

Resolution No. 382/2008
of the Polish Financial Supervision Authority
of 17 December 2008

on detailed rules and conditions for considering exposure when determining the observance of the exposure concentration limit and the large exposure limit, determining the exposures that are not subject to the regulations on exposure concentration limit and limit of large exposures and the conditions they must meet, determining the exposures to which obtaining the consent of the Polish Financial Supervision Authority for not applying the regulations concerning exposure concentration limit and the limit of large exposures is required and the scope and method of including bank activities in holdings when calculating exposure concentration limits

Pursuant to Art. 71 Sec. 4 and 5 and Art. 141 (j) Sec. 1 of the Act of 29 August 1997. - The Banking Act (Journal of Laws of 2002, No. 72, item 665, as further amended¹) it is resolved as follows:

§ 1. The terms used in the resolution shall have the following meaning:

- 1) resolution on capital adequacy of banks - resolution No 380/2008 of the Polish Financial Supervision Authority of 17 December 2008 on the scope and detailed rules of determining capital requirements for certain types of credit risk including: the scope and conditions on applying statistical methods and the scope of information enclosed with the applications for approval to use them; rules and conditions for taking into account contracts on assignment of receivables, sub-participation contracts, contracts on credit derivatives and contracts other than contracts on assignment of receivables and sub-participation contracts, in defining the capital requirements; the conditions, scope and method of using the ratings of external credit rating institutions and export credit agencies; methods and detailed rules of determining of the bank's solvency ratio; the scope and method of including banks' activities in holdings when calculating their capital requirements and solvency ratio; and specifying additional balance sheet items presented together with the bank's own funds on the capital adequacy account and scope, the method and conditions of their inclusion (Official Journal of PSFA No. 8, item 34);
- 2) resolution on banks' own funds - Resolution No. 381/2008 of the Polish Financial Supervision Authority of 17 December 2008 on other deductions from original own funds, their amount, scope and conditions for the deduction of these items from the original own funds of a bank, other bank's balance sheet items that are included in the additional own funds, their amount, scope and conditions for their inclusion in the bank's additional own funds, deductions from the additional own funds, their amount, scope and conditions for the deduction of these items from the bank's additional own funds and the scope and manner of inclusion of banks' operations in holdings in calculation of own funds (Official Journal of PSFA No 8, item 35);
- 3) bank's own funds - the bank's own funds, established under Art. 127 of the Act, referred to in the introductory sentence and the resolutions on banks' own funds, regardless of the items referred to in § 2 Sec. 1 items 3 and 4, subject to § 4 and the items referred to in § 3 Sec. 3 of the resolution on banks' own funds;
- 4) entity - a single entity or entities related by capital or management, as defined by Art. 4 Sec. 1 item 16 of the Act referred to in the introductory sentence;

¹ Amendments to the consolidated text of this Act were published in the Journal of Laws of 2002, No. 126, item 1070, No. 141, item 1178, No. 144, item 1208, No. 153, item 1271, No. 169, item 1385, and 1387 and No. 241, item 2074, 2003, No. 50, item 424, No. 60, item 535, No. 65, item 594, No. 228, item 2260, No. 229, item 2276, 2004, No. 64, item 594, No. 68, item 623, No. 91, item 870, No. 96, item 959, No. 121, item 1264, No. 146, item 1546, No. 173, item 1808, of 2005, No. 83, item 719, No. 85, item 727, No. 167, item 1398, No. 183, item 1538, of 2006, No. 104, item 708, No. 157, item 1119, No. 190, item 1401 and No. 245, item 1775, of 2007 No. 42, item 272 and No. 112 item 769, No. 209, item 1315.

- 5) investment company - foreign investment company, referred to in Art. 3 item 32, or an investment company referred to in Art. 3 item 33 of the Act of 29 July 2005 on trading in financial instruments (Journal of Laws No. 183, item 1538, as further amended²);
- 6) exposure in the banking book - exposure resulting from operations included in the banking book, in accordance with the resolution on the capital adequacy of banks;
- 7) exposure in the trade book - exposure resulting from the operations included in the trading book, in accordance with the resolution on the capital adequacy of banks;
- 8) exposure concentration limit - the limit set out in Art. 71 Sec. 1 of the Act, referred to in the introductory sentence;
- 9) large exposure limit - the limit set out in Art. 71 Sec. 2 of the Act, referred to in the introductory sentence;
- 10) maturity - the original exposure maturity date, i.e. the date arising from the current contract;
- 11) other bank - the national bank, a credit institution and a foreign bank.

§ 2.1. When determining compliance with exposure concentration limit and the large exposure limit, banks take into account the exposures at the value determined in accordance with the valuation rules set out in the resolution on the capital adequacy of banks, in the amounts established for the purpose of calculating capital requirement for credit risk, but without regard to security; exposures that are:

- 1) balance sheet assets - include items referred to in Part II of Annex 4 to the resolution on the capital adequacy of banks (without the use of risk weights);
- 2) granted off-balance sheet liabilities:
 - a) Contingent - include items referred to in § 100 of Annex 4 to the resolution on the capital adequacy of banks (without applying product and contractor risk weights), yet the positions resulting from securities issue guarantees are included in the amount equal to the original position of the guaranteed issuance of securities, calculated in accordance with the principle adopted by the bank, pursuant to § 10 or 11 of Annex 2 to the resolution on the capital adequacy of banks,
 - b) resulting from off balance sheet derivative transactions - include items referred to in § 31 of Annex 2 to the resolution on the capital adequacy of banks, in the amount equal to their balance-sheet equivalent (without the use of counterparty risk weights), calculated in accordance with one of the methods referred to in Annex 16 or Annex 19 to the resolution on the capital adequacy of banks; the method specified in § 3 of Annex 16 is also applicable for the purposes of this resolution.

2. Banks whose scale of trading activity, calculated on the basis of § 3 of the resolution on the capital adequacy of banks, is significant divide exposures into exposures in the banking book and exposures in the trading book.

§ 3.1. Limits set out in Art. 71 Sec. 1 and 2 of the Act, referred to in the introductory sentence, shall not apply to exposures listed in the part I of the Annex to the resolution.

2. Limits set out in Art. 71 Sec. 1 and 2 of the Act, referred to in the introductory sentence, shall not apply to exposures listed in the part II of the Annex to the resolution, and from 1 July 2009 the limits referred to in Art. 71 Sec. 1 of the Act, referred to in the introductory sentence, shall not apply to those listed in part II of the Annex exposures to the entity or entities related by capital and organisationally to the total of 75% of the bank's own funds.

3. Until 30 June 2009, the limits set out in Art. 71 Sec. 1 and 2 of the Act, referred to in the introductory sentence, shall not apply to exposures listed in the part III of the Annex to the resolution, and:

- until 31 March 2009 - at 100% of the amount of those exposures,
- until 30 June 2009 - at 50% of the amount of those exposures.

4. If for the purpose of the Annex to the resolution the bank uses funded or unfunded credit protection, it must meet appropriate qualification requirements and recognition conditions set out in Part I and II of Annex 17 to the resolution on the capital adequacy of banks.

² Amendments to the Act were published in the Journal of Laws of 2006 No. 104, item 708 and No. 157, item 1119.

5. For the purpose of the Annex to the resolution, for exposures secured by a pledge on rights or by a transfer of title to secure property rights arising from securities, the bank may treat the exposure as made to the securities' issuer.

6. For the purposes of the Annex to the resolution the guarantee also covers the recognized credit derivatives referred to in § 28 Sec. 1 items 1 and 2 of Annex 17 to the resolution on the capital adequacy of banks, and:

- 1) for exposures secured by a guarantee the bank may treat the exposure as made to the guarantor;
- 2) if the guarantee is denominated in a currency other than the exposure, the amount of exposure deemed to be covered will be calculated in accordance with the rules for currency mismatch referred to in § 91 and § 92 of Annex 17 to the resolution on the capital adequacy of banks;
- 3) partial credit protection may be recognized accordingly, in accordance with the principles referred to in § 93 - § 97 of Annex 17 to the resolution on the capital adequacy of banks;
- 4) any mismatch between the maturity and the settlement of a guarantee is calculated in accordance with the rules on maturity mismatches, as referred to in § 98 of Annex 17 to the resolution on the capital adequacy of banks.

7. Under the monthly reporting referred to in the Resolution No. 23/2003 of the management board of the National Bank of Poland of 25 July, 2003 on the course and detailed principles for banks to provide the NBP with data necessary to set the monetary policy and prepare periodical assessments of the state's monetary situation, as well as the assessment of banks' financial standing and banking sector risk (Official Journal of NBP, No. 16, item 26; of 2004 No. 1, item 1, No. 5, item 11 and No. 20, item 38; of 2005 No. 9, item 16; of 2006 No. 10, item 10 and No. 12, item 15 and of 2007 No. 7, item 18) the bank is obliged to inform the Polish Financial Supervision Authority about exposures referred to in Sec. 1-3 that are not subject to the regulations on exposure concentration limit and large exposure limit.

§ 4.1. A bank holding company, set out in Art. 141 (f) Sec. 1 of the Act referred to in the introductory sentence, required to prepare consolidated financial statements irrespective of the requirement to comply with the exposure concentration limit and the large exposure limit on an individual basis, is also required to comply with these limits on consolidated basis on the basis of consolidated financial statements, by adopting an appropriate manner of calculating own funds of the bank and its subsidiaries, in accordance with § 6 of the resolution on banks' own funds.

2. To determine compliance with exposure concentration limit and the large exposure limit on a consolidated basis, the bank referred to in Sec. 1, appropriately applies specific principles and conditions of accounting for exposures of all the entities included in the consolidated financial statement.

§ 5. The Resolution enters into force on 1 January 2009.

Chairman of the Polish Financial Supervision Authority
Stanisław Kluza

**Annex to Resolution No. 382/2008 of the Polish Financial Supervision Authority
of 17 December 2008 (item 36)**

Part I. Exposures exempt from the regulations on exposure concentration limit and large exposure limit, pursuant to § 3 (1).

- 1) Exposures where the banks obligors are governments or central banks of the countries, which can be assigned 0% risk weight pursuant to Part II of Annex 4 to the resolution on the capital adequacy of banks;
- 2) Exposures where the bank's obligor is the European Central Bank;
- 3) Exposures where the bank's obligors are: multilateral development banks, international organizations or public sector entities, if unsecured claims on these entities can be assigned 0% risk weight pursuant to Part II of Annex 4 to the resolution on the capital adequacy of banks;
- 4) Exposures secured by a guarantee or surety extended by the entities referred to in items 1-3 up to the amount of the collateral, if unsecured claims on entities extending the guarantee or surety can be assigned 0% risk weight pursuant to Part II of Annex 4 to the resolution on the capital adequacy of banks;
- 5) Exposures secured by a pledge on rights or by transfer of title to secure property rights deriving from debt securities whose issuers are entities referred to in items 1-3, which can be assigned 0% risk weight, up to the amount of the collateral, pursuant to Part II of Annex 4 to the resolution on the capital adequacy of banks;
- 6) Exposures secured by an amount of money transferred to the account of the bank with the exposure, pursuant to Art. 102 of the Act, referred to in the introductory sentence - up to that amount;
- 7) Exposures that are subject to on-balance sheet netting, pursuant to § 45 of Annex 17 to the resolution on the capital adequacy of banks;
- 8) Exposures secured by deposit certificates issued by the bank with the exposure - up to the value of the collateral;
- 9) Exposures where the obligors are local government units of the Republic of Poland or their associations, local governments or local authorities of other Member States, which may be assigned a 20% risk weight pursuant to § 30 - § 35 of Annex 4 to the resolution on the capital adequacy of banks - up to 80% of the value of the exposure;
- 10) Exposures secured by a guarantee or surety extended by local governments of the Republic of Poland or their associations, local governments or local authorities of other Member States - up to 80% of the value of the collateral, that can be assigned a 20% risk weight pursuant to § 30 - § 35 of Annex 4 to the resolution on banks' capital adequacy;
- 11) Exposures deriving from current operations of the purchase or sale of foreign currency - in the period of up to 2 business days after payment (ie within 48 hours of the closing of the day on which the payment was made, excluding hours during the holidays);
- 12) Exposures deriving from operations of the purchase or sale of securities - in the period of up to five business days following payment or delivery of securities, depending on whichever comes first;
- 13) Exposures representing deductions from the bank's original and additional own funds, as defined in § 2 Sec. 1 item 1 to resolution on banks' own funds, subject to § 4 of this resolution;
- 14) Exposures entirely covered by own funds, if the amount of the exposures is deducted from the bank's own funds as calculated for the purpose of the bank capital adequacy (solvency ratio), subject to the approval of the Polish Financial Supervision Authority issued at the request of the bank. The request should include information on characteristics of the exposure and a calculation showing how the deduction of this exposure from the bank's own funds will affect the level of bank's capital adequacy;
- 15) Exposures of cooperative banks operating in associations under the Act of 7 December 2000 on the Operations of Cooperative Banks, their Affiliation and Affiliating Banks

(Journal of Laws, No. 119, item 1252, as further amended³), to affiliating banks, which constitute liabilities arising from settlements between the affiliating banks, resulting from the activities referred to in Art. 19 of the Act of 7 December 2000 on the Operation of Cooperative Banks, their Affiliation and Affiliating Banks (Journal of Laws, No. 119, item 1252, as further amended⁴);

- 16) Exposures, other than the ones mentioned in item 15, of cooperative banks to affiliating banks, operating in associations under the Act of 7 December 2000 on Operating of Cooperative Banks, their Affiliation and Affiliating Banks (Journal of Laws, No. 119, item 1252, as further amended⁵);
- 17) Capital exposures of the bank, in an amount equal to the capital requirement on exceeding the capital concentration threshold, provided that this requirement has been accounted for in the total capital requirement, in accordance with the resolution on the capital adequacy of banks;
- 18) Exposures which constitute granted off-balance sheet contingent liabilities, classified as low-risk category, pursuant to § 100 Sec. 1 of Annex 4 to the resolution on the capital adequacy of banks, subject to an agreement with an entity that the exposure may only be increased if this does not result in exceeding the concentration limit and the large exposure limit in relation to the entire bank's exposure to the entity or entities related by capital or organisationally;
- 19) Exposures where the bank's obligor is the bank's subsidiary, if such an entity is subject to consolidated supervision that the bank is subject to;
- 20) The exposure of a bank with a significant scale of trading business to a given entity, which constitutes excess exposure over the exposure concentration limit (excess concentration), if the following conditions have been simultaneously satisfied:
 - a) bank portfolio exposure to the entity does not exceed the exposure concentration limit, so that the excess concentration stems solely from the trading portfolio exposure to the entity,
 - b) trading portfolio exposure to the entity (if excess concentration has not lasted more than 10 days) is not in excess of 500% of the sum of the bank's own funds and short-term capital, calculated in accordance with the resolution on the capital adequacy of banks,
 - c) the sum of large exposures to all the entities in the bank portfolio does not exceed the large exposure limit, so that exceeding the limit (if relevant) results from the trading portfolio exposure,
 - d) the sum of excess concentration lasting longer than 10 working days is not in excess of 600% of the sum of the bank's own funds and short-term capital, calculated in accordance with the resolution on the capital adequacy of banks,
 - e) to calculate its total capital requirement, the bank takes into account the total capital requirement on exceeding the exposure concentration limit to the entity, calculated with regard to the excess concentration in accordance with the resolution on the capital adequacy of banks, and meets the standard of capital adequacy as set out in the resolution,
 - f) the bank fulfils the requirement on reporting exposures, to which it does not apply the regulations on the exposure concentration limit and large exposure limit,
 - g) the bank does not conclude transactions in order to reduce its capital requirement on exceeding the exposure concentration limits and large exposure limits, in particular transactions which settle the exposure to an entity within 10 days of its duration and take on a new exposure to the same entity, nor does it temporarily transfer the excess over the limit to another institution.

Part II. Exposures exempt from regulations on exposure concentration limit and large exposure limit, as set out in § 3 (2).

³ Amendments to the consolidated text of the said Act were published in the Journal of Laws of 2001, No. 111, item 1195; of 2002 and 2003, No. 137, item 1303, No. 228, item 2260; of 2004, No. 91, item 870; and of 2006, No. 157, item 1119.

⁴ Amendments to the consolidated text of the said Act were published in the Journal of Laws of 2001, No. 111, item 1195; of 2002 and 2003, No. 137, item 1303, No. 228, item 2260; of 2004, No. 91, item 870; and of 2006, No. 157, item 1119.

⁵ Amendments to the consolidated text of the said Act were published in the Journal of Laws of 2001, No. 111, item 1195; of 2002 and 2003, No. 137, item 1303, No. 228, item 2260; of 2004, No. 91, item 870; and of 2006, No. 157, item 1119 No 141, item 1178, No 216, item 1824, No 141, item 1178, No 216, item 1824, No 141, item 1178, No 216, item 1824,.

- 1) Covered bonds underlying exposures referred to in §76-§ 79 of Annex 4 to the resolution on the capital adequacy of banks;
- 2) Exposures, in which the bank's obligor is another bank or investment firm, and the exposure maturity does not exceed one year, except for the items included in these institutions' own funds;
- 3) Exposures, in which the bank's obligor is another bank or investment firm, and the exposure maturity exceeds one year, but does not exceed 3 years, up to 80% of the exposure value, except for the items included in these institutions' own funds;
- 4) Bills underlying exposures with maturity of up to one year, issued or endorsed by another bank;
- 5) Exposures secured by an amount of money that was transferred to the account of a parent or subsidiary of the bank with the exposure, pursuant to Article 102 of the act referred to in the introductory sentence - up to that amount;
- 6) Exposures secured by deposit certificates issued by the bank which is a parent or subsidiary entity to the bank with the exposure, and deposited in one of these institutions - up to the value of the collateral;
- 7) Exposures secured by mortgage on residential property, which is or will be inhabited, or let or leased by the debtor - up to 50% of the mortgage collateral established in favour of the bank, calculated in accordance with the assessment of the mortgage lending value or other assessment, made at least once a year, but not more than the amount entered in the land and mortgage register;
- 8) Exposures arising from a residential property leasing transactions, if the lessor retains the ownership of the property until the lessee exercises his call option - up to 50% of the value of the property calculated in accordance with the assessment of the mortgage lending value or other assessment, made at least once a year, but not more than the amount entered in the land and mortgage register;
- 9) Exposures secured by mortgage on commercial property, which, pursuant to § 66 - § 69 of Annex 4 to the resolution on the capital adequacy of banks, can be assigned a 50% risk weight - up to 50% of the mortgage collateral established in favour of the bank, calculated in accordance with the assessment of the mortgage lending value or other assessment, made at least once a year, but not more than the amount entered in the land and mortgage register;
- 10) Exposures arising from a commercial property leasing transaction, which, pursuant to § 66 - § 69 of Annex 4 to the resolution on the capital adequacy of banks, can be assigned a 50% risk weight, if the lessor retains the ownership of the property until the lessee exercises his call option - up to 50% of the property value, calculated in accordance with the assessment of mortgage lending value or other assessment, made at least once a year, but not more than the amount entered in the land and mortgage register;
- 11) Exposures constituting off-balance-sheet contingent liabilities, classified as low-medium risk exposures, pursuant to § 100 item 2 of Annex 4 to the resolution on the capital adequacy of banks - up to 50% of the value of the exposure.

Part III. Exposures exempt from regulations on exposure concentration limit and large exposure limit, as set out in § 3 (3).

- 1) Exposures in which the bank's obligors are governments or central banks of the countries other than those specified in point 1 part I of the Annex, denominated and funded in the national currency of the borrower;
- 2) Exposures based on which credit linked notes are issued - up to the amount of money received from these notes, defined in § 28 (1) item 3 of Annex 17 to the resolution on the capital adequacy of banks;
- 3) Exposures deriving from debt securities with maturity of more than three years, issued by another bank or investment firm, up to 50% of the exposure value, if the securities are traded on a stock exchange or are regarded as regularly quoted on the stock market, with the exception of securities included in such institutions' own funds;
- 4) Bank's capital exposure in national insurance companies or insurance companies established in Member States - up to 40% of the bank's own funds;
- 5) Exposures secured by a pledge on rights or by transfer of title to secure property rights deriving from securities other than those specified in item 5 part I of the Annex, if: their

value is in excess of the exposure, they are valued at market value, they are traded on a stock exchange or are recognized as securities regularly quoted on the stock market, except the cases where the credit protection maturity is shorter than the exposure maturity, or when the securities represent the bank's own funds - up to the amount of:

- a) 40% of the market value of the collateral - for securities
- b) 65% of the market value of the collateral - in the case of debt securities issued by another bank or investment firm, local government units of the Republic of Poland or their associations, local governments or local authorities of other Member States, multilateral development banks other than those listed in item 3 of Part I of the Annex,
- c) 50% of the market value of the collateral - for other securities.