services and the institution shall have objective evidence that the client is unable to withdraw those amounts over a 30 day horizon without compromising its operational functioning.	Clearing, custody or cash management services referred to in point (a) only covers such services to the extent that they are rendered in the context of an established relationship on which the depositor has substantial dependency. They shall not merely consist in correspondent banking or prime brokerage services ~~and the institution shall have objective evidence that the client is unable to withdraw those amounts over a 30 day horizon without compromising its operational functioning~~.

Justification

The "objective evidence" requirement is simply not achievable and risks nullifying the application scope of art. 410 (4)(a). In practice it would be impossible to distinguish money that is addressed for operational functions and in turn to get objective evidence that the client is unable to withdraw those amounts over a 30 day horizon without compromising its operational functioning.

10.8.3 Corporate Run-off Rate

Amendment n. 34

Article 410(5) CRR 1
(Outflows on other liabilities)

Text proposed by the Commission	*FEDERCASSE Suggestion for wording*
5. Institutions shall multiply liabilities resulting from deposits by clients that are not financial customers by 75% to the extent they do not fall under paragraph 4	5. Institutions shall multiply liabilities resulting from deposits by clients that are not financial customers by ~~75%~~ **50%** to the extent they do not fall under paragraph 4.

Justification

We are deeply concerned that the 75% run-off rate that is applied to corporate and other non-financial institutions deposits, as it is stated in the Art. 410 (5), is extremely punitive to the European industry.
We suggest a 50% run-off factor which is more consistent with actual experience.

10.8.4 "Retail bond"

Amendment n. 35

Article 410(5) CRR 1
(Outflows on other liabilities)

Text proposed by the Commission	*FEDERCASSE Suggestion for wording*
7. Institutions shall multiply other liabilities that do not fall under paragraphs 1 to 5 by 100%.	7. Institutions shall multiply other liabilities that do not fall under paragraphs 1 to 5 by 100%. **All notes, bonds and other debt securities issued by the bank are included in this category regardless of the holder, unless the bond is exclusively in the retail market and held in retail accounts, in which case instruments can be treated in the appropriate retail deposit category.**

Justification

It is of outstanding importance that a specific treatment of Retail Bonds, assimilated to the one for Retail Deposits, should be considered as per provision of Basel III: International framework for liquidity risk measurement, standards and monitoring (December 2010) par 83 page 17. "All notes, bonds and other debt securities issued by the bank are included in this category regardless of the holder, unless the bond is sold exclusively in the retail market and held in retail accounts, in which case the instruments can be treated in the appropriate retail deposit category".

10.9 Inflows and outflows resulting from collateralized assets

10.9.1 Outflows of repos and inflows of reverse repos

Amendment n. 36

Article 410(3)(new) CRR 1
(Inflows)

Text proposed by the Commission	*FEDERCASSE Suggestion for wording*
	Institutions shall multiply liabilities resulting from secured lending and capital market driven transactions as defined in Article 188 by [30%] if the assets would not qualify as liquid assets according to Article 404 but would meet the requirements of Article 404(3) (a) or (b).

Justification

If we allow that certain non highly liquid assets are recognized as inflows for 70%, we need to modify the treatment of repos/reverse repos by reducing the recognition of liabilities outflows and asset inflows by respectively 70% and 30%. This to ensure the consistency of the regulation on the treatment of repos/reverse repos which underlying security is an assets not recognized as a highly liquid asset but recognized as inflows.

10.9.2 Outflows from collateralized credit and liquidity facilities

Amendment n. 37

Article 412(1) CRR 1
(Outflows from credit and liquidity facilities)

Text proposed by the Commission	*FEDERCASSE Suggestion for wording*
1. Institutions shall report outflows from credit and liquidity facilities, which shall be determined as a percentage of the maximum amount that can be drawn. This maximum amount that can be drawn may be assessed net of: (i) the value according to Article 406 of collateral to be provided if the institution can reuse the collateral and if the collateral in the form of liquid assets in accordance with Article 404; (ii) the [70%] of the value of collateral to be provided if the institution can reuse the collateral and if the collateral is in the form of assets which do not qualify as liquid assets according to Article 404 but which meet the requirements of Article 404(3) (a) or (b).	1. Institutions shall report outflows from **committed** credit and liquidity facilities, which shall be determined as a percentage of the maximum amount that can be drawn. This maximum amount that can be drawn may be assessed net of: (i) the value according to Article 406 of collateral to be provided if the institution can reuse the collateral and if the collateral **is** in the form of liquid assets in accordance with Article 404; (ii) **the [70%] of the value of collateral to be provided if the institution can reuse the collateral and if the collateral is in the form of assets which do not qualify as liquid assets according to Article 404 but which meet the requirements of Article 404(3) (a) or (b).**

Justification

Symmetrically, credit and liquidity facilities collateralized by assets not recognized as a highly liquid asset but recognized as inflows need also to be reduced by 70%.

The status "committed" has been added both to maintain the consistency with the text of the Basel Committee and because the rationale behind the inclusion of uncommitted limits is not clear. Due to the effects of BCCs geographical, dimensional and operational diversification and the consequent reduced risk of their simultaneous behaviour with respect to the central institutions there might be reasons to expect a lower outflow for undrawn credit lines granted by the latter to the former even under idiosyncratic and market stress. Therefore a 100 per cent outflow rate might not be realistic even under stress situations.

11. Corporate Governance

11.1 Proportionality in remuneration provisions

Amendment n. 38

Article 90 CRD 4
(Variable elements of remuneration)

Text proposed by the Commission	*FEDERCASSE Suggestion for wording*
1. For variable elements of remunerations, the following principles shall apply in addition to those set out in Article 88(2): (a) where remuneration is performance related, the total amount of remuneration is based on a combination of the assessment of the performance of the individual and of the business unit concerned and of the overall results of the institution and when assessing individual performance, financial and non-financial criteria are taken into account; (b) (...)	1. For variable elements of remunerations, the following principles shall apply in addition to those set out in Article 88(2) and **in a way and to the extent that is appropriate to the size, internal organisation and the nature, the scope and the complexity of the activities of institutions**: (a) where remuneration is performance related, the total amount of remuneration is based on a combination of the assessment of the performance of the individual and of the business unit concerned and of the overall results of the institution and when assessing individual performance, financial and non-financial criteria are taken into account; (b) (...)

Justification

For the remuneration aspects the principle of proportionality should be more emphasised.

11.2 Specification of mandates

Amendment n. 39

Article 87(1)(a) CRD 4
(Management body)

Text proposed by the Commission	*FEDERCASSE Suggestion for wording*
(a) Members of the management body shall commit sufficient time to perform their functions in the institution. They shall not combine at the same time more than one of the following combinations: (i) one executive directorship with two non-executive directorships; (ii) four non-executive directorships.	(a) Members of the management body shall commit sufficient time to perform their functions in the institution. They shall not combine at the same time more than one of the following combinations: (i) one executive directorship with two non-executive directorships; (ii) four non-executive directorships. **The directorship referred to points(i) and (ii)**

	shall mean the memberships of management bodies of limited liability companies and foundations which meet two of the following requirements are taken into account: **(i) balance sheet total of more than €43,000,000;** ***(ii)* (ii) net turnover is more than €50,000,000; or** ***(iii)* more than 250 employees.**

Justification

Since it does not seem appropriate to consider mandates of a director at the local bank/daughter company level similar to a mandate at the central bank/mother company level, it is necessary to take account of these differences. We acknowledge and appreciate the introduction of principle of proportionality. Nevertheless, we suggest to specify to which kind of mandates the requirement is applicable by setting a limit based on the European definition of SMEs.

11.3 Extension one mandate for common services/qualified holdings

Amendment n. 40

87(1)(a) CRD 4
(Management body)

Text proposed by the Commission	*FEDERCASSE Suggestion for wording*
(...) Executive or non-executive directorships held within the same group shall count as one single directorship.	*(...)* Executive or non-executive directorships held within the same group shall count as one single directorship. ***This includes:*** ***(i) non financial entities and institutions:*** ***(a) in which there is a qualified holding according to Art. 4(21) of Regulation [inserted by OP];*** ***(b) in which there are participations according to Art. 4(49) of Regulation [inserted by OP]; or*** ***(c) which have close ties as according to Art. 4(72) of Regulation [inserted by OP] to certain non-financial institutions; and*** ***(ii) parent financial holding company according to Art. 4(65)(66) and (67) controlling a central or regional credit institution adhering to an IPS scheme.***

Justification

The Credit Cooperative corporate governance nature implies that the corporate governance of the central institutions, of the holdings, of the local and national federations, reflects the corporate governance of the BCC's. This means that the same member of the management body holds simultaneously more than one directorship. Counting these directorships not as a single one would be in contrast with the governance and model of the specific cooperative cooperation system.

12. Transitional Rules

12.1 Phasing-in and phasing-out arrangements

Amendment n. 41

In Basel a clear agenda for phasing-in measures and phasing-out instruments was fixed. Even though the measures decided by the European Council on October 27th will lead to higher capital requirements for major banks in the medium term, we do not think that the timetable for Basel 3 should be changed in principle. This timetable, obliging banks to adapt to the new capital structures is already difficult enough for the banks. Co-operative banks normally cannot access capital markets and issue high amounts of new shares on the market. Instead they increase their capital normally by accumulating profits as retained earnings. They would therefore be handicapped by a shortened implementation period.
Nevertheless, we take note of the fact that several articles of the proposed CRR1 (artt. 448 to 450 and 458 to 461) allow national authorities to disregard phasing-in and phasing-out arrangements set by Basel 3. This, in turn, could give rise to very damaging unlevel playing field conditions. Even more, any "race to the top" among banks - according to which some member states may introduce measures earlier and thereby create pressures on other countries and other banks to do the same – has to be avoided.
We therefore strongly support common implementation dates across the EU. To this goal we propose to:

- delete those national options; and
- that EBA shall determine, taking into account the corresponding Basel 3 arrangements, the transition rules laid down in the above-mentioned articles.

12.2 Cut-off date

Amendment n. 42

Article 463(1)
(Eligibility for grandfathering of items that qualified as own funds under national transposition measures for Directive 2006/48/EC)

Text proposed by the Commission	*FEDERCASSE Suggestion for wording*
2. This Article shall apply only to instruments that were issued prior to 20 July 2011 and are not those referred to in Article 462(1).	2. This Article shall apply only to instruments that were issued prior to **the date of the adoption of the regulation** and are not those referred to in Article 462(1).

Justification

The cut-off date for the eligibility of financial instruments as capital, as laid down in article 463(1) creates important problems for banks. They will not be able to raise any new capital before the adoption/entry into force of both the CRR and the relevant technical standards.
This rule seriously hampers the efforts of banks to go ahead and improve their capital basis. At the same time, it may restrict their policy regarding the extension of any loans.
We therefore ask to re-determine the cut-off date and to fix it on the day of the entry into force of the CRR1. This would give the necessary flexibility.

12.3 Transitional provision for large exposures

Amendment n. 43

Article 471(1)(new)
(Transitional provisions for large exposures)

Text proposed by the Commission	*FEDERCASSE Suggestion for wording*
	1. Following entry into force of this Regulation, institutions shall initiate all organizational and technical measures concerning exposures that were granted on a contractual basis prior to 31.12.2012, necessary to effect compliance with the large exposure rules under this Regulation from 1.1.2016 at the latest. Prior to that date, the respective Member State may apply large exposure regime according to Directive 2006/48/EC.

Justification

The CRR1 leads to a more narrow definition of own funds. This implies that the large exposures rules become more restricted. We therefore propose a transitional provision for existing large exposures exceeding the decreased large exposure threshold (due to new own funds definitions) under Basel 3.

UROPEAN COMMISSION

Brussels, 20.7.2011
COM(2011) 452 final

PROPOSAL FOR A

OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

tial requirements for credit institutions and investment firms

PART III

(Text with EEA relevance)

{SEC(2011) 949 final}
{SEC(2011) 950 final}

Liquidity

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on prudential requirements for credit institutions and investment firms

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION, Having

regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national Parliaments,

Having regard to the opinion of the European Economic and Social Committee[7], Acting

in accordance with the ordinary legislative procedure,

Whereas:

(1) *[...]*

(74) Credit institutions and investment firms should hold a stock of liquid assets that they can use to cover liquidity needs in a short term liquidity stress. When they use the stock, they should put in place a plan to restore their holdings of liquid assets and competent authorities should ensure the adequacy of the plan and its implementation.

(75) The stock of liquid assets should be available at any time to meet the liquidity outflows. The level of liquidity needs in a short term liquidity stress should be determined in a standardised manner so as to ensure a uniform soundness standard and a level playing field. It should be ensured that such a standardised determination has no unintended consequences for financial markets, credit extension and economic growth, also taking into account different business models and funding environments of credit institutions and investment firms across the Union. **It should be avoided that the application of the liquidity requirements may create conflicts of interest within financial groups or within an institutional protection scheme and may hinder the development and implementation of arrangements aiming at ensuring the liquidity and solvency of the whole group or the institutions entered into an institutional protection scheme.** To this end, the liquidity coverage requirement should be subject to an observation period. Based on the observations and supported by EBA, the Commission should confirm or adjust the liquidity coverage requirement by means of a delegated act.

[16] OJ L 281, 23.11.1995, p. 31.
[17] OJ L 8, 12.1.2001, p. 1.

(76) Apart from short-term liquidity needs, credit institutions and investment firms should also adopt funding structures that are stable at a longer term horizon. In December 2010, the BCBS agreed that the NSFR will move to a minimum standard by 1 January 2018 and that the BCBS will put in place rigorous reporting processes to monitor the ratio during a transition period and will continue to review the implications of these standards for financial markets, credit extension and economic growth, addressing unintended consequences as necessary. The BCBS thus agreed that the NSFR will be subject to an observation period and will include a review clause. In this context, EBA should, based on reporting required by this Regulation, evaluate how a stable funding requirement should be designed. Based on this evaluation, the Commission should report to Council and European Parliament together with any appropriate proposals in order to introduce such a requirement by 2018.

PART ONE GENERAL PROVISIONS

Title I
Subject matter, scope and definitions

[...]

Title II
Level of application of requirements

Chapter 1
Application of requirements on an individual basis

[...]

Article 7
Derogation to the application of liquidity requirements on an individual basis

1. The competent authorities shall waive in full or in part the application of Article 401 to a parent institution and to all or some of its subsidiaries in the European Union and supervise

them as a single liquidity sub-group so long as they fulfil all of the following conditions:

(a) The parent institution complies with the obligations laid down in Articles 401 and 403 on a consolidated basis or, where the sub-group does not include the EU parent institution, on a sub-consolidated basis;

(b) The parent institution monitors and has oversight at all times over the liquidity positions of all institutions within the group or sub-group, that are subject to the waiver;

(c) The institutions have entered into contracts that provide for the free movement of funds between them to enable them to meet their individual and joint obligations as they come due;

(d) There are no current or foreseen material practical or legal impediment to the fulfilment of the contracts referred to in (c).

2. Where all institutions of the single liquidity sub-group are authorised in the same Member State, paragraph 1 shall be applied by the competent authorities of that Member State.

Where institutions of the single liquidity sub-group are authorised in several Member States, paragraph 1 shall only be applied after following the procedure laid down in Article 19 and only to the institutions whose competent authorities agree about the following elements:

(a) the adequacy of the organisation and the treatment of liquidity risk as required by Article 84 of Directive [inserted by OP];

(b) the distribution of amounts, location and ownership of the required liquid assets to be held within the sub-group;

(c) minimum amounts of liquid assets to be held by institutions for which the application of Article 401 has been waived;

(d) the need for stricter parameters than those set out in Part Six, Title III.

Competent authorities may also ~~apply paragraph 1~~ **waive in full or in part the application of article 401** to institutions which ~~that~~ are members of the same institutional protection scheme referred to in 108(7)(b), provided that they meet all the conditions laid down in Article 108(7) **and supervise them as a single liquidity sub-group**. Competent authorities shall in that case determine one of the institutions subject to the waiver to meet Article 401on the basis of the consolidated situation of all institutions of the single liquidity sub-group.

3. Where a waiver has been granted under paragraph 1, the competent authorities may also waive the application of Article 403.

PART SIX
LIQUIDITY

Title I
Definitions and liquidity coverage requirement

Article 400
Definitions

For the purposes of this Part, the following definitions apply:

(1) 'Financial customer' means a customer that performs one or more of the activities listed in Annex I of Directive [inserted by OP] as their main business, or is one of the following:

(a) a credit institution;

(b) an investment firm;

(c) a SSPE;

(d) a CIU;

(e) a non-open ended investment scheme

(f) an insurance undertaking;

(g) a financial holding company or mixed-activity holding company.

(2) 'Retail deposit' means a liability to:
(a) a natural person; or;
(b) a small and medium sized enterprise **whose reported sales for the consolidated group of which the firm is a part is less than €50 million EUR, provided** ~~where~~ the aggregate liability to such clients or group of connected clients is less than 1 million EUR.

Article 401
Liquidity coverage requirement

1. Institutions shall at all times hold liquid assets, the sum of the values of which equals, or is greater than, the liquidity outflows less the liquidity inflows under stressed conditions so as to ensure that institutions maintain levels of liquidity buffers which are adequate to face any possible imbalance between liquidity inflows and outflows under stressed conditions over a short period of time.

2. Institutions shall not count double liquidity inflows and liquid assets.

3. Institutions may use the liquid assets referred to in paragraph 1 to meet their obligations under stress circumstances as specified under Article 402.

4. The provisions set out in Title II shall apply exclusively for the purposes of specifying reporting obligations set out in Article 403.

Article 402
Compliance with liquidity requirements

Where a credit institution does not meet, or is expected not to meet the requirement set out in Article 401(1), it shall immediately notify the competent authorities and shall submit without undue delay to the competent authority a plan for the timely restoration of compliance with Article 401. Until such compliance has been restored, the credit institution shall report the items daily by the end of each business day unless the competent authority authorises a lower frequency and 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**. They shall monitor the implementation of the restoration plan and shall require a more timely restoration if appropriate.

Title II Liquidity reporting

Article 403
Reporting obligation and reporting format

1. Institutions shall report to the competent authorities the items referred to in Title II and III and their components, including the composition of its liquid assets according to Article 404 and Annex III. The reporting frequency shall not be less than monthly for the requirement in Title II and Annex III and not less than quarterly for items referred to in Title III.

   Competent authorities shall only authorise a lower reporting frequency or a longer reporting delay on the basis of the individual situation of a credit institution. They shall monitor the implementation of the restoration plan referred to in that Article and shall, if appropriate, require a more timely restoration than it is set out in the plan.

2. When a competent authority decides that an institution has a significant liquidity risk in another currency or a significant branch as defined in Article 52 of Directive [inserted by OP] in a host Member State using a different currency than its home Member State, the institution shall separately report to the competent authorities of the home Member States the items denominated in or indexed to the former currency.

3. EBA shall develop draft implementing technical standards to specify the following:

   (a) uniform formats with associated instructions for and frequencies, dates and delays of reporting. The reporting formats and frequencies shall be proportionate to the nature, scale and complexity of different institutions' activities and shall comprise the reporting required according to paragraphs 1 and 2;

   (b) additional liquidity monitoring metrics required, to allow competent authorities to obtain a comprehensive view of the liquidity risk profile, proportionate to the nature, scale and complexity of an institution's activities;

   (c) the IT solutions to be applied for such reporting which allow for direct and immediate electronic access to the reporting of an institution where required by Directive [inserted by OP] and this Regulation.

n.

EBA shall submit those draft technical standards to the Commission by 1 January 2013.

Power is conferred on the Commission to adopt the draft implementing technical standards referred to in the first sub-paragraph in accordance with Article 15 of Regulation (EU) No. 1093/2010.

4. Competent authorities of the home Member State shall upon request provide the competent authorities and the national central bank of the host Member States and EBA with direct and immediate electronic access to the individual reporting in accordance with this Article.

5. Competent authorities that exercise supervision on a consolidated basis according to Article 107 of Directive [inserted by OP] shall provide upon request the following authorities with direct and immediate electronic access to all reporting submitted by the institution in accordance with this Article:

(a) the competent authorities and the national central bank of the host Member States in which there are significant branches of subsidiaries of the parent institution or institutions controlled by the same parent financial holding company;

(b) the competent authorities that have authorised subsidiaries of the parent institution or institutions controlled by the same parent financial holding company and the national central bank of the same Member State;

(c) EBA;

(d) ECB.

6. The competent authorities that have authorised an institution that is a subsidiary of a parent institution or parent financial holding company shall provide upon request the competent authorities that shall exercise supervision on a consolidated basis according to Article 106 of Directive [inserted by OP], the central bank of the Member State where the institution is authorised and EBA with direct and immediate electronic access to all reporting submitted by the institution in accordance with the uniform formats referred to in paragraph 3.

Article 404
Reporting on liquid assets

1. Institutions shall report the following as liquid assets unless excluded by paragraph 2 and only if the liquid assets fulfil the conditions in paragraph 3:

(a) cash and deposits held with central banks ~~to the extent that these deposits can be withdrawn in times of stress~~;

(b) transferable assets that are of extremely high liquidity and credit quality;

(c) transferable assets representing claims on or guaranteed by the central government of a Member State or a third country ~~if the institution incurs a liquidity risk in that Member State or third country that it covers by holding those liquid assets~~;

(d) transferable assets that are of high liquidity and credit quality.

Pending a uniform definition in accordance with Article 481(2) of high and extremely high liquidity and credit quality, institutions shall identify themselves in a given currency transferable assets that are respectively of high or extremely high liquidity and credit quality. Pending a uniform definition, competent authorities may, taking into account the criteria listed in Article 481(2), provide general guidance that institutions shall follow in identifying assets of high and extremely high liquidity and credit quality. In the absence of such guidance, institutions shall use transparent and objective criteria to this end, including some or all of the criteria listed in Article 481(2).

2. The following shall not be considered liquid assets:

(a) assets that are issued by a credit institution unless they fulfil one of the following conditions:

(i) they are bonds eligible for the treatment set out in Article 124(3) or (4);

(ii) they are bonds as defined in Article 52(4) of Directive 2009/65/EC other than those referred to in (i);

(iii) the credit institution has been set up and is sponsored by a Member State central or regional government and the asset is guaranteed by that government and used to fund promotional loans granted on a non-competitive, not for profit basis in order to promote its public policy objectives;

(b) assets issued by any of the following:

(i) an investment firm;

(ii) an insurance undertaking;

(iii) a financial holding company;

(iv) a mixed-activity holding companies;

(v) any other entity that performs one or more of the activities listed in Annex I of Directive [inserted by OP] as its main business.

3. Institutions shall only report as liquid assets **not issued by the institution itself or its parent or**