



K. VALDEMĀRA IELA 2A, RĪGA, LV-1050, LATVIA. TELEPHONE +371 67022300, E-MAIL INFO@BANK.LV, WWW.BANK.LV

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Regulation No 249

Procedure for the Calculation of the Maximum Distributable Amount

Issued pursuant to
Paragraph two of Section 35.²⁷ and Paragraph two of Section 35.³⁵
of the Credit Institution Law

I. General Provision

1. The Regulation establishes the procedure for the calculation of the maximum distributable amount with regard to:

1.1. credit institutions registered in the Republic of Latvia, investment firms referred to in Section 11.² of the Credit Institution Law and investment firms referred to in Article 1(2) and (5) of Regulation (EU) 2019/2033 of the European Parliament and of the Council of 27 November 2019 on the prudential requirements of investment firms and amending Regulations (EU) No 1093/2010, (EU) No 575/2013, (EU) No 600/2014 and (EU) No 806/2014 which fail to meet the combined buffer requirement established in accordance with the requirements of Sections 35.²², 35.²³, 35.²⁴ and 35.²⁵ of the Credit Institution Law (hereinafter jointly referred to as the "institution which fails to meet the combined buffer requirement");

1.2. credit institutions registered in the Republic of Latvia which are global systemically important institutions within the meaning of point (133) of Article 4(1) of Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and amending Regulation (EU) No 648/2012 (hereinafter referred to as "Regulation No 575/2013") and fail to meet the leverage ratio buffer requirement pursuant to Article 92(1a) of Regulation No 575/2013 (hereinafter referred to as the "institution which fails to meet the leverage ratio buffer requirement").

II. Calculation of the Maximum Distributable Amount

2. The maximum distributable amount shall be calculated as follows:

2.1. the institution which fails to meet the combined buffer requirement shall multiply the sum calculated in accordance with Paragraph 3 of this Regulation by the factor determined in accordance with Paragraphs 4, 5 and 6 of this Regulation. The maximum distributable amount related to the failure to meet the combined buffer requirement shall be reduced by any amount resulting from any of the actions referred to in Clauses 1, 2 and 3 of Paragraph one of Section 35.²⁷ of the Credit Institution Law;

2.2. the institution which fails to meet the leverage ratio buffer requirement shall multiply the sum calculated in accordance with Paragraph 3 of this Regulation by the factor determined in accordance with Paragraphs 8, 9 and 10 of this Regulation. The maximum distributable amount related to the failure to meet the leverage ratio buffer requirement shall be reduced by any amount resulting from any of the actions referred to in Clauses 1, 2 and 3 of Paragraph one of Section 35.³⁵ of the Credit Institution Law.

3. The sum multiplied in accordance with Paragraph 2 of this Regulation is composed of the total amount of items referred to in Paragraph 3.1 of this Regulation reduced by the total amount of items referred to in Paragraph 3.2 of this Regulation:

3.1. any interim profits and year-end profits if any of those is not included in the Common Equity Tier 1 capital according to Article 26(2) of Regulation No 575/2013 and is reduced by any distribution of profits or by any payment resulting from:

3.1.1. the actions referred to in Clauses 1, 2 and 3 of Paragraph one of Section 35.²⁷ of the Credit Institution Law – for the institution which fails to meet the combined buffer requirement;

3.1.2. the actions referred to in Clauses 1, 2 and 3 of Paragraph one of Section 35.³⁵ of the Credit Institution Law – for the institution which fails to meet the leverage ratio buffer requirement;

3.2. the total amount of tax payments due if the items referred to in Paragraph 3.1 of this Regulation would not be distributed.

III. Procedure for the Calculation of the Factor and Quartile for the Institution which Fails to Meet the Combined Buffer Requirement

4. The factor shall be determined pursuant to the Common Equity Tier 1 capital maintained by the institution which fails to meet the combined buffer requirement but not used to meet any of the own funds requirements set out in Paragraph 5 of this Regulation, expressed as a percentage of the total risk exposure amount calculated in accordance with Article 92(3) of Regulation No 575/2013 (hereinafter referred to as the "unused Common Equity Tier 1 capital").

5. The own funds requirements referred to in Paragraph 4 of this Regulation shall be as follows:

5.1. any of the own funds requirements laid down in points (a), (b) and (c) of Article (92)(1) of Regulation No 575/2013;

5.2. the additional own funds requirement laid down in accordance with Clause 1 of Paragraph 4⁴ of Section 101.³ of the Credit Institution Law and addressing risks other than the risk of excessive leverage.

6. The factor referred to in Paragraph 4 of this Regulation shall be:

6.1. 0, if the unused Common Equity Tier 1 capital is within the first (that is, the lowest) quartile of the combined buffer requirement;

6.2. 0.2, if the unused Common Equity Tier 1 capital is within the second quartile of the combined buffer requirement;

6.3. 0.4, if the unused Common Equity Tier 1 capital is within the third quartile of the combined buffer requirement;

6.4. 0.6, if the unused Common Equity Tier 1 capital is within the fourth (that is, the highest) quartile of the combined buffer requirement.

7. The lower and upper bounds of each quartile of the combined buffer requirement shall be calculated as follows:

$$\text{Lower bound of quartile} = \frac{\text{Combined buffer requirement}}{4} \times (Q_n - 1)$$

$$\text{Upper bound of quartile} = \frac{\text{Combined buffer requirement}}{4} \times Q_n,$$

where Q_n is the ordinal number of the quartile concerned.

IV. Procedure for the Calculation of the Factor and Quartile for the Institution which Fails to Meet the Leverage Ratio Buffer Requirement

8. The factor shall be determined pursuant to the Tier 1 capital maintained by the institution which fails to meet the leverage ratio buffer requirement but not used to meet any of the own funds requirements set out in Paragraph 9 of this Regulation, expressed as a percentage of the total exposure measure calculated in accordance with the requirements of Article 429(4) of Regulation No 575/2013 (hereinafter referred to as the "unused Tier 1 capital").

9. The own funds requirements referred to in Paragraph 8 of this Regulation shall be as follows:

9.1. the own funds requirement laid down in point (d) of Article (92)(1) of Regulation No 575/2013;

9.2. the additional own funds requirement laid down in accordance with Clause 1 of Paragraph 4⁴ of Section 101.³ of the Credit Institution Law and addressing the risk of excessive leverage not sufficiently covered by point (d) of Article (92)(1) of Regulation No 575/2013.

10. The factor referred to in Paragraph 8 of this Regulation shall be:

10.1. 0, if the unused Tier 1 capital is within the first (that is, the lowest) quartile of the leverage ratio buffer requirement;

10.2. 0.2, if the unused Tier 1 capital is within the second quartile of the leverage ratio buffer requirement;

10.3. 0.4, if the unused Tier 1 capital is within the third quartile of the leverage ratio buffer requirement;

10.4. 0.6, if the unused Tier 1 capital is within the fourth (that is, the highest) quartile of the leverage ratio buffer requirement.

11. The lower and upper bounds of each quartile of the leverage ratio buffer requirement shall be calculated as follows:

$$\text{Lower bound of quartile} = \frac{\text{Leverage ratio buffer requirement}}{4} \times (Q_n - 1)$$

$$\text{Upper bound of quartile} = \frac{\text{Leverage ratio buffer requirement}}{4} \times Q_n,$$

where Q_n is the ordinal number of the quartile concerned.

V. Final Provision

12. The following regulations shall be deemed invalid:

12.1. the Financial and Capital Market Commission's Regulation No 198 "Regulation on the Procedure for the Calculation of the Maximum Distributable Amount" of 27 October 2020 (*Latvijas Vēstnesis*, 2020, No 214; 2022, No 122);

12.2. the Financial and Capital Market Commission's Regulation No 155 "Procedure for the Calculation of the Maximum Distributable Amount Related to the Leverage Ratio Buffer Requirement" of 16 November 2021 (*Latvijas Vēstnesis*, 2021, No 228).

Informative Reference to the European Union Directive

The Regulation comprises the legal provisions arising from Directive (EU) 2019/878 of the European Parliament and of the Council of 20 May 2019 amending Directive 2013/36/EU as regards exempted entities, financial holding companies, mixed financial holding companies, remuneration, supervisory measures and powers and capital conservation measures.

Governor of Latvijas Banka

Mārtiņš Kazāks