

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

Pursuant to Art. 127 Sec. 5 item 2 (c-e) 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) The Accounting Act - the Act of 29 September 1994 on Accounting (Journal of Laws of 2002 No. 76, item 694, as further amended²);
- 2) minority capital - capital referred to in Art. 3 Sec. 1 item 46 of the Accounting Act
- 3) goodwill of the company's subsidiaries - the surplus value of the shares to the corresponding part of the net assets priced at their fair values;
- 4) negative goodwill of the company's subsidiaries
- the surplus value of the appropriate part of the net assets priced at their fair values to the shares value;
- 5) foreign exchange differences on translation - foreign exchange differences referred to in the regulation of the minister responsible for public finance, issued under Art. 81 Sec. 2 item 8 (b) of the Act of 29 September 1994 on Accounting (Journal of Laws of 2002 No. 76, item 694, as further amended²);
- 6) lower level parent entity - the entity that is dependent on a particular entity and, at the same time, is the parent entity to one or more other units;
- 7) 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

¹Amendments 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, of 2008 No. 171, item 1056, No. 192, item 1179, No. 209, item 1315.

²Amendments to this Act were published in Journal of Laws of 2003, No. 60, item 535, No. 124, item 1152, No. 139, item 1324, No. 229, item 2276, of 2004, No. 96, item 959, No. 145, item 1535, No. 146, item 1546, No. 213, item 2155, of 2005, No. 10, item 66, No. 184, item 1539 and No. 267, item 2252, of 2006, No. 157, item 1119 and No. 208, item 1540 and of 2008, No. 63, item 393.

presented together with the bank's own funds on the capital adequacy account and the scope, method and conditions of their inclusion (Official Journal PSFA No. 8, item 34).

§ 2.1. Other deductions from original own funds referred to in Art. 127 Sec. 2 item 3 (f) of the Act, referred to in the introductory sentence, are:

- 1) The bank's capital exposure to financial institutions, credit institutions, domestic banks, foreign banks and insurance companies, such as:
 - a) owned shares,
 - b) amounts classified as subordinated liabilities,
 - c) other capital exposure to components included in equity or capital of these entities, including additional payments to a limited liability company at balance sheet value,- subject to § 5;
 - 2) shortfall of provisions for risks involved with the operation of a bank, understood as the difference between the required by separate regulations and the actual level of bank specific provisions;
 - 3) in the case of a bank calculating risk-weighted exposures amounts using the IRB approach, negative amounts resulting from the calculation referred to in § 76-79 of Annex 5 to the resolution on the capital adequacy of banks and expected loss amounts calculated in accordance with § 72-73 of Annex 5 to the resolution;
 - 4) subject to § 14 Sec. 1 of the resolution on the capital adequacy of banks, securitisation exposure amounts, to which, in accordance with § 46-123 of Annex 18 to the resolution on the capital adequacy of banks, there is assigned a risk weight of 1250%, calculated in the manner set out in the Annex;
 - 5) unrealised losses on debt instruments classified as available for sale;
 - 6) unrealised losses on equity instruments classified as available for sale;
 - 7) unrealised gains on valuation of real estate investments;
 - 8) in the case of a bank initiating securitization, referred to in § 6 of Annex 18 to the resolution on the capital adequacy of banks, net income from the capitalization of future income from securitized assets constituting credit quality support for securitization positions.
2. The items referred to in Sec. 1 (1-4), are included in deductions from original own funds in an amount equal to 50% of their value, subject to § 4 Sec. 3.
3. The item referred to in Sec. 1 item 8 reduces own funds of the bank set out in Art. 127 Sec. 2 item 1 of the Act, referred to in the introductory sentence.

§ 3.1. Other additional own funds items, set out in Art. 127 Sec. 3 item 3 of the Act, referred to in the introductory sentence, are:

- 1) unrealised gains on debt instruments classified as available for sale;
 - 2) unrealised gains on equity instruments classified as available for sale;
 - 3) unrealised gains on valuation of real estate investments.
2. The items referred to in Sec. 1 are included up to 60% of their values (before income tax).
3. A bank calculating risk-weighted exposure amounts using the IRB approach may recognise positive amounts resulting from revaluation and provisions included in the calculations referred to in § 76-79 of the Annex 5 to the resolution on the capital adequacy of banks, up to 0.6% of risk-weighted exposure amounts calculated using the IRB approach, as other items of additional own funds.
4. Risk weighted exposure amounts, referred to in Sec. 3, do not include the amounts calculated in relation to securitization positions, to which, in accordance with the resolution on the capital adequacy of banks, a risk weight of 1250% is attributed.

§ 4.1. Deductions from additional own funds, set out in Art. 127 Sec. 3 item 4 of the Act, referred to in the introductory sentence, are the items referred to in § 2 Sec. 1 items 1 - 4.

2. The items referred to in Sec. 1 are included in deductions from additional own funds in the amount equal to 50% of their value, subject to Sec. 3.
3. If 50% of the total amount of the items referred to in § 2 Sec. 1 (1-4) exceeds the total amount of the items referred to in § 127 Sec. 3 of the Act, referred to in the introductory

sentence and in § 3 of the resolution, the difference must be subtracted from original own funds of a bank.

§ 5.1. Deductions from original own funds, referred to in § 2 Sec. 1 item 1, shall apply if the bank's capital exposure to the entity:

- 1) if the entity is a domestic bank, foreign bank, credit or financial institution:
 - a) represents more than 10% of capital (own funds) of the entity,
 - b) represents not more than 10% of capital (own funds) of the entity and in combination with other capital exposures of the bank to domestic banks, foreign banks, credit and financial institutions not exceeding 10% of capital (own funds) of those entities individually, represents more than 10% of the bank's own funds, before the deductions due to the items set out in § 2 Sec. 1 item 1,
- 2) if the entity is an insurance company - represents at least 20% of capital (own funds) of such entity or allows to have at least 20% of the votes in the bodies of the entity.

2. In the case of indirect capital exposure of a bank (through non-financial institutions), the capital exposure of the bank is calculated as part of the capital exposure of the lower level parent entity to a national bank, foreign bank, credit or financial institution, in proportion to the share of the bank's capital exposure to original own capital (fund) of the unit, not exceeding the bank's capital exposure to a subsidiary. This rule also applies if the indirect relations between the bank and a domestic bank, foreign bank, credit or financial institution are of multilevel character.

3. Sec. 1 and 2 shall apply to deductions from additional own funds, respectively.

§ 6.1. 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, regardless of the requirement of own funds calculation on the basis of financial statements on a solo basis, is required to calculate on a consolidated basis the own funds of the group consisting of entities included in the consolidated financial statements, applying the rules set out in the Art. 127 of the Act, referred to in the introductory sentence, and § 1 and 2 of the resolution.

2. In addition, when calculating the own funds on a consolidated basis, the following items shall be taken into account, respectively:

- 1) goodwill of the company's subsidiaries;
- 2) negative goodwill of the company's subsidiaries
- 3) minority capital;
- 4) foreign exchange differences on translation.

3. Consolidated own funds of the bank are increased and reduced by the items referred to in Sec. 2, respectively in relation to the structure of subsidiaries' own funds.

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

Chairman of the Polish Financial Supervision Authority
Stanisław Kluza