

**RESOLUTION 325/2011
OF THE POLISH FINANCIAL SUPERVISION AUTHORITY
of 20 December 2011**

**on other deductions from own funds, their amount, their scope and conditions of their deduction from a bank's own funds,
other balance sheet items included in supplementary capital, their amount, their scope and the conditions of their inclusion in supplementary capital,
deductions from supplementary capital, their amount, their scope and conditions of their deduction from supplementary capital
and the scope and manner of treating the activity of banks that are members of conglomerates in calculating own funds¹⁾**

On the basis of Article 127 paragraph 5 point 2 letters c-e and Article 141j paragraph 1 point of the Banking Law of 29 August 1997 (Journal of Laws 2002 No 72 item 665 as amended²⁾) it is resolved as follows:

§ 1 The resolution specifies:

- 1) the other deductions from own funds spoken of in Article 127 paragraph 2 point 3 letter f of the Banking Law of 29 August 1997, their amount, their scope and conditions of their deduction from a bank's own funds;
- 2) the other items in bank balance sheets referred to in Article 127 paragraph 3 point 3 of the Banking Law of 29 August 1997, their amount, their scope and conditions of their inclusion in a bank's supplementary capital;
- 3) The deductions from supplementary capital referred to in Article 127 paragraph 3 point 4 of the Banking Law of 29 August 1997, their amount, their scope and conditions of their deduction from a bank's supplementary capital; and
- 4) the scope and manner of treating the activity of banks that are members of conglomerates referred to in Article 141f paragraph 1 points 1-3 of the Banking Law of 29 August 1997 in calculating own funds.

1) This resolution amends Resolution No. 385/2008 on detailed rules and methods of publication of qualitative and quantitative information regarding capital adequacy by banks and the scope of published information, Resolution No. 76/2010 on the scope and detailed procedures for determining capital requirements for particular risks and Resolution 208/2011 on detailed rules and conditions for considering exposure when determining the observance of the exposure concentration limit and the large exposure limits.

2) Amendments to the consolidated text of the Act were published in the Journal of Laws 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 and 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 and No 173 item 1808, 2005 No 83 item 719, No 85 item 727, No 167 item 1398 and No 183 item 1538, 2006 No 104 item 708, No 157 item 1119, No 190 item. 1401 and No 245 item 1775, 2007 No 42 item 272, No 112 item 769, 2008 No 171 item 1056, No 192 item 1179 and No 209 item 1315, No 231 item 1546, 2009 No 18 item 97, No 42 item 341, No 65 item 545, No 71 item 609, No 127 item 1045, No 144 item 1176, No 165 item 1316, No 166 item 1317, No 168 item 1323, No 201 item 1540 and 2010 No 40 item. 226 and No 81 item 530, No 126 item 853, No 182 item 1228 and No 257 item 1724 and 2011 No 72 item. 388, No 126 item 715, No 131 item 763, No 134 item 779 and 781, No. 165 item 984, No 199 item 1175 and No 201 item 1181.

§ 2. For the purposes of this Resolution, the following definitions shall apply:

- 1) IAS - International Accounting Standards, International Financial Reporting Standards and interpretations related to them promulgated in the form of regulations of the European Commission;
- 2) shares that do not give control - shares that do not give control within the meaning of IAS;
- 3) goodwill - the excess of the value of shares over that of the part of net assets that correspond to them valued at their fair value;
- 4) foreign exchange differences on translation – foreign exchange differences arising on translation into Polish currency of the financial statements of entities located outside the territory of the Republic of Poland;
- 5) lower level parent entity – an entity which is dependent on a specified entity and is simultaneously the parent entity in relation to one or more other entities;
- “5) Resolution on the Capital Adequacy of Banks - Resolution 76/2010 of the Polish Financial Supervision Authority of 10 March 2010 on the scope and detailed procedures for determining capital requirements for particular risks (Official Journal of the PFSA item 11, 2010 No 8 item 38 and 2011 No 8 item 29 and No 9 item 32);
- 7) Resolution on Compliance with the Limit on Concentration of Exposures - Resolution 208/2011 of the Polish Financial Supervision Authority of 22 August 2011 on detailed rules and conditions for considering exposure when determining the observance of the exposure concentration limit and the large exposure limit (Official Journal of the PFSA No 9 item 34).

§ 3. 1. The other deductions from own funds referred to in Article 127 paragraph 2 point 3 letter f of the Banking Law of 29 August 1997 are:

- 1) a bank's equity interests in financial institutions, credit institutions, domestic banks, foreign banks, insurance undertakings and reinsurance undertakings, in the form of:
 - a) shareholdings,
 - b) amounts classified as subordinated debt, and
 - c) other equity interests in components that are included in the own funds of such entities, including payments to a company with limited liability at its carrying value- subject to the reservation of § 6;
- 2) interests, which in accordance with § 6 paragraph 14 of the Resolution on Compliance with the Limit on Concentration of Exposures are not subject to limits on concentration of exposures;
- 3) the missing amount of provisions for risks associated with the activities of a bank, understood as the difference between the requirements of separate regulations and the actual level of the bank's specific provisions;
- 4) in the case of a bank that calculates the amounts of risk-weighted exposures using the internal ratings method, negative amounts that result from the calculations referred to in §§ 76-79 of Annex 5 to the Resolution on the Capital Adequacy of Banks and the amount of expected losses calculated in accordance with § 72 and § 73 of annex 5 to that resolution;

- 5) the amount of exposures arising from securitisation positions which in accordance with §§ 46-123 of Annex 18 to the Resolution on the Capital Adequacy of Banks are assigned a risk weight of 1250%, calculated in the manner specified in that Annex, and the amount of securitisation exposures in the trading book, which would assigned a risk weight of 1250% if these exposures were in the banking book of the same credit institution;
 - 6) unrealised losses on debt instruments classified as available for sale;
 - 7) unrealised losses on equity instruments classified as available for sale;
 - 8) unrealised losses on other receivables classified as available for sale;
 - 9) exchange losses on translation;
 - 10) unrealised gains on revaluation of investments in real property;
 - 11) negative amounts arising from the revaluation of assets performed in accordance with the rules referred to in §§ 7-13 of Annex No. 3 to the Resolution on the Capital Adequacy of Banks;
 - 12) in the case of a bank that initiates the securitisation referred to in § 6 of Annex 18 to the Resolution on the Capital Adequacy of Banks, net income from the capitalisation of future income from securitised assets that constitute credit enhancement for securitised positions.
2. The items referred to in paragraph 1 points 1-5 are included in deductions from core capital in an amount equal to 50% of their value, subject to the reservation of § 5 paragraph 3.
 3. The item referred to in paragraph 1 point 12 reduces the core capital of a bank referred to in Article 127 paragraph 2 point 1 of the Banking Law of 29 August 1997.
- § 4. 1.** The other items in bank balance sheets referred to in Article 127 paragraph 3 point 3 of the Banking Law of 29 August 1997 included in a bank's supplementary capital are;
- 1) unrealised losses on debt instruments classified as available for sale;
 - 2) unrealised losses on equity instruments classified as available for sale;
 - 3) unrealised gains on revaluation of investments in real property;
 - 4) exchange gains on translation;
2. The items referred to in paragraph 1 points 1-3 are included in an amount equal to 80% of their value before income tax.
 3. A bank that calculates the amounts of risk-weighted exposure using the internal ratings method may recognise as other items of supplementary funds positive amounts that result from revaluations and provisions included in the calculations referred to in §§ 76-79 of Annex 5 to the Resolution on the Capital Adequacy of Banks, up to 0.6% of the total amount of risk-weighted exposures calculated using the internal ratings method.
 4. The total amount of risk-weighted exposures referred to in paragraph 3 does not include amounts calculated in respect of securitisation positions which, in accordance with the Resolution on the Capital Adequacy of Banks, have been given a risk weight of 1250%.
- § 5.1.** The deductions from supplementary capital referred to in Article 127 paragraph 3 point 4 of the Banking Law of 29 August 1997 are the items referred to in § 3 paragraph 1 points 1-5.

2. The items referred to in paragraph 1 are included in deductions from supplementary capital in an amount equal to 50% of their value, subject to the reservation of paragraph 3.
 3. If 50% of the sum of the items referred to in § 3 paragraph 1-5 is higher than the sum of the items specified in Article 127 paragraph 3 of the Banking Law of 29 August 1997 and in § 4, the bank's own funds are reduced by the amount of that excess.
- § 6.1.** The deduction from core capital referred to in § 3 paragraph 1 point 1 is a bank's equity interest in a particular entity if that entity is:
- 1) a domestic bank, a foreign bank, a credit institution or a financial institution and at the same time
 - a) the interest is more than 10% of the equity (own funds) of the entity, or
 - b) the interest is no more than 10% of the equity (own funds) of the entity and together with other equity interests of the bank in domestic banks, foreign banks, credit institutions and financial institutions which do not exceed 10% of the equity (own funds) of each of these entities, does not amount to more than 10% of the bank's own funds before deduction of the items specified in § 3 paragraph 1 point 1;
 - 2) an insurance undertaking or reinsurance undertaking and the interest amounts to at least 20% of the share capital of that entity or allows the exercise of at least 20% of voting rights in that entity's organs.
2. In the case of a bank's equity interest held indirectly through non-financial institutions, the bank's equity interest is calculated as part of the equity interest of the lower level parent entity a in a domestic bank, foreign bank, credit institution or financial institution in proportion to the share of the bank's equity interest in the equity (own funds) of the entity and not exceeding the bank's equity interest in the subsidiary. This rule applies *mutatis mutandis* in cases where the intermediate links between the bank and a domestic bank, foreign bank, credit institution or financial institution are multilevel.
3. The provisions of paragraphs 1 and 2 apply *mutatis mutandis* to deductions from supplementary capital.
- § 7.1.** A bank operating in a conglomerate as referred to in Article 141f paragraph 1 points 1, 2 or 3 of the Banking Law of 29 August 1997, which is required to prepare consolidated financial statements, regardless of the obligation to calculate own funds on the basis of individual financial statements, is obliged to include in the consolidation the own funds of the group including entities included in the consolidated financial statements, applying *mutatis mutandis* Article. 127 of the Banking Law of 29 August 1997 and the regulations of this resolution.
- 2 The carrying amount shown in a bank's own funds account on a consolidated basis includes:
- 1) the goodwill of subordinated entities;
 - 2) shares that do not give control; and
 - 3) currency translation differences.
3. A bank's consolidated own funds are increased and decreased by the items referred to in paragraph 2 according to the structure of the own funds of subsidiaries.

§ 8. In PFSA Resolution 385/2008 of 17 December 2008 on the detailed principles and manner of disclosure by banks of qualitative and quantitative information relating to capital adequacy and the scope of information subject to disclosure (Official Journal of the PFSA No 8 item 39, 2010 No. 2 item 11 and No. 8 item 37 and 2011 No 11 item 43) in § 1 point 2 is amended to read as follows:

“2) Resolution on Banks’ Own Funds - Resolution 325/2011 of the Polish Financial Supervision Authority of 20 December 2011 on other deductions from own funds, their amount, their scope and conditions of their deduction from a bank's own funds, other balance sheet items included in supplementary capital, their amount, their scope and the conditions of their inclusion in supplementary capital, deductions from supplementary capital, their amount, their scope and conditions of their deduction from supplementary capital and the scope and manner of treating the activity of banks that are members of conglomerates in calculating own funds (Official Journal of the PFSA No item);”.

§ 9. In Resolution No. 76/2010 of the Polish Financial Supervision Authority of 10 March 2010 on the scope and detailed procedures for determining capital requirements for particular risks (Official Journal of the PFSA No 2 item 11, together with 2010 No. 8 item 38 and 2011 No 8 item 29 and No. 9 item 32 and No 11 item 42) in § 11 in paragraph 2 point 1 is amended to read as follows:

“1) consolidated own funds – own funds calculated by appropriate application of the principles specified for banks subject to consolidated supervision specified in Resolution 325/2011 of the Polish Financial Supervision Authority of 20 December 2011 on other deductions from own funds, their amount, their scope and conditions of their deduction from a bank's own funds, other balance sheet items included in supplementary capital, their amount, their scope and the conditions of their inclusion in supplementary capital, deductions from supplementary capital, their amount, their scope and conditions of their deduction from supplementary capital and the scope and manner of treating the activity of banks that are members of conglomerates in calculating own funds (Official Journal of the PFSA No item); referred to hereunder as the "Resolution on Own Funds".

§ 10. In Resolution 208/2011 of the Polish Financial Supervision Authority of 22 August 2011 on detailed rules and conditions for considering exposure when determining the observance of the exposure concentration limit and the large exposure limit (Official Journal of the PFSA No 9 item 34) in § 1 point 3 is amended to read as follows:

“3) Resolution on Banks’ Own Funds - Resolution 325/2011 of the Polish Financial Supervision Authority of 20 December 2011 on other deductions from own funds, their amount, their scope and conditions of their deduction from a bank's own funds, other balance sheet items included in supplementary capital, their amount, their scope and the conditions of their inclusion in supplementary capital, deductions from supplementary capital, their amount, their scope and conditions of their deduction from supplementary capital and the scope and manner of treating the activity of banks that are members of conglomerates in calculating own funds (Official Journal of the PFSA No item);”.

§ 11. The following resolutions are repealed:

- 1) Resolution 381/2008 of the Polish Financial Supervision Authority of 17 December 2008 on other deductions from own funds, their amount, their scope and conditions of their deduction from a bank's own funds, other balance sheet items included in supplementary capital, their amount, their scope and the conditions of their inclusion in supplementary capital, deductions from supplementary capital, their amount, their scope and conditions of their deduction from supplementary capital and the scope and manner of treating the activity of banks that are members of conglomerates in calculating own funds (Official Journal of the PFSA No 8 item 35);
- 2) Resolution 367/2010 of the Polish Financial Supervision Authority of 12 October 2010 amending the Resolution 381/2008 of PFSA of 17 December 2008 on other deductions from own funds, their amount, their scope and conditions of their deduction from a bank's own funds, other balance sheet items included in supplementary capital, their amount, their scope and the conditions of their inclusion in supplementary capital, deductions from supplementary capital, their amount, their scope and conditions of their deduction from supplementary capital and the scope and manner of treating the activity of banks that are members of conglomerates in calculating own funds (Official Journal of the PFSA No 8 item 36).

§ 12. This resolution comes into force on 31 December 2011