

**Resolution No. 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

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

§1. For the purposes of this resolution, the following definitions shall apply:

- 1) 'Banking Act' - the Banking Act of 29 August 1997;
- 2) 'resolution on the capital adequacy of banks' - 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 (PFSA Journal of Laws, No. 2, item 11, as amended);
- 3) 'resolution on banks' own funds' - resolution No. 367/2010 of the Polish Financial Supervision Authority of 12 October 2010 amending Resolution No. 381/2008 of PFSA of 17 December 2008 on other deductions from original own funds, their value, scope and conditions for a deduction of these items from the bank's original own funds, other bank's balance sheet items that are included into the bank's supplementary own funds, their value, scope and conditions of their inclusion in the bank's supplementary own funds, reductions of supplementary own funds, their value, scope and conditions of deducting such items from the bank's supplementary own funds; and the scope and method of including banks' activities in holdings when calculating own funds (PFSA Journal of Laws, No. 8, item 36);
- 4) 'bank's own funds' – the bank's own funds established under Article 127 of the Banking Act and the resolution on banks' own funds, disregarding items referred to in § 2(1)(3) and § 2(1)(4), subject to § 4, and the items referred to in § 3(3) of the resolution on banks' own funds;
- 5) 'entity' - a single entity or entities linked by capital or management as defined in Article 4(1)(16) of the Banking Act;
- 6) 'investment firm' – a foreign investment firm referred to in Article 3(32) or an investment firm referred to in Article 3(33) of the Act on Trading in Financial Instruments of 29 July 2005 (Journal of Laws of 2005 No. 183, item 1538, as amended);
- 7) 'exposure in banking portfolio' - exposure resulting from operations in banking portfolio according to the resolution on the capital adequacy of banks;
- 8) 'exposure in trading portfolio' - exposure resulting from operations in trading portfolio according to the resolution on the capital adequacy of banks;
- 9) 'exposure concentration limits' - limits set out in Article 71(1), 1a, 1b and 1c of the Banking Act;
- 10) 'large exposure' – a bank's exposure to an entity or entities linked by capital or management, where its value is equal to or exceeds 10% of the bank's own funds;

- 11) 'maturity date' – the original maturity date of an exposure, i.e. the date specified in the agreement;
- 12) 'other bank' – a domestic bank, a credit institution or a foreign bank.

§2.1. When determining compliance with exposure concentration limits, the banks shall take into account the exposures at their value determined in accordance with the valuation principles 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, although not taking collateral into account; exposures that are:

- 1) balance-sheet assets - include items referred to in §7 - §99a of Annex No. 4 to the resolution on the capital adequacy of banks (without application of the risk weights);
- 2) granted off-balance-sheet liabilities:
 - a) contingent - include items referred to in § 100, Annex No. 4 to the resolution on the capital adequacy of banks (without application of product and counterparty risk weights), though positions resulting from securities issue guarantees are included in the amount equal to the original position of the guaranteed securities issue calculated according to 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 No. 2 to the resolution on the capital adequacy of banks, in the amount equal to their balance-sheet equivalent (without application of counterparty risk weights) calculated in accordance with one of the methods referred to in Annex No. 16 or 19 to the resolution on the capital adequacy of banks; for the purposes of this resolution the method specified in § 3 of Annex No. 16 shall also apply.
2. Banks with a significant scale of trading activities, calculated in accordance with § 3 of the resolution on the capital adequacy of banks, shall make a distinction between exposures in the banking portfolio and exposures in the trading portfolio.

§ 3.1. Subject to subparagraph 3, a bank can calculate the value of an exposure, when determining compliance with exposure concentration limits, on the basis of the fully adjusted exposure value determined according to Annex 17 to the resolution on the capital adequacy of banks, taking into account credit risk mitigation methods applied by the banks to lower the credit risk of such exposures, volatility adjustments and any maturity mismatch, subject to approval by the Polish Financial Supervision Authority.

2. Subject to subparagraph 3, a bank permitted to use own estimates LGDs and conversion factors for an exposure class under Annex No. 5 to the resolution on the capital adequacy of banks and is able to estimate the effects of financial collateral on its exposures separately from other LGD-relevant aspects, may submit a request to the Polish Financial Supervision Authority for permission to include the effects of such collateral for calculating the value of exposures when determining compliance with exposure concentration limits.
3. If a bank is permitted to use its own estimates of the effects of financial collateral, it shall do so on a basis consistent with the approach adopted in the calculation of capital requirements.

4. A bank permitted to use own estimates of LGDs and conversion factors for an exposure class under Annex No. 5 to the resolution on the capital adequacy of banks which does not calculate the value of its exposures using the method described in subparagraph 1, may calculate the value of its exposures using Financial Collateral Comprehensive Method referred to in Annex No. 17 to the resolution on the capital adequacy of banks or the method referred to in §4(8).
5. A bank which applies Financial Collateral Comprehensive Method or has been granted permission to apply the method described in subparagraph 2 to calculate the value of exposures when determining compliance with exposure concentration limit, shall conduct periodic stress tests of credit-risk concentrations, including in relation to the realisable value of any collateral taken.
6. In the event that such a stress test indicates a lower realisable value of collateral taken than would be permitted to be taken into account while making use of Financial Collateral Comprehensive Method or the method described in subparagraph 2, as appropriate, the value of collateral permitted to be recognised in calculating the value of exposures shall be reduced accordingly.

§ 4.1. For the purposes of Article 71(1), 1a, 1b, 1c of the Banking Act and of this resolution, exposures shall not include the following:

- 1) exposures resulting from current foreign currency sale or purchase agreements – during the 2 working days following payment;
 - 2) exposures resulting from current securities sale or purchase agreements - during 5 working days following payment or delivery of securities, whichever takes place first;
 - 3) exposures resulting from money transfer services for customers which do not last longer than the following working day, including services related to payment, settlement and clearing in any currency and correspondent banking or services related to the settlement, clearing and custody of financial instruments, as well as delayed receipts of funding and other exposures which do not last longer than the following working day, arising from client activity;
 - 4) exposures resulting from money transfer services, including the performance of payment orders, services involving settlement and clearing in any currency and correspondent banking services to the bank providing such services performed within one working day.
2. Funded or unfunded credit protection applied by the bank shall be subject to compliance with the eligibility requirements and other minimum requirements set out, respectively, in part I and II of Annex No. 17 to the resolution on the capital adequacy of banks.
 3. In applying, for the purposes of the resolution, the protection referred to in paragraph 2, the bank disregards the protection referred to in §21 and §22 of Annex No. 17 to the resolution on the capital adequacy of banks, apart from the protection permitted in this Resolution, pursuant to § 6(27) and (29).
 4. In order to identify entities linked by capital or management with regard to the exposures referred to in § 20(1) point 13, 15 and 16 of Annex No. 4 to the resolution on the capital adequacy of banks, in case of an exposure based on underlying assets, a bank shall evaluate the issue of such assets, the underlying assets themselves or both. For this purpose the bank shall evaluate the risk inherent in the structure of

transaction.

5. The banks shall analyse their exposures to collateral issuers, providers of unfunded credit risk protection and underlying assets, pursuant to paragraph 4, for possible concentrations.
6. Where an exposure is secured with a pledge of rights or transfer of ownership to secure property rights resulting from securities, a bank can perceive a part of secured exposure as an exposure towards the issuer of securities, if the secured part would be assigned an equal or lower risk weight than a risk weight of unsecured exposure towards the issuer of securities, pursuant to Annex 4 to the resolution on the capital adequacy of banks. A bank does not apply this method in case of mismatch between the settlement date of an exposure and the settlement date of the collateral referred to in the first sentence.
7. A bank can apply both Financial Collateral Comprehensive Method and the method described in paragraph 8, provided both Financial Collateral Comprehensive Method and Financial Collateral Simple Method are permitted.
8. Where an exposure to an entity is guaranteed by a third party, or secured by collateral accepted from a third party, a bank may treat the portion of the exposure which is guaranteed as having been incurred to the guarantor rather than the entity, provided that:
 - 1) unsecured exposure towards a guarantor would be assigned an equal or lower risk weight than a risk weight of unsecured exposure towards an entity pursuant to Annex 4 to the resolution on the capital adequacy of banks;
 - 2) where the guarantee is denominated in a currency different from that in which the exposure is denominated the amount of the exposure deemed to be covered will be calculated in accordance with the provisions on the treatment of currency mismatch for unfunded credit protection in § 91 and § 92 of Annex No. 17 to the resolution on the capital adequacy of banks;
 - 3) principles defined in § 93 - § 97 of Annex No. 17 to the resolution on the capital adequacy of banks shall apply, respectively, to partial coverage;
 - 4) mismatch between maturity of an exposure and guarantee settlement date shall be calculated on the basis of the principles concerning mismatch between maturity dates referred to in § 98 of Annex No. 17 to the resolution on the capital adequacy of banks;

§ 5.1. In the framework of periodical reporting referred to in resolution No. 23/2003 of the NBP Management Board of 25 July 2003 concerning the procedure and detailed principles to be followed by the banks when submitting to the National Bank of Poland data necessary to set the monetary policy and carry out periodical evaluations of the state's monetary situation, the banks' financial situation and the risk of the banking sector (NBP Journal of Laws of 2003, No. 16, item 26, as amended), a bank shall provide the Polish Financial Supervision Authority with information concerning each large exposure, including large exposures exempted, pursuant to § 6, from the scope of Article 71(1), 1a, 1b, 1c of the Banking Act. The information about large exposures shall include:

- 1) information identifying the entity towards which the bank has large exposure;
- 2) when credit risk mitigation methods are used - exposures value prior to taking

their effect into account;

- 3) the type of funded or unfunded credit protection;
- 4) the value of the exposure calculated for the purposes of Article 71(1), 1a, 1b, 1c of the Banking Act, after taking into account the effect of credit risk mitigation methods.

The Bank applying the method of internal ratings, referred to in Annex No. 5 to the resolution on the capital adequacy of banks, shall provide for the purposes of the Polish Financial Supervision Authority consolidated information concerning 20 of the largest exposures, excluding exposures exempted from the scope of Article 71(1), 1a, 1b, 1c of the Banking Act.

2. A bank shall, without delay, inform the Polish Financial Supervision Authority each time an exposure value has equaled or exceeded 10% of the bank's own funds.
3. A bank operating in a holding company referred to in Article 141f(1) of the Banking Act, required to draw up the consolidated financial statements, apart from its duty not to exceed the exposure concentration limit on an individual basis, shall adhere to such limits on the basis of the consolidated financial statements, calculated respectively bank's own funds and subsidiaries pursuant to the principles specified in § 6 of the resolution on banks' own funds.
4. When determining compliance with exposure concentration limits on a consolidated basis, a bank referred to in subparagraph 3 shall apply, respectively, specific principles and conditions of considering the exposures of all entities included in the consolidated financial statements.

§ 6. Exposure concentration limits shall not apply to:

- 1) exposures where the obligors are governments, regional and local authorities of the Member States or central banks, which can be assigned a 0% risk weight, pursuant to Annex 4 to the resolution on the capital adequacy of banks;
- 2) exposures where the European Central Bank has liabilities to a bank;
- 3) exposures where multilateral development banks, international organisations have liabilities to a bank, if unsecured liabilities to such entities can be assigned a 0% risk weight, pursuant to Annex No. 4 of the resolution on the capital adequacy of banks;
- 4) exposures secured with a guarantee or pledge by entities specified in points 1-3, up to the value of the collateral, if unsecured liabilities to the entities providing such guarantee or pledge can be assigned a 0% risk weight, pursuant to Annex No. 4 of the resolution on the capital adequacy of banks;
- 5) exposures which constitute receivables from regional or local authorities of the Member States, provided such receivables are assigned, pursuant to Annex No. 4 to the resolution on the capital adequacy of banks, a 20% risk weight and other exposures which constitute receivables from regional or local authorities, or guaranteed by these authorities, which are assigned, pursuant to Annex No. 4 to the resolution on the capital adequacy of banks, a 20% risk weight;
- 6) exposures referred to in § 12 of Annex No. 4 to the resolution on the capital adequacy of banks, provided they are assigned, pursuant to Annex No. 4 to the resolution on the capital adequacy of banks, a 0% risk weight; exposures not complying with above criteria, whether or not excluded from the scope of Article 71(1), 1a, 1b, 1c of the Banking Act, shall be treated as exposure to a third party;

- 7) exposures which constitute receivables and other exposures to other banks operating on uncompetitive basis, granting loans in the framework of state socio-economic programmes and local programmes for regional development, under government oversight on the use of the loans, if they imply exposures transferred to beneficiaries through other banks;
- 8) exposures secured by collateral in the form of a cash deposits transferred to the bank which holds the exposure, pursuant to Article 102 of the Banking Act, up to the amount corresponding with this deposit;
- 9) exposures secured by collateral in the form of cash deposits transferred to the parent undertaking or subsidiary which holds the exposure, pursuant to Article 102 of the Banking Act, up to the amount corresponding with this deposit;
- 10) exposures which constitute receivables falling under balance-sheet exposures compensation, pursuant to § 45 of Annex No. 17 to the resolution on the capital adequacy of banks;
- 11) exposures secured by collateral in the form of certificates of deposit issued by the bank which holds the exposure, up to the value of the collateral;
- 12) exposures secured by collateral in the form of certificates of deposit issued by the parent undertaking or a subsidiary and deposited in one of them - up to the value of the collateral;
- 13) exposures which constitute deductions from required capital and supplementary funds specified in § 2(1)(1) of the resolution on banks' own funds;
- 14) exposures entirely covered by bank's own funds, calculated for the purposes of bank's capital adequacy standard (solvency ratio), deducted by the value of the exposure, if approved by the Polish Financial Supervision Authority. The application for approval shall include the description of the exposure and estimated impact of own funds' deduction by the exposure on the level of capital adequacy of the bank;
- 15) exposures of cooperative banks, operating in association 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), to affiliating banks, which constitute liabilities arising from settlements between the affiliating banks resulting from the activities referred to Article 19 of the Act;
- 16) exposures of cooperative banks to affiliating banks operating in affiliation, other than exposures specified in point 15;
- 17) capital exposures of the bank, in an amount equal to the capital requirement on exceeding 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) notwithstanding the provisions of point 6, exposures of a bank, including participations and other kinds of holdings, where a dominant entity has liabilities to a bank, other subsidiaries of a bank's dominant entity or a bank's subsidiaries, provided such entities are subject to consolidated supervision, as applicable to the bank; exposures not complying with such criteria, whether or not excluded from the scope of Article 71(1), la, 1b and 1c of the Banking Act, shall be treated as exposures to a third party;
- 19) exposures of a bank with a significant scale of trading activity, to a given entity, which

constitutes excess exposure over the exposure concentration limit (excess concentration), if:

- a) banking portfolio exposure to the entity does not exceed the exposure concentration limit, so that the excess concentration arises entirely 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 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;
 - d) 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;
 - e) the bank fulfils the requirement on reporting exposures to which it does not apply the regulations on the exposure concentration limit;
 - f) the bank does not conclude transactions in order to reduce its capital requirement on exceeding the exposure concentration 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 entity.
- 20) exposures based on which credit linked notes are issued - up to the amount of money received from these notes, defined in § 28(1)(3) of Annex No. 17 to the resolution on the capital adequacy of banks;
 - 21) exposures resulting from undrawn credit liabilities classified as low-risk off-balance-sheet items, pursuant to § 100(1) of Annex No. 4 to the resolution on the capital adequacy of banks and provided that an agreement with the entity has been concluded according to which the instrument can be applied only under the guarantee that this shall not result in exceeding exposure concentration limits;
 - 22) exposures towards the National Bank of Poland in the form of required minimum reserves, held at the National Bank of Poland and denominated in domestic currency;
 - 23) exposures towards other banks or investment firms, provided such exposures do not constitute own funds of such banks or investment firms, their maturity date is due not later than on the following working day and they are not denominated in any convertible currencies;
 - 24) exposures resulting from covered bonds referred to in § 76 - § 80 of Annex No. 4 to the resolution on the capital adequacy of banks;
 - 25) exposures secured by residential real property that is or will be occupied or let by the owner, 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 in every three years, but no more than the amount entered in the land and mortgage register;

- 26) exposures resulting from residential lease agreement, if the financing party keeps the ownership rights to the residential property, as long as its user refrains from the possibility of repurchase - up to 50% of the value of such property, calculated in accordance with the assessment of the mortgage lending value or other assessment, made at least once in every three years, but no more than the amount entered in the land and mortgage register;
- 27) exposures secured by mortgage on commercial real estate, for which, pursuant to § 66-§ 69 of Annex 4 to the resolution on the capital adequacy of banks, the attributable risk weight is 50% - up to 50% of the value of mortgage collateral established in favour of bank, calculated in accordance with the assessment of the mortgage lending value or other assessment, made at least once a year but no more than the amount entered in the land and mortgage register;
- 28) exposures resulting from commercial real estate lease agreement, for which, pursuant to § 66-§ 69 of Annex 4 to the resolution on the capital adequacy of banks, the attributable risk weight is 50% - up to 50% of the value of the real estate, calculated in accordance with the assessment of the mortgage lending value or other assessment, made at least once a year but no more than the amount entered in the land and mortgage register;
- 29) exposures which constitute, if approved by the Polish Financial Supervision Authority, 50% of the off-balance-sheet letter of credit for low-to-average risk and off-balance-sheet unused credit liabilities of low-to-average risk, referred to in § 100(1) of Annex 4 to the resolution on the capital adequacy of banks, 80% of guarantees other than credit guarantees, with legal or statutory basis and granted to their members by mutual guarantee funds with the status of other bank;
- 30) exposures which constitute guarantees required by law, applied when mortgage-backed credit is paid, financed through the issue of mortgage bonds, prior to legally binding mortgage entry in the land and mortgage register, provided such guarantee is not used to diminish risk when calculating capital adequacy of banks;

§7. This resolution shall enter into force after 14 days of its publication.

§8. Resolution No. 382/2008 of the Polish Financial Supervision Authority 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 (PFSA Journal of Laws of 2008, No. 8, item 36) shall become null and void on the date when this resolution enters into force.

For and on behalf
of the Polish Financial Supervision
Authority

Chairman
of the Polish Financial Supervision
Authority