FINANSTILSYNET
The Financial Supervisory Authority of Norway
Translation as of September 2014

Regulations no. 435 of 1 June 1990 (as amended)

Regulations on the measurement of own funds of financial institutions, clearing houses and investment firms

Section 1 *Scope*
Part A of these regulations applies to holding companies in insurance groups, management companies for securities funds that are not authorised to engage in portfolio management, clearing houses, insurance companies, pension funds and defined contribution pension trusts, and prescribes how the own funds of these institutions are to be defined and measured in accordance with the statutory minimum requirements and requirements as to a satisfactory level of capital adequacy.

Part B of these regulations applies to commercial banks, savings banks, finance companies, holding companies in financial groups that are not insurance groups, investment firms and management companies for securities funds that are authorised to engage in portfolio management, and prescribes how the own funds of these institutions are to be defined and measured in accordance with the statutory minimum requirements and requirements as to a satisfactory level of capital adequacy.

Part A

Section 2 *Own funds*
Own funds consist of Tier 1 capital (section 3) and Tier 2 capital (section 4). Tier 1 capital consists of equity capital (Common Equity Tier 1 capital) and Additional Tier 1 capital. The deductions, additions and restrictions stated in sections 7 to 9 inclusive shall apply for purposes of measurement.

Section 3 *Equity capital (Common Equity Tier 1 capital)*
The following items are eligible for inclusion in Common Equity Tier 1 capital:
1. Paid-up ordinary share capital as prescribed in the articles of association
2. Share premium account
3. Dividend equalisation fund
4. Paid-up ordinary equity certificate capital as prescribed in the articles of association
5. Guarantee fund in mutual insurance companies, less that part of the fund that consists of subordinated loan capital
6. Fully paid-up members' contributions in mutual insurance companies where obligatory for customers of the company pursuant to the company's articles of association. The company's articles of association shall make clear that members' contributions shall be available to absorb losses or deficits on current operations and not yield returns independent of the annual operating profit/loss. Upon repayment the customer is entitled to have written back that portion of the total equity capital upon exit which corresponds to his/her share of the

total premium reserve. Members' contributions may not be repaid without prior consent from Finanstilsynet (Financial Supervisory Authority of Norway). Section 12-6 of the Companies Act on notification of creditors applies to repayment of members' contributions insofar as appropriate.

7. Other earned and other contributed equity. Issued capital, including partnership contributions, is not covered.
8. Accumulated profits pursuant to published and auditor-certified interim accounts provided that the sum is reduced by foreseeable tax and dividend, and that loss potential is reviewed in conformity with regulations governing the accounting treatment of loans and guarantees provided by financial institutions. Where the equity method is employed in the annual accounts, the amount for the period transferred to the revaluation reserve shall be deducted when calculating accumulated profits under the first sentence.
9. Unrealised gains reserve.
10. Capital contributions in pension funds which, subject to approval from the Ministry of Finance, may be equated with Tier 1 capital.
11. A proportion of supplementary provisions in life insurance companies and pension funds corresponding to the amount that could have been taken to income under the Insurance Activity Act section 9-17 third subsection for annual financial statement purposes.

The Ministry of Finance may in special cases and for a limited period consent to other capital being equated with equity capital.

Section 3a *Additional Tier 1 capital (hybrid capital, including capital referred to as "fondsobligasjoner")*

Capital approved under the provisions below is eligible for inclusion in Additional Tier 1 capital. The Ministry of Finance may make further rules with regard to Additional Tier 1 capital.

Types of capital eligible for inclusion are:

(a) (i) capital with no fixed maturity with moderate incentives to redeem, and
(ii) capital without incentives to redeem with a fixed maturity of at least 30 years where the repayment requirement can be suspended

(b) capital without a fixed maturity and with no incentives to redeem

(c) capital which cannot be repaid and which may be converted into ordinary shares or equity certificates.

Capital as mentioned in the preceding subsection is eligible for inclusion as Additional Tier 1 capital where the following conditions are met.

(a) *General conditions*

1. The capital must be fully paid up, be unsecured, and rank behind the institution's subordinated loan capital.
2. Finanstilsynet must have given approval for raising the capital.

(b) *Maturity and repayment*

1. A creditor may not demand early redemption of the capital. A borrower may not redeem or repurchase the entire capital or parts of it without Finanstilsynet's approval. Finanstilsynet may extend the maturity should Finanstilsynet deem this to be necessary in view of the borrower's capital strength or financial situation.

2. A borrower shall not be entitled to redeem the capital before five years have elapsed after the date of issue. For capital with moderate incentives to redeem, the earliest possible repayment date may nonetheless be 10 years after the date of issue. It shall not be possible to redeem capital with a fixed maturity before the stipulated due date.

(c) *Flexibility with regard to payment of interest*
1. The borrower shall be entitled not to pay interest on Additional Tier 1 capital. The requirement for payment of interest shall be cancelled in the event of breach of capital requirements. Interest shall not accumulate. Finanstilsynet may order the borrower to cancel interest payments in view of the borrower's capital strength or financial situation. In cases where Finanstilsynet halts payment of interest on Additional Tier 1 capital in the case of a borrower who meets the capital requirements, the borrower shall instead be entitled to utilise shares or equity certificates as payment in accordance with further rules laid down by Finanstilsynet.
2. For Additional Tier 1 capital where distribution of dividend gives rise to an obligation to pay interest, such obligation shall lapse in the event of breach of capital requirements or if Finanstilsynet orders a halt to payment of interest. Distribution of dividend to shareholders or equity certificate holders in the form of shares or equity certificates shall not give rise to an obligation to pay interest on Additional Tier 1 capital.

(d) *Capacity to absorb loss*
1. If the borrower's Tier 1 capital adequacy ratio falls below 5 per cent, or the borrower's capital adequacy ratio falls below 8 per cent of risk weighted assets, or below other established minimum requirements, Additional Tier 1 capital under section 3(a) second subsection (a) and (b) shall be capable of write down to cover a recognised loss in the annual accounts or other confirmed losses under current operations with the same priority (pro rata) as a write down of equity capital under section 3 or be capable of conversion to equity capital. Finanstilsynet may make further rules regarding such write down and conversion.
2. If Additional Tier 1 capital under section 3(a) second subsection (a) and (b) is written down, it may be written up again by being allocated a share of future profits corresponding to its share of the Tier 1 capital after write down. In the period in which Additional Tier 1 capital is written down, the requirement for interest shall be cancelled.
3. Additional Tier 1 capital under section 3(a) second subsection (a) and (b) shall be written down with final effect if the entire contributed equity capital has been written down.
4. In the event of breach of capital requirements, Additional Tier 1 capital under section 3(a) second subsection (c) shall be converted into ordinary share capital or ordinary equity certificate capital. Finanstilsynet may in addition require conversion should this be deemed necessary in view of the borrower's capital strength or financial situation in general. The conversion rate shall be determined by the market value of the shares or equity certificates on the date of issue of the Additional Tier 1 capital concerned. The lenders shall receive fewer shares or equity certificates if the share price has risen, but shall not receive more shares or equity certificates if the share price has fallen.

Section 4 *Tier 2 capital*
The following items are eligible for inclusion in Tier 2 capital:

1. Subordinated loan capital without a fixed maturity that satisfies the following conditions:
(a) Special consent must have been obtained from the authorities for raising such capital.
(b) The capital shall not be repayable at the creditor's initiative or without prior consent from

Finanstilsynet.
(c) The loan capital must be available to absorb loss or deficit without this resulting in cessation of the institution's business.
(d) The loan agreement shall contain a right for the borrower to defer interest payments.

2. Subordinated loan capital with a fixed maturity that satisfies the following conditions:
(a) Special consent must have been obtained from the authorities for raising such loan capital
(b) The loan capital shall be unsecured and shall yield priority to the institution's ordinary debt, and must be paid up
(c) The loan must have a maturity of at least five years. In the last five years to maturity of the loan or parts thereof, that part of the loan capital which is eligible for inclusion as Tier 2 capital shall each year be reduced by 20 per cent of the amount falling due. In the final year to maturity the loan is no longer eligible for inclusion in own funds
(d) The loan contract must not contain clauses stipulating a creditor call option before the agreed redemption date. Repayment of the loan before the agreed redemption date is not permitted without prior consent from Finanstilsynet.

3. 45 per cent of the net unrealised gain on shares, units and equity certificates classified as available for sale, cf. International Accounting Standards (IAS) 39. This provision does not apply to life insurance companies or pension funds.

4. Surplus amounts of Additional Tier 1 capital, see section 9 first subsection (d).

Section 5 Repealed

Section 6 Repealed

Section 7 *Deductions*
The following items shall be deducted from the Tier 1 capital:
(a) Accumulated loss
(b) Holdings of own shares/equity certificates
(c) Book goodwill, deferred tax asset and other intangible assets, including intangible assets emerging after application of the rules of IFRS 4.31-4.33 and intangible assets measured under the rules of IFRS 4.31-4.33 that have been deducted from insurance liabilities through the application of IFRS 3.
(d) Defined benefit pension assets, account being taken of the effect of deferred tax.
(e) Net gains arising from the capitalisation of future revenues from securitised assets used for credit enhancement.
(f) Dividend and group contributions set aside for allocation that are classified as equity capital, cf. International Accounting Standards (IAS) 10.
(g) Net unrealised gains on shares, units and equity certificates classified as available for sale, account being taken of the effect of deferred tax, cf. International Accounting Standards (IAS) 39. This provision does not apply to life insurance companies or pension funds.
(h) Net unrealised gain on loans, commercial paper and bonds classified as available for sale, account being taken of the effect of deferred tax, cf. International Accounting Standards (IAS) 39. This provision does not apply to life insurance companies or pension funds.
(i) Unrealised gains on investment properties and plant, property and equipment included in Tier 1 capital, cf. International Accounting Standards (IAS) 40 and IAS 16. This provision does not apply to life insurance companies or pension funds.
(j) Net unrealised gain on hedging instruments in connection with cash flow hedging, account

being taken of the effect of deferred tax, cf. International Accounting Standards (IAS) 39.

(k) Unrealised gain included in Tier 1 capital as a result of reduced value of debt, and that is due to a weakening of the institution's own creditworthiness, cf. International Accounting Standards (IAS) 39.

(l) Equity capital components for convertible bonds issued by the institution itself, cf. International Accounting Standards (IAS) 32.

(m) 50 per cent of book values of own funds in other financial institutions and investment firms in respect of that part of the own funds in the recipient financial institution or investment firm that exceeds 2 per cent. No reduction shall be made for own funds of other financial institutions or investment firms which, when applying the capital adequacy rules on a consolidated basis, are to be consolidated with the reporting institution. The provisions of the first and second sentences do not apply to unit-linked life insurance without a guaranteed rate of return.

(n) 50 per cent of book values of own funds that are not deducted under the first subsection (m) first sentence and second subsection (b) first sentence, in respect of that part of the sum of such own funds that exceeds 10 per cent of the financial institution's own funds. For insurance companies the provision of the first sentence applies to book values of own funds that exceed 50 per cent of the insurance company's own funds. The provisions of the first and second sentences do not apply to unit-linked life insurance without a guaranteed rate of return.

(o) 50 per cent of any credit or guarantee as mentioned in the Financial Institutions Act section 2-37 first subsection no. 1(b).

(p) 50 per cent of exposure amounts for securitisation positions risk weighted at 1250 per cent under the Capital Requirements Regulations part VI on securitisation, including exposure amounts for securitisation positions in the trading book that would have received a risk weight of 1250 per cent under part VI had these positions being recognised in the banking book. Deductions shall not be made for exposure amounts for securitisation positions covered by section 7 first subsection (o) and second subsection (d), nor where the institution has opted to have these items included in the risk weighted assets for capital adequacy measurement.

(q) Minimum requirements on reinsurance provision calculated in accordance with regulations of 10 May 1991 no. 301 on technical provisions and risk statistics in non-life insurance and regulations of 18 November 1992 no. 1242 on technical provisions and risk statistics in non-life insurance (supplementary).

(r) Unrealised gains and losses on financial instruments assigned to the company portfolio that are included in Tier 1 capital and which in aggregate are positive. This provision applies to life insurance companies and pension funds.

(s) If the deductions in Tier 2 capital under section 7 second subsection (a) to (e) inclusive are in aggregate higher than the Tier 2 capital calculated under section 4, the surplus amount shall be deducted from the Tier 1 capital.

The following items shall be deducted from the Tier 2 capital:

(a) Holdings of own instruments mentioned in section 4 subsections 1 and 2.

(b) 50 per cent of book values of own funds in other financial institutions and investment firms in respect of that part of the own funds in the recipient financial institution or investment firm that exceeds 2 per cent. No reduction shall be made for own funds of other financial institutions or investment firms which, when applying the capital adequacy rules on a consolidated basis, are to be consolidated with the reporting institution. The provisions of the first and second sentences do not apply to unit-linked life insurance without a guaranteed rate of return.

(c) 50 per cent of book value of own funds that is not deducted under the first subsection (m) first sentence and second subsection (b) first sentence, in respect of that part of the sum of such own funds that exceeds 10 per cent of the financial institution's own funds. For insurance companies the provision of the first sentence applies to book values of own funds that exceed 50 per cent of the insurance company's own funds. The provisions of the first and second sentences do not apply to unit-linked life insurance without a guaranteed rate of return.
(d) 50 per cent of credit or guarantee as mentioned in the Financial Institutions Act section 2-37 first subsection no. 1(b).
(e) 50 per cent of exposure amounts of securitisation positions risk weighted at 1250 per cent under the capital requirements regulations part VI on securitisation, including exposure amounts of securitisation positions in the trading book that would have received a risk weight of 1250 per cent under part VI had these positions being recognised in the banking book. Such deductions shall not be made for exposure amounts of securitisation positions covered by section 7 first subsection (o) and second subsection (d), nor where the institution has opted to have these items included in the risk weighted assets for capital adequacy measurement.

Section 8 *Additions*
The following items shall be added to the Tier 1 capital:

(a) Unrealised losses on loans, commercial paper and bonds classified as available for sale, cf. IAS 39, with the exception of losses resulting from impaired creditworthiness. This provision does not apply to life insurance companies or pension funds.
(b) Unrealised losses on hedging instruments in connection with cash flow hedging, cf. International accounting Standards (IAS) 39.
(c) Unrealised losses which have been deducted from Tier 1 capital as a result of an increase in the value of debt and due to an improvement in the institution's own creditworthiness, cf. International Accounting Standards (IAS) 39.

Section 9 *Limits*
The following limits and restrictions shall apply:

(a) The sum total of the items included in the Tier 2 capital may not exceed 100 per cent of the Tier 1 capital after deductions and additions as specified in (e).
(b) Subordinated loan capital with a fixed maturity may not amount to a sum which is in excess of 50 per cent of the Tier 1 capital after deductions and additions as specified in (e).
(c) In the case of mutual insurance companies holding a restricted licence and operating in a limited geographical area, the limits imposed under the terms of the licence on the proportion of subordinated loan capital in the guarantee fund shall apply.
(d) The sum of Additional Tier 1 capital under section 3(a) first subsection (a), (b) and (c) may not amount to more than 50 per cent of the Tier 1 capital after deductions and additions as specified in (e). The sum of Additional Tier 1 capital under section 3(a) first subsection (a) and (b) may not amount to more than 35 per cent of the Tier 1 capital after deductions and additions as specified in (e). Additional Tier 1 capital under section 3(a) first subsection (a) may not amount to more than 15 per cent of the Tier 1 capital after deductions and additions as specified in (e).
(e) Deduction of items mentioned in section 7 first subsection (a) to (l), (q) and (r) and addition of items mentioned in section 8(a) to (c).

Finanstilsynet may in special cases and for a limited period give its approval for a financial institution to have a composition of own funds that exceeds the limits prescribed in the first subsection.

Section 11 *Transitional provisions*
Hybrid capital raised before 31 December 2010 which counts towards Tier 1 capital as of 31 December 2010, but which does not fulfil the conditions of section 3(a), shall be eligible for inclusion in Additional Tier 1 capital under section 3(a) up to 1 January 2041, but such that the amount included as from 1 January 2021 is limited to a maximum of 20 per cent of the Tier 1 capital after deductions and additions as specified in section 9(e), and such that the amount included as from 1 January 2031 is limited to a maximum of 10 per cent of Tier 1 capital after deductions and additions as specified in section 9(e).

Part B

Section 12 *Definitions*
By 'financial sector entity' is meant:
Banks, finance companies, investment firms, fund management companies, insurance companies, financial group holding companies, payment institutions, electronic money institutions and loan intermediaries as well as entities providing associated services; see the Capital Requirements Regulations section 1-2(n).

By 'significant investment' is meant:
(a) a holding higher than 10 per cent
(b) a participation in, or joint management of, the company in the which the investment has been made; see the Financial Institutions Act section 2a-2(h) and (i).

The definitions of short and long position in the Capital Requirements Regulations section 1-2(aa) and (dd) apply.

Section 13 *Own funds*
Own funds consist of Tier 1 capital (section 14 and section 15) and Tier 2 capital (section 16). Tier 1 capital consists of equity capital (Common Equity Tier 1 capital) and Additional Tier 1 capital. In the measurement of own funds, deductions and additions as set out in section 17, section 18 and section 19 apply.

Section 14 *Equity capital (Common Equity Tier 1 capital)*
Common Equity Tier 1 capital may consist of the following items:
1. Paid-up ordinary share capital.
2. Paid-up ordinary equity certificate capital in institutions not having members' contributions.
3. Members' contributions subject to approval by Finanstilsynet.
4. Paid-up share capital and equity certificate capital conferring preferential rights to dividend provided that such dividend does not exceed 125 per cent of the dividend on ordinary share and equity certificate capital. Overall dividend must not exceed 105 per cent of what the dividend would have amounted to without preferential rights to dividend.
5. Paid-up group contributions to subsidiaries and sister companies that are deducted from the own funds of the contributor company.
6. Share premium account.

7. Dividend equalisation fund.
8. Compensation reserve.
9. The savings bank's fund, including initial capital.
10. Donations fund.
11. Unrealised gains reserve.
12. Reserve related to the use of the equity method.
13. Accumulated other comprehensive income not included in other items.
14. Other retained earnings.
15. Accumulated profit in accordance with auditor confirmed interim financial statements or annual financial statements adopted by the board of directors. The amount shall be reduced by foreseeable tax and dividend, and a review of losses shall be undertaken in accordance with regulations governing the accounting treatment of loans and guarantees provided by financial institutions.

The issued capital may not be financed directly or indirectly by the institution.

The Ministry of Finance may in special cases and for a limited period give its approval for other capital to be counted towards Common Equity Tier 1 capital.

Section 15 *Additional Tier 1 capital (hybrid capital, including capital referred to as "fondsobligasjonskapital")*
Additional Tier 1 capital may consist of instruments that meet the conditions of nos. 1 to 4 below and any share premium account for such instruments. The Ministry of Finance may make further rules with regard to Additional Tier 1 capital.

1. General conditions
(a) The capital must be fully paid up, be unsecured, and rank behind the institution's subordinated loan capital.
(b) The capital must not be owned by a company in which the institution has a participation, or be financed directly or indirectly by the institution.
(c) Finanstilsynet must have given approval for raising the capital.

2. Maturity and repayment
(a) Creditors may not demand redemption of the capital.
(b) The capital must be free from incentives to redeem.
(c) A borrower may not redeem or repurchase the entire capital or parts of it without Finanstilsynet's consent. A borrower shall not be entitled to redeem the capital before five years have elapsed after the date of issue, except as a result of rule changes entailing that the capital can no longer count towards Additional Tier 1 capital or in the event of significant changes in the tax treatment of the instruments.
3. Flexibility with regard to payment of interest
(a) The borrower shall be entitled not to pay interest on Additional Tier 1 capital. Interest shall not accumulate or be replaced by other forms of payment. Non-payment shall not constitute an event of default.
(b) The loan agreement must not limit flexibility with regard to payment of interest, for example by linking interest payments to dividend payouts.
(c) The interest rate may not be changed as a result of changes in the creditworthiness of the borrower or the borrower's parent company.

4. Capacity to absorb loss
(a) If the borrower's Common Equity Tier 1 capital adequacy ratio falls below 5.125 per cent, the capital shall be capable of write down or conversion to Common Equity Tier 1 capital. The instruments shall be written down or converted in their entirety or in a lower amount that increases the Common Equity Tier 1 capital adequacy ratio to 5.125 per cent.
(b) Additional Tier 1 capital is not eligible for inclusion in an amount higher than the Common Equity tier 1 capital that is generated if all Additional Tier 1 capital is written down or converted in its entirety.
(c) Additional Tier 1 equity capital that has been written down may be written up again by being allocated a share of accumulated profit; see section 14 no. 15. Interest, if any, shall be calculated on the written down amount.
(d) The overall write-up and interest shall not exceed the profit for the year multiplied by the ratio of Additional Tier 1 capital to Tier 1 capital. This ratio shall be calculated as Additional Tier 1 capital that has been subject to write down, prior to write down, divided by the Tier 1 capital at the time of calculation. The overall write up and interest on Additional Tier 1 capital shall together with other dispositions not exceed the maximum distributable amount under the Regulations on capital requirements and national adjustment of CRR/CRD IV (CRR/CRD IV Regulations) section 6.
(e) Write down of Additional Tier 1 capital shall be permanent where this has been agreed or where the write down is undertaken under the rules of the Bank Guarantee Schemes Act section 3-6.
(f) In the case of Additional Tier 1 capital that is to be converted, the conversion rate and the cap on the conversion amount shall be stated in the loan agreement.

Section 16 *Tier 2 capital*
Tier 2 capital may consist of the following items:

(i) Subordinated loan capital and other capital instruments, and any share premium accounts related to such instruments, that satisfy the requirements of no. 1 to no. 4 below.
(ii) The numerical value of negative values of adjusted expected loss under section 15-7 of the Capital Requirements Regulations limited to 0.6 per cent of risk weighted assets.

1. General conditions
(a) The capital must be fully paid up, be unsecured, and shall rank behind the institution's ordinary debt.
(b) The capital must not be owned by a company in which the institution has a participation, or be financed directly or indirectly by the institution.
(c) Finanstilsynet must have given consent for the capital to be raised.

2. Maturity, repayment and eligibility for inclusion:
(a) The capital must have a maturity of at least five years. A creditor may not demand redemption of the capital prior to the agreed due date.
(b) The capital must be free from early redemption incentives.
(c) A borrower may not redeem or repurchase the entire capital or parts of it prior to the agreed due date without Finanstilsynet's consent. A borrower shall not be entitled to redeem the capital before five years have elapsed after the date of issue, except as a result of rule changes entailing that the capital may no longer count towards Tier 2 capital or in the event of significant changes in the tax treatment of the instruments. In the last five years prior to the

due date of the loan, or parts of the loan, that part of the loan capital that is eligible for inclusion shall be calculated by multiplying the loan amount by the number of remaining calendar days and dividing the result by the number of calendar days in the five-year period.

3. Interest payment etc.:
(a) The loan agreement must not entitle the lender to accelerate payments of interest or principal except in the event of winding up.
(b) The interest rate may not be changed as a result of changes in the creditworthiness of the borrower or the borrower's parent company.

4. Capacity to absorb loss:
Subordinated loan capital shall be capable of write down under the rules of section 3-6 of the Bank Guarantee Schemes Act.

Section 17 *Deductions*
The following items shall be deducted from Common Equity Tier 1 capital:
(a) Accumulated loss.
(b) Deferred tax asset. A deferred tax asset for the same tax entity may be reduced by deferred tax if set-off is permitted. A deferred tax asset may not be reduced by deferred tax taken into account in (c), (d) or (f). Deferred tax that reduces a deferred tax asset shall be distributed pro rata between the deferred tax asset attributable to temporary differences and any other deferred tax asset.
(c) Goodwill, including goodwill in non-consolidated companies in the financial sector the investment in which is significant, account being taken of the effect of deferred tax.
(d) Other intangible assets reduced by deferred tax.
(e) Positive values of adjusted expected loss under section 15-7 of the Capital Requirements Regulations.
(f) Defined benefit pension assets reduced by any funds in the premium fund that exceed three times the average of the year's premium and the premiums for the two preceding years, account being taken of the effect of deferred tax.
(g) Direct, indirect and synthetic holdings of own Common Equity Tier 1 capital instruments including instruments that the institution is under obligation to purchase.
(h) Direct, indirect and synthetic holdings of shares, equity certificates and members' contributions in other financial sector entities the investment in which is significant.
(i) Direct, indirect and synthetic holdings of shares, equity certificates and members' contributions in other financial sector entities calculated in accordance with section 18 second subsection (d) the investment in which is not significant.
(j) The following items provided they are not included in risk weighted assets for capital requirements:

> (i) securitisation positions, including credit under guarantees as mentioned in the Financial Institutions Act section 2-37 first subsection no. 1(b), cf. The Capital Requirements Regulations chapter 26,
> (ii) counterparty credit risk for transactions yet to be completed; see Capital Requirements Regulations section 37-2,
> (iii) coverage of underlying credits in a basket where a risk weight cannot be determined using the IRB approach; see the Capital Requirements Regulations section 15-6.

(k) Net gains arising from the capitalisation of future revenues from securitised assets used for credit enhancement.

(l) Gain, related to future revenues, on transfer of a loan portfolio to a special purpose vehicle for securitisation.
(m) Dividend and group contributions set aside for allocation that are classified as equity capital, cf. International Accounting Standards (IAS) 10.
(n) Net unrealised gain on hedging instruments used for cash flow hedges, account being taken of the effect of deferred tax, cf. International Accounting Standards (IAS) 39.
(o) Unrealised gain that is due to a reduction in the value of own debt measured at fair value, and is attributable to a weakening of the institution's creditworthiness.
(p) Unrealised gain that is due to a reduction in the value of derivative liabilities measured at fair value, and is attributable to a weakening of the institution's creditworthiness.
(q) Value adjustments on all assets measured at fair value using the method stated in the Capital Requirements Regulations section 31-2.

The following items shall be deducted from Additional Tier 1 capital:
(a) Direct, indirect and synthetic holdings of own Additional Tier 1 capital instruments including Additional Tier 1 capital instruments that the institution is under obligation to purchase.
(b) Direct, indirect and synthetic holdings of Additional Tier 1 capital in other financial sector entities the investment in which is significant.
(c) Direct, indirect and synthetic holdings of Additional Tier 1 capital in other financial sector entities calculated in accordance with section 18 second subsection (d) the investment in which is not significant.

The following items shall be deducted from the Tier 2 capital:
(a) Direct, indirect and synthetic holdings of own subordinated loan capital including own subordinated loan capital that the institution is under obligation to purchase.
(b) Direct, indirect and synthetic holdings of subordinated loan capital in other financial sector entities the investment in which is significant.
(c) Direct, indirect and synthetic holdings of subordinated loan capital in other companies in the financial sector calculated in accordance with section 18 second subsection (d) the investment in which is not significant.

If the deductions from the Tier 2 capital exceed the institution's Tier 2 capital, the excess amount shall be deducted from Additional Tier 1 equity capital. Excess deductions from Additional Tier 1 capital shall be deducted from Common Equity tier 1 capital.

Section 18 *Special provisions with regard to certain deduction rules*
Deductions in respect of own capital instruments:
(a) Deductions in respect of own capital instruments under section 17 first subsection (g), second subsection (a) and third subsection (a) shall be calculated based on long positions, with the following exceptions:

> (i) Deductions may be calculated based on net long positions if long and short positions are in the same underlying exposure, the short positions do not entail counterparty credit risk and both long and short positions form part of the trading portfolio or banking portfolio.
> (ii) Deductions in respect of investments in own capital instruments through indexes shall be calculated based on the proportion of own capital instruments in the indexes.

Deductions in respect of investments in other financial sector entities:

(a) The deductions in section 17 first subsection (h) and (i), second subsection (b) and (c) and third subsection (b) and (c) shall not cover underwriting of capital increases lasting five or less working days. The deductions may be calculated based on net long positions in the same underlying exposure if the maturity of the short positions matches the maturity of the long positions or if the short positions have a residual maturity of at least one year. Both the short and long positions must be part of either the trading portfolio or the banking portfolio.
(b) Deductions in respect of investments in other financial sector entities through indexes shall be calculated based on the proportion of capital instruments issued by other financial sector entities in the indexes.
(c) Deductions shall not be made in respect of investments in financial sector entities that are included in the calculation of capital requirements on a consolidated basis.
(d) The deductions in section 17 first subsection (i), second subsection (c) and third subsection (c) shall be calculated as investments which altogether exceed 10 per cent of the institution's Common Equity Tier 1 capital adjusted for the additions under section 19 and the deductions under section 17 first subsection with the exception of (h), (i) and deferred tax assets that are due to temporary differences. The deduction shall be distributed on Common Equity Tier 1 capital, Tier 1 capital and Tier 2 capital based on the proportion of each type of capital instrument of the aggregate non-significant investments in the own funds of financial sector entities.

Exceptions in respect of deferred tax assets and significant investments in other financial sector entities:
Undertakings may opt to disregard the following items in their calculation of deductions:
(a) Deferred tax assets that are due to temporary differences and significant direct, indirect and synthetic investments in other financial sector entities that individually account for 10 per cent or less of Common Equity Tier 1 capital after additions under section 19 and other deductions under section 17 first subsection.
(b) The overall amount may not exceed 17.65 per cent of Common Equity Tier 1 capital after deductions under section 17 without the exceptions under (a) and any additions under section 19. The exception amount shall be distributed between the items in (a) based on their relative sizes.

Section 19 *Additions*
The following items may be added to Common Equity Tier 1 capital:
(a) Net unrealised loss on hedging instruments used to hedge cash flows.
(b) Unrealised losses which have been deducted from Common Equity Tier 1 capital due to an increase in the value of own debt measured at fair value that is attributable to an improvement in the institution's own creditworthiness.
(c) Unrealised losses due to an increase in the value of derivative liabilities measured at fair value that is attributable to an improvement in the institution's own creditworthiness.

Section 20 *Transitional provisions*
The following transitional provisions apply:
a. The deductions under section 17 first subsection (i) shall up to and including 31 December 2017 be made in the following percentages:
(i) up to 31 December 2014: 20 per cent
(ii) 1 January 2015 to 31 December 2015: 40 per cent
(iii) 1 January 2016 to 31 December 2016: 60 per cent
(iv) 1 January 2017 to 31 December 2017: 80 per cent

Of the direct investments that are not deducted from Common Equity Tier 1 capital under the first sentence, one half shall be deducted from Tier 1 equity capital and one half from Tier 2 capital. The indirect and synthetic investments that are not deducted from Common Equity Tier 1 capital under the first sentence shall be included in risk weighted assets for capital requirements.

b. Up to 31 December 2014 Tier 1 hybrid capital and subordinated loan capital raised prior to the entry into force of the regulations may be included at 100 per cent. From 1 January 2015 up to and including 31 December 2021 Tier 1 hybrid capital and subordinated loan capital raised prior to 31 December 2011 may be included in, respectively, Additional Tier 1 capital and Tier 2 capital at the following percentages based on the holding of instruments at 31 December 2012:

(i) 1 January 2015 to 31 December 2015: 70 per cent
(ii) 1 January 2016 to 31 December 2016: 60 per cent
(iii) 1 January 2017 to 31 December 2017: 50 per cent
(iv) 1 January 2018 to 31 December 2018: 40 per cent
(v) 1 January 2019 to 31 December 2019: 30 per cent
(vi) 1 January 2020 to 31 December 2020: 20 per cent
(vii) 1 January 2021 to 31 December 2021: 10 per cent

Excess Tier 1 hybrid capital may count towards Tier 2 capital if a percentage for inclusion of Tier 2 capital is available. Tier 1 hybrids and subordinated loan capital containing incentives to redeem that are not redeemed on the date of an interest rate increase cannot be included in own funds after that date.

c. In the period up to and including 31 December 2014 the following items shall be deducted from the common equity Tier 1 capital:
(i) Net unrealised gain on shares, units and equity certificates classified as available for sale, account being taken of the effect of deferred tax.
(ii) Net unrealised gain on loans, commercial paper and bonds classified as available for sale, account being taken of the effect of deferred tax.
(iii) Unrealised gains on investment properties and property, plant and equipment included in Common Equity Tier 1 capital.

d. In the period up to and including 31 December 2014 the following items shall be added to the Tier 2 capital:
(i) 36 per cent of the net unrealised gain on shares, units and equity certificates classified as available for sale.
(ii) 36 per cent of the net unrealised gain on loans, commercial paper and bonds classified as available for sale.
(iii) 36 per cent of unrealised gains on investment properties and plant, property and equipment covered by this subsection (c)(iii).

Section 21 *Supplementary rules*
Finanstilsynet may make rules to supplement part B of these regulations.

II

These regulations enter into force on 30 September 2014.