

Finansinspektionen's Regulatory Code

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This translation is furnished solely for information purposes. Only the printed version of the regulation in Swedish applies for the application of the law.

Regulations amending Finansinspektionen's regulations (FFFS 2014:12) regarding prudential requirements and capital buffers;

FFFS 2019:6

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decided on 21 May 2019.

Finansinspektionen prescribes the following pursuant to Chapter 5, Section 2, point 17 of the Banking and Financing Business Ordinance (2004:329), Chapter 6, Section 1, points 9 and 56 of the Securities Market Ordinance (2007:572), Section 5, point 20 of the Alternative Investment Fund Managers Ordinance (2013:587), Section 18, point 36 of the Swedish UCITS Ordinance (2013:588) and Section 16, points 1–3, 6, 9, 10 and 14, Section 17, points 2 and 3, Section 18, points 2 and 3, 6–12 of Special Supervision and Capital Buffers Ordinance (2014:993) and Section 6, point 4 of the Supervision of Svenska skeppshypotekskassan Ordinance (1970:68) in respect of Finansinspektionen's regulations (FFFS 2014:12) regarding prudential requirements and capital buffers

in part that Chapter 3, Sections 2–5 and 7–10 and Chapter 5, Section 4 shall be repealed,

in part that the current Chapter 3, Section 6 shall be designated Chapter 3, Section 2, that Chapter 3, Section 11 shall be designated Chapter 3, Section 3, that Chapter 3, Section 12 shall be designated Chapter 3, Section 4 and that Chapter 8, Sections 1–10 shall be designated Chapter 8, Sections 2–11,

in part that the heading of Finansinspektionen's regulations (FFFS 2014:12) regarding prudential requirements and capital buffers, Chapter 1, Sections 2–6, Chapter 2, Sections 3 and 4, the new Chapter 3, Section 3, the new Chapter 8, Sections 2, 4, 7 and 9–11, Chapter 9, Section 1 and the heading of Chapter 4 shall have the following wording,

in part that the heading immediately preceding Chapter 8, Section 1, shall be placed before Chapter 8, Section 2 and that the heading immediately preceding Chapter 8, Section 3 shall be placed before Chapter 8, Section 4,

in part that three new sections shall be inserted in the regulations; Chapter 3, Section 5, Chapter 4, Section 2 and Chapter 8, Section 1 and, immediately preceding Chapter 8, Section 1, a new heading with the following wording.

Finansinspektionen also provides the following general guidelines.

Finansinspektionen's regulations and General guidelines (FFFS 2014:12) regarding prudential requirements and capital buffers

Chapter 1

Section 2 These regulations apply to
1. banking companies,

2. savings banks,
3. members' banks,
4. credit market companies,
5. credit market associations,
6. securities companies,
7. payment institutions, and
8. Svenska skeppshypotekskassan.

An undertaking shall, in accordance with the first paragraph, apply the regulations on the basis of the undertaking's consolidated situation, in accordance with Article 18 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 investment firms.

If the undertaking is controlled by a financial parent holding company or a mixed financial parent holding company, the undertaking shall apply the regulations on the basis of the financial holding company's or the mixed financial holding company's consolidated situation.

Section 3 An undertaking included in the consolidation in accordance with Article 18 in Regulation (EU) No 575/2013 on prudential requirements for credit institutions and investment firms, does not need to apply Chapter 8, Sections 4–8 at an individual level.

Section 4 For a payment institution, only the provisions regarding own funds in Chapter 3, Sections 1–3 apply.

Section 5 For Svenska skeppshypotekskassan, the following provisions do not apply

- large exposures in Chapter 5,
- disclosure of information in Chapter 8, Sections 1 and 6, and
- documentation of the undertakings' internal capital and liquidity assessment process in Chapter 10.

Section 6 The regulations are divided into the following ten chapters:

- Scope and definitions (Chapter 1),
- Consolidated situation (Chapter 2),
- Own funds and own funds requirements (Chapter 3),
- Credit risk (Chapter 4),
- Large exposures (Chapter 5),
- Liquidity (Chapter 6),
- Reporting (Chapter 7),
- Disclosure of information (Chapter 8),
- Capital buffers (Chapter 9), and
- Documentation of the undertakings' internal capital and liquidity assessment process (Chapter 10).

Chapter 2

Section 3 Where there are participations within the meaning of Article 18(5) of Regulation (EU) No 575/2013 on prudential requirements for credit institutions and investment firms, consolidation shall be carried out using the equity method. Finansinspektionen may instead decide to allow full consolidation or proportionate consolidation (the proportional method).

Other forms of capital ties within the meaning of Article 18(5) are not consolidated.

However, Finansinspektionen may decide that consolidation shall be carried out through full consolidation, proportionate consolidation (the proportional method) or the equity method where special grounds exist.

Section 4 Undertakings within the meaning of Article 18(6) of Regulation (EU) on prudential requirements for credit institutions and investment firms are not consolidated. However, Finansinspektionen may decide that consolidation shall be carried out through full consolidation, proportionate consolidation (the proportional method) or the equity method where special grounds exist.

Chapter 3

Section 3 An undertaking shall, until 31 December 2021, apply a percentage of 0 per cent pursuant to Article 486(6) of Regulation (EU) No 575/2013 on prudential requirements for credit institutions and investment firms.

Section 5 An undertaking that issues capital instruments that are to be included in its own funds shall notify Finansinspektionen of this. The notification shall take place no later than the day on which the issuance takes place.

The notification shall include the following information:

- name of the issuer,
- the purpose of the issuance,
- the issuer's position in the consolidated situation,
- what level of the consolidated situation the instrument shall be included in,
- whether the instrument is being issued externally or internally within the consolidated situation,
- type of instrument,
- date of issuance,
- amount that is being issued and in which currency, and
- under which country's legislation the instrument is being issued.

The requirement in the first paragraph does not apply to instruments that permitted pursuant to Article 26(3) of Regulation (EU) No 575/2013 on prudential requirements for credit institutions and investment firms.

General guidelines

If an issuance within the meaning of the first paragraph contains complex terms and conditions and/or new terms and conditions relative to previous issues, the undertaking should also notify Finansinspektionen of this in advance. Advance notification of this nature should take place well in advance of the planned issuance and should contain information about the complex and/or new terms and conditions in question.

Chapter 4 Credit risk

Section 2 An undertaking shall, when applying Article 178(1)(b) of Regulation (EU) No 575/2013 on prudential requirements for credit institutions and investment firms, utilise, no later than 31 December 2020, the following thresholds in order to assess the materiality of a past due credit obligation:

1. For exposures to households, the absolute component of the materiality threshold is SEK 1 000 and the relative component is 1 per cent.
2. For exposures other than exposures to households, the absolute component of the materiality threshold is SEK 5 000 and the relative component is 1 per cent.

Chapter 8

Scope of disclosure requirements

Section 1 Provisions concerning the scope of the information an undertaking shall disclose can be found in Article 431 of Regulation (EU) No 575/2013 on prudential requirements for credit institutions and investment firms.

General guidelines

An undertaking should, when applying Article 431(3) of Regulation (EU) No 575/2013 on prudential requirements for credit institutions and investment firms, describe in an aggregated manner the undertaking's total own funds requirements and own funds. This information should be provided in both SEK and as a percentage of total risk-weighted exposure amounts. Total risk-weighted exposure amounts denotes the sum of the risk-weighted exposure amounts pursuant to Articles 92(3), 485(2) and 459 of the Capital Requirements Regulation and Chapter 2, Section 1 of the Special Supervision of Credit Institutions and Investment Firms Act (2014:968).

The undertaking should separately report at least the following items:

- Own funds requirement in accordance with Article 92 of Regulation (EU) No 575/2013 on prudential requirements for credit institutions and investment firms.
- Other own funds requirement (Pillar 2).
- Combined buffer requirement pursuant to Chapter 2, Section 2 of the Capital Buffers Act (2014:966).

The undertaking should also report

- the sum of the items set out in the second paragraph (total own funds requirement), and
- the undertaking's own funds in accordance with Part Two of Regulation (EU) No 575/2013 on prudential requirements for credit institutions and investment firms.

Section 2 The information that shall be disclosed in accordance with Articles 435–455 of Regulation (EU) No 575/2013 on prudential requirements for credit institutions and investment firms and in accordance with Section 3, first paragraph, shall be available on an undertaking's website.

If the undertaking does not have a website, it shall be able to publicly provide the information in a different manner.

Section 4 An undertaking shall, four times per year, disclose at a minimum the following information regarding own funds:

1. Common Equity Tier 1 capital,
2. Additional Tier 1 capital,
3. Tier 2 capital, and
4. Total own funds,

The information shall be provided in the manner set out in Annex IV of Commission Implementing Regulation (EU) No 1423/2013 of 20 December 2013 laying down implementing technical standards with regard to disclosure of own funds requirements for institutions according to Regulation (EU) No 575/2013 of the European Parliament and of the Council.

Section 7 An undertaking shall, four times per year, disclose information on capital ratios and capital buffers in accordance with Annex IV of Commission Implementing Regulation (EU) No 1423/2013 of 20 December 2013 laying down implementing technical standards with regard to disclosure of own funds requirements for institutions according to Regulation (EU) No 575/2013 of the European Parliament and of the Council.

Section 9 The information to be disclosed in accordance with Sections 4–8 shall refer to the conditions on the balance sheet date 31 March, 30 June, 30 September and 31 December. The information shall be disclosed as soon as possible, though no later than two months after the balance sheet date. The information shall state that its disclosure is pursuant to these regulations.

Section 10 The information to be disclosed in accordance with Sections 4–8 shall be available on the undertaking's website. If the undertaking only discloses the information in its annual accounts, consolidated accounts or its interim accounts, these documents shall also be available on the undertaking's website. If the undertaking does not have a website, it shall be able to publicly provide the information in a different manner.

Section 11 If an undertaking discloses information in accordance with Sections 4–8 at the same time as the annual information to be disclosed in connection with the annual accounts or consolidated accounts in accordance with Article 433 of Regulation (EU) No 575/2013 on prudential requirements for credit institutions and investment firms, the information shall be disclosed no later than four months after the balance sheet date.

Chapter 9

Section 1 Small and medium sized investment firms are exempted from the requirement to maintain a countercyclical capital buffer in accordance with Chapter 6, Sections 1 and 2 of the Capital Buffers Act (2014:966).

Small and medium sized enterprises as in the first paragraph are defined as undertakings employing fewer than 250 people and whose balance sheet total does not exceed EUR 43 million annually, calculated according to Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises.

These regulations and general guidelines enter into force on 15 June 2019.

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