

**Unofficial translation of the
Swiss Federal Banking Commission's
"Eigenmittelverordnung" (ERV)**

DISCLAIMER:

This document is an unofficial translation of the preprint of the Swiss Federal Banking Commission's "Ordinance concerning Capital Adequacy and Risk Diversification for Banks and Securities Traders". The only binding version is the one published in the official gazette of the federal laws.

Ordinance concerning Capital Adequacy and Risk Diversification for Banks and Securities Traders

(Capital Adequacy Ordinance, CAO)

dated

September 2006

The Swiss Federal Council hereby issues the following Order:

pursuant to Art. 3 (2) (b), Art. 4 (2) and 4 (4), Art. 4^{bis} (2) and Art. 56 of the Bankengesetz ("Swiss Banking Act") of 8 November 1934¹,

1st Heading: General provisions

Chapter 1: Object, scope and definitions

Art. 1 Basic principle

¹ To safeguard the interests of creditors and the stability of the financial system, banks and securities traders shall ensure that risks are appropriately mitigated and that they have adequate capital to support their business operations and the risks to which they are exposed.

² They shall ensure that they have adequate capital to cover credit risks, market risks, non-counterparty-related risks and operational risks.

Art. 2 Object

This Ordinance sets out rules governing

- a. the eligible capital;
- b. the risks subject to capital adequacy requirements and the extent of such requirements; and
- c. risk diversification, in particular the limits for risk concentrations and the treatment of intra-group positions.

Art. 3 Scope

This Ordinance applies to banks as defined in the Swiss Banking Act of 8 November 1934² and securities traders as defined in the Swiss Stock Exchange and Securities Trading Act of 24 March 1995³ (hereinafter 'banks').

Art. 4 Definitions

In this Ordinance the following terms shall have the following meanings:

- a. *regulated securities exchange*: any institution that is adequately regulated and supervised in accordance with internationally recognised standards, the object of which is to facilitate the simultaneous purchase and sale of securities among several securities traders and for which sufficient market liquidity is ensured;
- b. *main index*: an index listing all securities traded on a regulated stock exchange (total market index) or a selection of major securities on such an exchange. Any index comprising the major securities of various regulated stock exchanges shall also be deemed to be a main index;
- c. *real estate company*: a company whose primary purpose is to acquire and hold land or real estate for its own account.
- d. *representative market*: a market where at least three market makers, operating independently of each other, normally quote daily prices, which are published on a regular basis;
- e. *qualifying interest rate instrument*: an interest rate instrument
 1. rated between 1 and 4 by at least two recognised rating agencies;
 2. rated between 1 and 4 by one recognised rating agency, provided it is not rated in a lower rating category by any other rating agency recognised by the supervisory authority;
 3. which is not rated by a recognised rating agency but has a yield to maturity and residual term comparable to those of securities rated between 1 and 4, provided that the securities of the issuer concerned are traded on a regulated stock exchange or representative market; or
 4. which have no (external) rating, but have been given an internal rating (within the bank) of between 1 and 4, provided the securities of the issuer concerned are traded on a regulated stock exchange or representative market.

¹ SR 952.0 ("SR" means the Systematic Compendium of Federal Legislation)

² SR 952.0

³ SR 954.1

Art. 5 Trading book

¹ Banks shall be entitled to keep a trading book containing positions in financial instruments and commodities held with trading intent or in order to hedge other trading book positions.

² Banks shall book positions to the trading book only if:

- a. they are free of contractual restrictions on their tradability; or
- b. they can be hedged completely at any time.

³ Trading intent is deemed to exist if the bank intends:

- a. to hold the positions for the short term;
- b. to take advantage of short-term price movements; or
- c. to make arbitrage gains.

⁴ Positions shall be valued frequently and accurately. The trading book shall be actively managed.

Chapter 2: Consolidation**Art. 6** Consolidation requirement

¹ Capital adequacy and risk diversification requirements shall be met at both the individual institution level and at the level of the financial group and financial conglomerate (consolidation requirement).

² The consolidation requirement shall apply to any group subsidiary operating in the financial sector as defined in Arts. 11 and 13 of the *Bankenverordnung* [Swiss Banking Act Implementing Regulations] of 17 May 1972,⁴ with the following exceptions:

- a. equity interests in insurance companies shall only be consolidated for the purpose of meeting risk diversification criteria, subject to Art. 11;
- b. there shall be no obligation to consolidate collective capital investments where such investments are managed for and on behalf of investors, or the initial capital invested in an investment company on formation is held.

³ Banks using the Swiss standardised approach (SA-CH; Art. 38) shall consolidate any real estate companies falling within the definition of a subsidiary under Art. 13 of the Swiss Banking Act Implementing Regulations of 17 May 1972.

Art. 7 Full consolidation, proportionate consolidation and deduction method

¹ Majority interests in companies subject to the consolidation requirement shall be consolidated in full.

² Minority interests of at least 20% in companies subject to the consolidation requirement shall be consolidated proportionately if the bank exerts a controlling influence directly or indirectly jointly with other investors. In so doing, the eligible capital, the capital adequacy requirement and the risk concentrations shall likewise be accounted for on a proportionate basis.

³ In the case of minority interests referred to in paragraph 2 above, the bank shall be entitled to opt for deduction from Tier 1 capital and Tier 2 capital (Art. 31 (1) b). In this case they shall not be included in the consolidated risk diversification.

⁴ In the case of ownership interests held jointly with another shareholder or partner and conferring 50% of the voting rights (joint ventures), the bank shall have the choice of either full or proportionate consolidation.

Art. 8 Exceptional treatment approved by the auditors

¹ With the auditors' approval, the following equity interests can be treated as exempt from the consolidation requirement:

- a. interests in companies which, on account of their size and business activities, are of no significance to compliance with the capital adequacy rules;
- b. significant financial subsidiaries held for less than a year.

² Equity interests conferring more than 50% of the voting rights may, by way of exception, be consolidated on a proportionate basis, provided that the auditor consents to such method and an agreement has been entered into stipulating that:

- a. the assistance to be provided to the company required to be consolidated is limited to the bank's own proportionate share; and
- b. the other shareholders or partners are obliged to provide assistance in proportion to their equity interest and are legally and financially able to fulfil that obligation.

Art. 9 Special provisions

¹ In exceptional circumstances the supervisory authority may exempt specific banks as individual institutions from selected or all of the capital adequacy and risk diversification requirements, provided that the conditions set out in Art. 4 (3) of the Swiss Banking Act Implementing Regulations of 17 May 1972 have been met.⁵

² Where justified, the supervisory authority shall be entitled to require the following:

- a. proportionate consolidation for minority interests pursuant to Art. 7 (2); and

⁴ SR 952.02

⁵ SR 952.02

b. full consolidation for joint ventures (Art. 7 (4)) and majority interests pursuant to Art. 8 (3).

³ In the context of capital adequacy requirements to be met by the financial group or financial conglomerate, the supervisory authority shall be entitled to specify additional requirements regarding the appropriate level of capitalization for any controlling company that is not subject to supervision on an individual basis.

⁴ The supervisory authority may, by way of exception, permit a bank to consolidate subsidiaries operating in the financial sector on a solo basis, where such subsidiaries have particularly close ties with the bank.

Art. 10 Financial sub-groups

¹ The consolidation requirement applies to any financial group, even if such a financial group is controlled by a financial group or financial conglomerate already subject to regulation by the supervisory authority.

² The supervisory authority may, by way of exception, exempt certain financial sub-groups from the consolidation requirement, in particular where:

- a. the subsidiaries of such a group operate exclusively within Switzerland; and
- b. the parent financial group or financial conglomerate is subject to appropriate consolidated supervision by a financial market regulatory authority.

Art. 11 Captive for operational risk insurance

Subject to the supervisory authority's approval, subsidiaries set up for the sole purpose of providing group insurance cover for operational risks (captive insurers) can be fully consolidated in the same way as subsidiaries operating within the financial sector and, where necessary, may be consolidated on a solo basis (Art. 9 (4)).

Art. 12 Equity interests outside the financial sector

The upper limits on a bank's qualifying interests in a company outside the financial sector specified in Art. 4 (4) of the Swiss Banking Act of 8 November 1934⁶ shall not apply where:

- a. such interests are acquired only temporarily in the course of a corporate restructuring or rescue;
- b. securities are acquired for the standard underwriting period; or
- c. the difference between the book value and applicable investment limits is fully covered by disposable eligible capital.

Chapter 3: Statement of suitable capital

Art. 13 Statement of capital

¹ Banks shall complete a statement of capital each quarter in the form stipulated by the supervisory authority and shall submit it to the Swiss National Bank within two months.

² The statement of capital on a consolidated basis shall be submitted every six months.

Art. 14 Calculation basis

¹ In calculating the eligible and required capital shown in the statement of capital the bank shall take as its basis the financial statements drawn up in accordance with the accounting standards prescribed by the supervisory authority. The supervisory authority shall decide any exceptions to this general principle.

² Any bank applying international accounting standards recognised by the supervisory authority shall give due consideration to the guidelines issued by the supervisory authority relating to any adjustments required.

Chapter 4: Simplified application

Art. 15

¹ Banks shall be entitled to apply specific provisions of this Ordinance and of the supervisory authority's implementing regulations designed to clarify said provisions in a simplified manner where

- a. by so doing they avoid disproportionate expense;
- b. they manage risks in a manner appropriate to their business operations; and
- c. by so doing the bank's ratio of required capital to eligible capital is at least maintained.

² Banks shall document the nature of the simplification and the fact that it is admissible in accordance with paragraph 1 above.

⁶ SR 952.0

2nd Heading: Eligible Capital

Chapter 1: Basis

Art. 16 Requirements

¹ Capital shall be fully paid-up or internally generated.

² It shall not be offset against receivables owed to the bank nor secured by bank assets.

³ In the event of the bank's liquidation, bankruptcy or compulsory debt restructuring it shall rank after the non-subordinate claims of all other creditors.

⁴ In the case of banks constituted as cooperatives, the amount of further payments which members of the cooperative are obliged to make in accordance with Art. 28 (2) shall be deemed to be capital irrespective of paragraphs 1–3 above.

Art. 17 Components and treatment

¹ Eligible capital shall comprise the following components:

- a. Tier 1 capital; Art. 18–22);
- b. Tier 2 capital; Art. 24–28), consisting of upper and lower Tier 2 capital; and
- c. Tier 3 capital; Art. 29).

² Tier 2 and Tier 3 capital shall only be eligible for inclusion subject to the percentage limits stipulated in Art. 30.

³ In addition, in order to calculate the eligible capital the deductions shall be made from the capital components in three stages and at various levels according to Arts. 23, 31 and 32.

Chapter 2: Calculation

Part 1: Tier 1 capital

Art. 18 Capital components eligible without restriction

The following capital components shall be eligible as Tier 1 capital without restriction:

- a. Paid-up capital (share capital, nominal capital, co-operative capital, endowment capital, participation capital and partners' capital in the case of private banks);
- b. Disclosed reserves (reserves for general banking risks, general statutory reserves, reserves for own shares, other reserves);
- c. Profit carried forward;
- d. Profit for the current business year restricted to the net residual amount after deducting the estimated percentage of profits to be distributed, subject to the existence of an audited review of the interim financial statements drawn up in compliance with the standards of the supervisory authority, together with a full income statement as specified under 25a (1) of the Swiss Banking Act Implementing Regulations of 17 May 1972⁷ or, as the case may be, in compliance with recognised international accounting standards.

Art. 19 Innovative Tier 1 capital

¹ Innovative Tier 1 capital shall meet the requirements specified in Art. 16 and shall remain at the bank's disposal indefinitely.

² It shall be repaid only if at least 5 years have elapsed since it was issued or if the legal treatment of innovative Tier 1 capital has changed to the bank's considerable detriment. The repayment shall be effected at the bank's instigation. The bank shall require the supervisory authority's approval for such repayment.

³ The innovative Tier 1 capital shall not be encumbered with any obligation on the bank to pay any form of predetermined compensation except where, in the corresponding period, the bank

- a. pays dividends on the paid-up capital (Art. 18(a)) or voluntarily waives such payment despite having sufficient capital;
- b. buys back paid-up capital; or
- c. voluntarily reduces the par value of its paid-up capital.

⁴ Compensation payments that do not take place cannot be made good at a later date.

⁵ The terms and conditions of the compensation payments must not deteriorate to the bank's significant detriment over the period to maturity or otherwise give indirect incentive to induce repayment.

⁶ In the event of liquidation and bankruptcy the innovative Tier 1 capital shall take precedence only over the paid-up capital (Art. 18(a)).

Art. 20 Allowance for innovative Tier 1 capital

¹ Innovative Tier 1 capital shall be eligible in a proportion of up to 15% of the adjusted Tier 1 capital.

⁷ SR 952.02

² The bank shall disclose the innovative Tier 1 capital as both an amount and a proportion of the total Tier 1 capital.

Art. 21 Additional Tier 1 capital for private banks

¹ In the case of private banks constituted as partnerships, the following shall also be deemed to be Tier 1 capital:

- a. capital accounts; and
- b. the assets of any partners with unlimited liability, provided that such partners issue a statement in writing that in the event of liquidation, bankruptcy or compulsory debt restructuring, such assets shall be irrevocably subordinated to the claims of all other creditors and shall not be set off against receivables owed to the bank or secured by bank assets.

² These two capital components shall only be eligible where a statement in writing has been deposited with the auditors confirming that the bank commits itself not to reduce either capital component below the 120% capital requirement limit specified in Art. 33 without prior approval by the auditor.

Art. 22 Capital interests of minority shareholders

When calculating capital on a consolidated basis, any capital interests held by minority shareholders in fully consolidated companies within the meaning of Art. 6 (2) & (3) shall be eligible as Tier 1 capital.

Art. 23 Adjusted Tier 1 capital

¹ The Tier 1 capital shall be adjusted by deducting the following:

- a. loss carried forward and loss for the current financial year;
- b. any unfunded valuation adjustments or provisions required for the current financial year;
- c. goodwill and intangible assets excluding software.

² The following shall also be deducted from the Tier 1 capital:

- a. deductions envisaged in connection with securitisation transactions according to the Basel minimum standards⁸;
- b. in the case of banks applying the SA-CH, the net long position in accordance with Art. 39 of equity securities not held in the trading book and innovative capital instruments held either directly or indirectly by the bank;
- c. in the case of banks applying the international standardised approach (SA-BIS) or the internal ratings-based approach (IRB):
 1. the equity securities not held in the trading book and innovative capital instruments held either directly or indirectly by the bank, provided they have not already been charged to the income statement; and
 2. the net long position in own equity securities or innovative capital instruments held either directly or indirectly by the bank in the trading book.

Part 2: Tier 2 capital

Art. 24 Upper Tier 2 capital

¹ The following are eligible as upper Tier 2 capital:

- a. hybrid instruments, provided they
 1. fulfil the requirements set out in Art. 16,
 2. have no fixed redemption date and are redeemable only at the bank's initiative and at the earliest after 5 years,
 3. allow the bank to defer any interest and redemption payments without thereby being in default, and
 4. are eligible as share capital for the purpose of determining any funding deficit under company law;
- b. any undisclosed reserves included in the position 'valuation adjustments and provisions', provided they have been reported separately in a special account and shown as capital;
- c. any undisclosed reserves included in fixed assets, provided the difference between the maximum value specified in Art. 665 of the Swiss Code of Obligations of 30 March 1911⁹ and the book value is no higher than 45% of the difference between the market value and the book value;
- d. reserves included in equity securities and bonds that must be stated at lower of cost or market in the financial assets, subject to a limit of 45% of the unrealised profit;
- e. innovative capital exceeding the 15% maximum stipulated in Art. 0.

² The auditor's report shall confirm that the capital components referred to in paragraphs 1b. and 1c. are eligible as upper Tier 2 capital. The banks shall likewise declare the amounts in question to the tax authorities of their own volition.

⁸ "International Convergence of Capital Measurement and Capital Standards – A Revised Framework / Comprehensive Version" by the Basel Committee for Banking Supervision, June 2006
⁹ SR 220

Art. 25 Additional upper Tier 2 capital under SA-BIS

Where the SA-BIS approach is used, banks shall be entitled to allow as upper Tier 2 capital any provisions for default risks that are not attributable to a specific borrower or position (general provisions to cover latent risks) subject to a limit of 1.25% of the total value of all positions risk-weighted in accordance with the SA-BIS.

Art. 26 Additional upper Tier 2 capital under IRB

¹ Banks using the IRB approach shall be entitled to allow as upper Tier 2 capital any surplus in eligible provisions in accordance with that approach.

² Such surplus shall be deemed to exist where the total eligible provisions determined in accordance with the Basel minimum standards¹⁰ exceed the total expected loss calculated under the IRB approach.

³ Such surplus shall be deemed eligible upper Tier 2 capital only to a maximum of 0.6% of the total value of all positions risk-weighted in accordance with the IRB approach.

Art. 27 Lower Tier 2 capital

¹ Lower Tier 2 capital shall include loans extended to the bank, including bonds that meet the criteria set out in Art. 16 and have initial terms to maturity of at least five years.

² In the five years prior to redemption, the amount eligible for this capital component shall be reduced by a cumulative deduction of 20% annually of the initial nominal value (theoretical amortisation). No allowance may be made in the final year prior to redemption.

³ Where the creditor has the option of calling in the loan, the earliest due date permitted shall mark the beginning of the theoretical amortisation.

Art. 28 Additional lower Tier 2 capital for cantonal banks and banks constituted as cooperatives

¹ Art. 27 above shall apply *mutatis mutandis* to cantonal banks, provided the eligible subordinated loans granted to the bank have not been secured by government guarantee due to a waiver on the part of the creditor or for some other reason.

² In the case of banks constituted as co-operatives, 50% of the total additional capital contribution payable per co-operative member on a specific amount shall be eligible as lower Tier 2 capital, provided each member has given an irrevocable undertaking in writing pursuant to Art. 840 (2) of the Swiss Code of Obligations.¹¹

Part 3: Tier 3 capital**Art. 29**

Tier 3 capital shall include any of the bank's liabilities that

- a. fulfil the requirements set out in Art. 16,
- b. have an initial term of at least two years;
- c. must not be redeemed prior to the agreed settlement date without the supervisory authority's consent; and
- d. contain a restrictive clause precluding payments of interest and principal even on maturity, where such payments would cause the eligible capital to fall below the minimum level required under Art. 33 or to remain below that limit.

Part 4: Eligibility and deductions**Art. 30** Eligibility of Tier 2 and Tier 3 capital

¹ The maximum combined allowance for Tier 2 and Tier 3 capital shall be equal to 100% of adjusted Tier 1 capital.

² The maximum allowance for lower Tier 2 capital shall equal 50% of the adjusted Tier 1 capital.

³ Tier 3 capital shall only be eligible for the purpose of covering market risks and shall be subject to a maximum of 250% of the Tier 1 capital used to cover market risks.

⁴ Lower Tier 2 capital that is ineligible for inclusion by reason of the limits set out in paragraph 2 above or by virtue of the theoretical amortisation under Art. 27(1) shall be allowable as Tier 3 capital up to a maximum of 250% of the Tier 1 capital used to cover market risks, provided that the criteria set out in Art. 29 are met.

Art. 31 Deductions from adjusted Tier 1 capital and from Tier 2 capital

¹ Half of each of the following amounts shall be deducted from the adjusted Tier 1 capital and from the Tier 2 capital:

- a. deductions envisaged in connection with securitisation transactions according to the Basel minimum standards¹²

¹⁰ "International Convergence of Capital Measurement and Capital Standards – A Revised Framework / Comprehensive Version" by the Basel Committee for Banking Supervision, June 2006

¹¹ SR 220

¹² "International Convergence of Capital Measurement and Capital Standards – A Revised Framework / Comprehensive Version" by the Basel Committee for Banking Supervision, June 2006

- b. in the context of calculations for individual institutions, the net long positions for equity interests, whether subject to consolidation or not, in companies operating in the financial sector and any subordinate claims on them;
- c. net long positions, computed as part of consolidated accounting in accordance with Art. 39, for equity interests not subject to consolidation in companies operating in the financial sector and any subordinate claims on them;
- d. in the case of banks using the SA-BIS or IRB approach, the proportion of each net position for equity interests in companies operating in the financial sector after the deductions under sub-paragraphs a. and b. above, by which it exceeds a 10% interest in the company;
- e. in the case of banks using the IRB approach, the amount by which the total expected losses as calculated under the IRB approach exceed the total eligible provisions under the Basel minimum standards¹³.

² If the bank has no Tier 2 capital or insufficient Tier 2 capital, correspondingly larger deductions shall be made from the adjusted Tier 1 capital.

Art. 32 Deductions from capital

¹ The net long positions calculated in accordance with Art. 39 for subordinated debt securities issued by the bank itself and held directly or indirectly by the bank shall be deducted from the capital remaining following the deductions under Art. 31.

² Banks using the SA-CH approach shall be required to deduct the net long positions referred to in paragraph 1 above only if they do not hold these positions in their trading book.

3rd Heading: Capital requirements

Chapter 1: General provisions

Art. 33 Minimum requirements ("Pillar 1")

¹ Eligible capital shall at all times exceed the total required capital.

² The total required capital shall comprise the following:

- a. 8% of credit risk-weighted positions (Art. 37) plus the capital requirements for positions arising from unsettled transactions (Art. 63);
- b. 8% of non-counterparty-related risks weighted in accordance with Art. 67;
- c. the capital requirements for market risks (Art. 68–76);
- d. the capital requirements for operational risks (Art. 77–82).

³ For cantonal banks using the SA-CH approach whose total unsubordinated liabilities are guaranteed by the canton, the total capital required under paragraph 2 above shall be reduced by a maximum of 12.5%, provided such capital is not offset against eligible subordinated liabilities as defined in Art. 28 (1).

⁴ Any bank with a capital shortfall shall notify the supervisory authority and the auditors without delay.

Art. 34 Additional capital ("Pillar 2")

¹ Banks are expected to hold additional eligible capital to allow for any risks not covered by the minimum capital requirements and to ensure that such requirements are met even in adverse circumstances.

² Where a bank has no additional capital pursuant to paragraph 1 above, the supervisory authority can direct that special measures be put in place to monitor and review the bank's capital adequacy and risk position.

³ In exceptional circumstances, the supervisory authority may require additional capital from individual banks, notably if the capital required constitutes insufficient cover relative to the bank's business operations, risk position, business strategy, quality of risk management, or the status of development of techniques.

Art. 35 Disclosure ("Pillar 3")

¹ Banks shall by appropriate means disclose to the public information concerning their risks and capital. Private banks shall be exempt from this obligation as they do not actively solicit deposits of funds from the public.

² The supervisory authority shall issue technical implementing regulations. In particular it shall define which information must be disclosed in addition to that contained in the annual accounts and interim financial statements.

Chapter 2: Credit risks

Part 1: General provisions

Art. 36 Definition

In the context of calculating capital requirements, the term 'credit risk' denotes the danger of a loss arising as a result of

¹³ "International Convergence of Capital Measurement and Capital Standards – A Revised Framework / Comprehensive Version" by the Basel Committee for Banking Supervision, June 2006

- a. failure by a counterparty to meet its contractual obligations; or
- b. a reduction in the value of financial instruments issued by a third party, notably equity securities, interest rate instruments or units in collective investment vehicles.

Art. 37 Positions to be assigned a risk weighting

¹ Positions shall be weighted according to their risk provided they carry an element of credit risk and no corresponding deduction from the capital is envisaged in Arts. 23, 31 and 32.

² Such positions shall include:

- a. receivables including any claims arising from commitment facilities not reported as assets;
- b. securitisation receivables;
- c. other off-balance sheet items expressed as credit position equivalents;
- d. net positions in equity securities and interest rate instruments not held in the trading book;
- e. net positions in equity securities and interest rate instruments held in the trading book, provided the de minimis approach (Art. 70 (1) (a)) is applied;
- f. net positions in own securities and qualifying equity interests held in the trading book.

³ Any position relating to a group of related counterparties, as defined in Art. 100, which is not broken down by counterparty shall be given the highest risk weighting assigned to any of the individual counterparties in the group.

Art. 38 Approaches

¹ One of the following approaches shall be used to weight individual positions for the purpose of determining capital requirements for credit risks in accordance with Art. 33 (2) (a):

- a. the Swiss standardised approach (SA-CH);
- b. the international standardised approach (SA-BIS); or
- c. the internal ratings-based (IRB) approach.

² Of these, only the IRB and SA-BIS approaches may be combined.

³ Adoption of the IRB approach requires approval from the supervisory authority, which shall specify the conditions for approval.

⁴ The supervisory authority shall issue technical implementing regulations relating to credit risks and securitisation transactions.

Part 2: Position calculation

Art. 39 Net position

¹ Net positions shall be calculated as follows:

- physical holdings plus positions arising from securities lending transactions less liabilities arising from securities borrowing transactions
- + unsettled spot and forward purchases (including financial futures and swaps)
- ./. unsettled spot and forward sales (including financial futures and swaps)
- + firm underwriting commitments, less sub-participations and firm subscriptions, provided that any price risk for the bank is eliminated
- + delivery claims under call purchases, delta-weighted
- ./. delivery commitments under written calls, delta-weighted
- + underwriting commitments under written puts, delta-weighted
- ./. repurchase clauses under put purchases, delta-weighted

² Any amount stated as a liability under specific valuation adjustments and provisions shall be deducted from the net position.

³ Positive net positions are known as net long positions, and the absolute amounts of negative net positions are known as net short positions.

Art. 40 Positions in off-balance-sheet transactions

¹ Off-balance-sheet transactions shall be converted into a credit equivalent using credit conversion factors. This shall constitute the position to be risk-weighted.

² Banks using the IRB approach shall calculate the credit equivalent for contingent liabilities and irrevocable commitments according to the SA-BIS rules where the IRB has no corresponding rules.

Art. 41 Contingent liabilities and irrevocable commitments

¹ For contingent liabilities and irrevocable commitments the credit equivalents under SA-CH and SA-BIS shall be calculated by multiplying the nominal or net current value of the item in question by the credit conversion factor in accordance with Appendix 1.

² Contingent liabilities in which the bank has granted a sub-interest can be treated in the amount of the sub-interest as if they were direct claims against the parties holding the sub-interests.

Art. 42 Calculation methods for derivatives

¹ Credit equivalents for derivatives positions shall be calculated using one of the following methods:

- a. mark-to-market method;
- b. standardised method; or
- c. expected positive exposure (EPE) modelling method.

² Adoption of the EPE modelling method requires approval from the supervisory authority, which shall specify the conditions for approval.

³ The credit equivalent can be set at zero where the conditions for a credit risk weighting of 0% set out in Art. 56 (2) & (3) are fulfilled.

⁴ The supervisory authority shall provide clarification on how to calculate credit equivalents in the event of a legally or contractually required netting arrangement, as defined in Art. 47, in which more than two parties are involved.

Art. 43 Mark-to-market method

¹ Under the mark-to-market method the credit equivalent shall be the sum of the current replacement value and the security supplement (add-on).

² The supervisory authority shall determine the basis on which the respective add-on for individual types of instruments is to be ascertained and the level of each add-on.

Art. 44 Standardised method

Under the standardised method the credit equivalent shall be calculated by multiplying the greater of the two following amounts by a factor of 1.4:

- a. current market value of the derivatives, considering collateral security;
- b. risk position stated according to regulatory law.

Art. 45 EPE modelling method

¹ When using the EPE modelling method to determine credit equivalents for derivatives, the actual EPE shall be multiplied by the EPE factor.

² The supervisory authority shall specify the EPE factor on a case-by-case basis. It shall be no less than 1.2.

Art. 46 Interest rate instruments and equity securities

¹ Net positions for interest rate instruments and equity securities not held in the same issuer's trading book that have the same risk weighting shall be calculated in accordance with Art. 39.

² For positions not held in the trading book, physical holdings shall be factored in at book value.

³ Paragraph 1 shall also apply to net positions in equity securities and interest rate instruments held in the trading book, provided the de minimis approach (Art. 70 (1) a) is applied.

Art. 47 Risk-mitigating measures

¹ The following risk-mitigating measures may be taken into account when calculating positions:

- a. netting as permitted by law and netting agreements;
- b. guarantees;
- c. credit derivatives; and
- d. other collateral.

² If required, banks shall demonstrate to the auditors or the supervisory authority that the risk-mitigating measures are legally enforceable in the jurisdictions concerned.

³ The supervisory authority shall provide clarification on these risk-mitigating measures.

Art. 48 Collateralised transactions

¹ A bank can elect to adopt either of the following approaches to handle collateral securities as defined in Art. 47 (1)(d):

- a. simple (substitution) approach; or
- b. comprehensive approach.

² Under the simple approach, the collateralised portions of the position in each position category are allocated to the pledger.

³ In the comprehensive method, the position is netted out against the collateralised portion of the position. The net position remains in the original position category.

⁴ The supervisory authority shall provide clarification on these approaches.

Part 3: Position categories and their risk-weightings under SA-CH and SA-BIS

Art. 49 Position categories

¹ The banks shall assign individual positions to position categories.

² Positions in the following categories can be risk-weighted using external ratings:

1. central governments and central banks;
2. public-sector entities;
3. BIS, IMF and multilateral development banks;
4. banks and securities traders;
5. joint institutions;
6. stock exchanges and clearing houses;
7. corporates.

³ In the following position categories external ratings cannot be used:

1. individuals and small businesses (retail positions);
2. Swiss mortgage bonds;
3. positions secured directly or indirectly by charges on real estate;
4. subordinate positions;
5. overdue debt claims;
6. equity securities and units in collective investment vehicles;
7. other positions.

Art. 50 Use of external ratings

¹ Banks using the SA-CH or SA-BIS approach can use ratings supplied by rating agencies to risk-weight positions, provided such agencies are recognised by the supervisory authority for that purpose.

² The supervisory authority shall assign the ratings of recognised rating agencies to rating categories and shall determine the risk weighting for each category.

³ Use of external ratings must be based on a practical, institution-specific methodology, and this must be adhered to systematically.

⁴ Where a bank risk-weights positions on the basis of the ratings of external rating agencies, as a general principle it shall risk-weight all positions excluding the position category 'corporates' on the basis of external ratings. Where a bank also risk-weights positions in the 'companies' position category on the basis of external ratings, as a general principle it shall risk-weight all positions in this category on the basis of external ratings.

⁵ Where a bank has not assigned risk weightings to positions on the basis of external ratings or if no rating is available from a recognised rating agency for the purpose of risk-weighting a specific position, the risk weightings applying to the "unrated" rating category shall be used.

Art. 51 Use of external ratings at group level

The ratings used within the companies to be consolidated can be used at group level.

Art. 52 Recognition of rating agencies

¹ The supervisory authority shall recognise a rating agency if:

- a. its rating method and ratings are objective;
- b. it and its rating procedure are independent;
- c. it makes its ratings publicly available;
- d. it discloses its rating method and the primary characteristics of its ratings;
- e. it has adequate resources at its disposal; and
- f. it and its ratings are credible.

² The supervisory authority shall publish a list of recognised rating agencies.

³ The supervisory authority may withdraw recognition if a recognised rating agency does no longer fulfil the recognition criteria

Art. 53 Calculation of positions to be risk-weighted

¹ Position in exposure categories specified in Art. 49 (2) shall be weighted according to Annex 2 for SA-CH and according to Annex 3 for SA-BIS.

² Exposures in position categories specified in Art. 49 (3)(1-5)&(7) shall be weighted according to Annex 4.

³ Positions in the position category specified in Art. 49 (3)(6) shall be weighted according to Annex 5.

⁴ Net positions in interest rate instruments as defined in Art. 46 shall be assigned to the issuer's position category and weighted accordingly.

⁵ Under SA-CH, net long positions in subordinate interest rate instruments held directly or indirectly by the bank shall be weighted at 1250%, provided that they

- a. were issued by the bank itself;
- b. are held in the trading book; and
- c. are allowed for as lower Tier 2 capital or Tier 3 capital in accordance with Arts. 27–29.

Art. 54 Local currency positions to central governments or central banks

If the supervisory authority of a country other than Switzerland requires a lower risk-weighting for local currency positions to the central government or central bank of that country than that envisaged in Art. 53 (1), then banks shall be entitled to weight such positions likewise, provided they are refinanced in the local currency of that country and the banking supervision is adequate. This analogous weighting shall be applicable to the part of a position refinanced in local currency.

Art. 55 Banks and securities traders

¹ Securities traders can be assigned to the position category 'Banks and securities traders' (Art. 49 (2)(a)(4)) only if they are subject to regulation equivalent to that of the banks.

² Netted positions arising from off-balance-sheet transactions shall be assigned to the shortest maturities tranche for netted positions.

Art. 56 Stock exchanges and clearing houses

¹ Clearing houses are institutions through which performance of traded contracts is effected.

² The 0% weighting for credit risks in accordance with Annex 2 and Annex 3 shall apply only where a regulated central counterparty acts as direct intermediary in the transaction between two market participants and an adequate, comprehensive collateralisation system is established as the basis for the functions exercised by this central counterparty.

³ This collateralisation system shall be deemed to be adequate and comprehensive where:

- a. contracts are marked to market each day with daily margin calls;
- b. the changes in value expected for the day ahead are collateralised on an ongoing basis with a high degree of reliability; and
- c. additional margin cover is provided for unexpected losses.

Art. 57 Unrated corporate positions

If corporate positions are risk-weighted by a bank on the basis of ratings, any unrated positions shall be assigned the risk weighting of 100% or that of the corresponding central government, where the latter is higher than 100%.

Art. 58 Positions secured directly or indirectly against charges on real estate

¹ Residential properties are properties used or let by the borrower itself.

² Construction loans and development credits shall be assigned to the real estate categories specified in Annex 4 according to the future use of the property thus financed.

³ The 35% risk weighting for foreign residential properties shall apply only where the risks associated with such properties can be managed adequately in a manner equivalent to risk management for Swiss residential properties.

⁴ The 35% risk weighting shall also apply to pledged retirement savings and pledged pension benefit entitlements in accordance with Art. 30b of the Swiss Federal Law on Occupational Retirement, Survivors' and Disability Pension Plans of 25 June 1982¹⁴ and Art. 4 of the Federal Ordinance on the Tax Deduction of Contributions to Recognized Pension Plans of 13 November 1985¹⁵, provided:

- a. the pledge represents additional security for a claim secured against a charge on real estate; and
- b. the property in question is one used by the borrower itself.

Art. 59 Equity securities

Under SA-BIS, the risk weightings specified in Annex 5 shall apply only to those portions of net positions in equity securities:

- a. which, according to Art. 31, shall not be deducted from the adjusted Tier 1 capital and from the Tier 2 capital; and
- b. which shall not be treated according to the capital adequacy rules for market risks.

Art. 60 Lombard loans

¹ Lombard loans can be assigned a weighting in the corresponding position category as individual positions using the substitution approach (Art. 48) or the comprehensive approach (Art. 48) or, under SA-CH, they can be assigned a 50% weighting using the flat-

¹⁴ SR 831.40

¹⁵ SR 831.461.3

rate approach. It is not permissible to use both the flat-rate and the comprehensive approach simultaneously for collateralised transactions.

² The flat-rate approach shall be used only if the lombard loan

- a. is secured by a diversified portfolio composed of standard moveable assets traded on a regulated stock exchange or representative market, cash deposits, fiduciary deposits or unrestricted life insurance policies with a surrender value; and
- b. is marked to market at least once a week or on a daily basis in exceptional market conditions.

Art. 61 Securities lending, repo and repo-style transactions

¹ Securities lending, repo and repo-style transactions can be assigned a weighting in the corresponding position category as individual positions using the simple or comprehensive approach or, under SA-BIS, also according to the EPE modelling method.

² Under SA-CH, for securities lending, repo and repo-style transactions capital shall only be required to cover the difference between the margin provided and the securities position, provided:

- a. the margin consists of a pledge or other form of security which is at least equivalently collateralised cash deposits, or securities and commodities traded on a regulated stock exchange or representative market;
- b. both the margin and the securities or commodities positions are marked to market on a daily basis; and
- c. any surplus or shortfall in the margin initially agreed is rectified through daily margin calls or by altering the assets deposited and, in the event of a failure to comply with any margin call, the transactions are closed out within the standard periods stipulated by futures and options exchanges.

Art. 62 Deductions from risk-weighted positions

¹ Under SA-CH, 75% of any valuation adjustments and provisions stated as balance sheet liabilities and formed for the purpose of covering positions for which capital is required shall be deducted from total risk-weighted positions.

² Valuation adjustments and provisions shown as liabilities on the balance sheet shall not include:

- a. eligible undisclosed reserves as defined in Art. 24; and
- b. valuation adjustments stated as liabilities and included when calculating the net position in accordance with Art. 39 (2).

Art. 63 Positions arising from unsettled transactions

¹ For positions arising from unsettled currency, securities and commodity transactions in which a risk of loss has arisen due to late or erroneous processing (positions arising from unsettled transactions) and which should be settled on a "delivery against payment" or "payment against payment" basis via a payment or securities clearing system, the capital requirement shall be calculated by multiplying the positive replacement value, where applicable, by the appropriate capital adequacy factor as follows:

Number of bank working days after the agreed settlement date	Capital adequacy factor
5–15	8%
16–30	50%
31–45	75%
46 or more	100%

² For other positions arising from unsettled transactions to be settled by other means, the capital requirement shall be calculated as follows:

- a. The bank that has made the initial payment/delivery shall treat the position as a loan until counter-performance is made. Where positions are not material, banks may choose to apply a 100% risk weight to such positions in lieu of a ratings-based risk weight.
- b. If the counter-performance has not taken place five business days after the stipulated settlement date, the value transferred plus any positive replacement value shall be deducted respectively 50% from the Tier 1 and 50% from the Tier 2 capital.

³ Repurchase agreements, reverse repurchase agreements and securities lending and borrowing transactions shall be treated exclusively in accordance with Art. 61.

Art. 64 Multipliers under SA-BIS

Under SA-BIS the following multipliers shall be applied:

- a. 1.1 for the total of positions weighted as specified in Art. 53 (1) and (2) and the capital requirement multiplied by 12.5 as per Art. 63.
- b. 2.5 for positions weighted in accordance with Art. 53 (3)

Part 4: Internal ratings-based (IRB) approach**Art. 65**

¹ Banks may opt for either of the following internal ratings-based approaches when determining risk-weighted positions and capital requirements for credit risks:

- a. the foundation IRB approach (F-IRB¹⁶); or
- b. the advanced IRB approach (A-IRB¹⁷).

² The supervisory authority shall provide clarification on the calculation method, based on the Basel minimum standards¹⁸.

³ The supervisory authority shall be entitled to determine an institution-specific multiplier for the purpose of calculating the capital requirement.

⁴ In the absence of specific guidelines under the IRB approach, the SA-BIS rules shall apply by analogy.

Chapter 3: Non-counterparty-related risks**Art. 66** Definition

The term 'non-counterparty-related risks' denotes the danger of loss occurring as a result of changes in the value of or liquidation of non-counterparty-related assets such as real estate, equity interest in real estate companies and other fixed assets.

Art. 67 Weighting

¹ Under SA-CH, non-counterparty-related risks shall be risk-weighted as follows:

- a. 0% for any offset account credit balance;
- b. 250% for bank premises and equity interests in real estate companies holding such property;
- c. 375% for other properties and equity interests in real estate companies holding such properties;
- d. 625% for other fixed assets and software, excluding goodwill and other intangible assets, and depreciable assets shown on the balance sheet under 'Other assets'.

² Under SA-BIS or IRB, these non-counterparty-related risks shall be risk-weighted at 100% and multiplied by a multiplier of 3.0.

Chapter 4: Market risks**Part 1: General provisions****Art. 68** Basic principle

¹ Banks shall have sufficient capital to cover the market risks inherent in interest rate instruments and equity securities held in the trading book and currency, gold and commodity positions across the bank.

² The supervisory authority shall issue technical implementing regulations relating to market risks.

Art. 69 Definition

The term 'market risk' denotes the danger of loss occurring as a result of fluctuations in the value of a position caused by changes in price-determining factors such as share or commodity prices, exchange rates and interest rates and the volatility thereof.

Art. 70 Calculation methods

¹ The following approaches may be used to calculate capital requirements for market risks:

- a. de minimis approach;
- b. standardised approach to market risk; or
- c. model approach to market risk.

² Where more than one of these approaches is used, capital requirements shall be the sum of the requirements calculated for each approach.

¹⁶ stands for Foundation IRB

¹⁷ stands for Advanced IRB

¹⁸ "International Convergence of Capital Measurement and Capital Standards – A Revised Framework / Comprehensive Version" by the Basel Committee for Banking Supervision, June 2006

Part 2: De minimis approach**Art. 71**

¹ Banks that do not exceed certain thresholds shall be entitled to calculate the capital adequacy required for interest rate instruments and equity participations held in the trading book in accordance with Arts. 53–64. In so doing they shall apply the guidelines of the same approach as used for covering credit risks.

² The supervisory authority shall determine the thresholds.

Part 3: Standardised approach to market risk**Art. 72** Interest rate instruments held in the trading book

¹ Capital adequacy required for specific risks associated with interest rate instruments shall be computed by multiplying the net position per issuer by the factors specified in Annex 6.

² Capital requirements for general market risks associated with interest rate instruments shall be equal to the total value calculated per currency using the maturity method or the duration method.

Art. 73 Equity securities held in the trading book

¹ The capital requirement for specific risks associated with equity securities shall be 8% of the total net positions per issuer.

² Capital requirements for diversified, liquid equity portfolios shall be 4% of the total net positions per issuer in accordance with 39, and 2% for stock index contracts. For the present purpose, portfolios deemed to be diversified and liquid shall be those in which no position in securities issued by a single issuer exceeds 5% of the overall portfolio and which contain only listed equity instruments.

³ The capital requirement for general market risks associated with equity securities shall be 8% of the total net positions per national market.

Art. 74 Foreign exchange positions

The capital required to cover market risks for foreign exchange positions shall be 10% of the total value of the net long positions or the total value of net short positions, whichever is the higher.

Art. 75 Gold and commodity positions

¹ The capital required to cover market risks for gold positions shall be 10% of the net position.

² Capital requirements for market risks for commodity positions shall be equal to the sum of 20% of the net position for each commodity group and 3% of the gross position for each commodity group. The gross position is the sum of the absolute values for long and short positions.

Part 4: Model approach to Market Risk**Art. 76** Calculation

¹ Adoption of the model approach to market risk requires approval from the supervisory authority, which shall specify the conditions for approval.

² The capital requirement for market risks quantified using this method shall be equal to the higher of the following amounts:

- a. the value-at-risk (VaR) on the previous day; or
- b. the average daily VaR for the preceding sixty trading days multiplied by an institution-specific multiplier.

³ The supervisory authority shall determine this multiplier on a case-by-case basis, taking due account of minimum requirements and the accuracy of the forecasts produced by the institution-specific risk aggregation model. The multiplier shall be no less than 3.

Chapter 5: Operational risks**Part 1: General provisions****Art. 77** Definition

Operational risk is the term given to the danger of loss resulting from the inadequacy or failure of internal processes, people or systems, or from external events. This definition includes legal risks, but excludes strategic and reputation risks.

Art. 78 Calculation methods

¹ Banks shall be entitled to choose from the following methods of determining capital requirements for operational risks:

- a. the basic indicator approach;
- b. the standardised approach; or

- c. institution-specific approaches (AMA¹⁹).
- ² Adoption of an AMA requires approval from the supervisory authority.
- ³ The supervisory authority shall issue technical implementing regulations relating to the approaches.

Art. 79 Earnings indicator

¹ Banks using the basic indicator or standardised approach to calculate capital requirements for operational risks shall determine an earnings indicator for each of the three preceding years to be used for such purpose. This shall be the sum of the following income statement positions:

- a. interest income;
- b. fee and commission income;
- c. trading income;
- d. participation income from equity interests that are not required to be consolidated; and
- e. income from real estate.

² Any income generated from outsourcing agreements to which the bank is party as service provider shall be factored into the earnings indicator.

³ If the bank is the party outsourcing the services, the applicable charges may only be deducted from the earnings indicator if the services are outsourced outside the financial group and are accounted for on a consolidated basis.

⁴ When determining the earnings indicator, banks shall be entitled to apply internationally recognised accounting standards rather than Swiss accounting standards, subject to approval by the supervisory authority.

Part 2: Approaches

Art. 80 Basic indicator approach

¹ The capital requirement shall be 15% of the average of the income indicator for the preceding three years. Qualifying years shall be limited to years in which the earnings indicator was positive.

² The supervisory authority may prohibit the use of the basic indicator approach unless additional qualitative risk management requirements are met.

Art. 81 Standardised approach

¹ Capital adequacy for operational risks shall be computed as follows:

- a. An earning indicator shall be determined for each business line and for each of the three preceding years, and it shall then be multiplied by the factor specified in paragraph 2.
- b. The resulting figures shall be added up for each year. Any negative figures in any business line can be offset against positive figures in other business lines.
- c. The capital requirement shall be equal to the three-year average amount. When calculating the average, any negative years shall count as zero.

² Activities shall be assigned to the following business lines and multiplied by the following rates:

1. Corporate finance / advisory	18%
2. Trading & sales	18%
3. Retail banking	12%
4. Commercial banking	15%
5. Payment & settlement	18%
6. Agency services	15%
7. Asset management	12%
8. Retail brokerage	12%

³ The supervisory authority may make the use of the standardised approach dependent from meeting additional qualitative risk management requirements.

Art. 82 Institution-specific approaches (AMA)

¹ Banks shall be entitled to use an institution-specific approach (AMA) to determine their capital requirements for operational risks.

² The supervisory authority shall approve the use of an AMA provided the bank has a model that allows operational risks to be quantified on the basis of internal and external loss data, scenario analysis and the bank's business environment and internal control factors.

¹⁹ standing for Advanced Measurement Approaches

4th Heading: Risk diversification

Chapter 1: General provisions

Part 1: Object

Art. 83 Risk concentration

¹ A risk concentration shall be deemed to exist if the total position amount for a single counterparty or a group of related counterparties is equal to or greater than 10% of the bank's eligible capital.

² Banks shall limit and monitor their risk concentrations.

Art. 84 Market risks

All banks shall stipulate appropriate internal restrictions for all material market risks relating to their operations. Such restrictions shall include bank premises and other real estate.

Art. 85 Implementing provisions

The supervisory authority shall issue technical implementing regulations relating to risk diversification.

Part 2: Upper limits on risk concentrations

Art. 86 Upper limit on individual risk concentrations

A single risk concentration shall not exceed 25% of eligible capital.

Art. 87 Total risk concentration limit

¹ The aggregate of all risk concentrations shall not exceed 800% of the bank's eligible capital.

² The following positions shall not be included when calculating this upper limit:

- a. where the Swiss standardised approach is used:
 1. positions to the BIS, the IMF and certain multilateral development banks stipulated by the supervisory authority;
 2. positions to banks and to securities traders subject to equivalent regulation with residual terms to maturity of up to three months;
 3. positions to joint institutions set up by the banks that are recognised by the supervisory authority;
 4. positions to deposit guarantee holders;
 5. positions to regulated stock exchanges, provided the contracts and collateral cover are marked to market on a daily basis and are subject to daily margin calls;
- b. where the international standardised approach is used:
 1. any positions which pursuant to Arts. 114 are fully exempted from the calculation of the total position amount for a single counterparty;
 2. positions to banks and to securities traders subject to equivalent regulation with original maturities of up to three months;
- c. any positions to subsidiaries of a financial group falling within the definition of exempted intra-group positions under Art. 89 (1) and Art. 103 (2)(d);
- d. any part-positions covered by disposable eligible capital under Art. 88 (1)(a);
- e. positions which no longer constitute risk concentrations once any deductions pursuant to (a)-(d) above have been made;
- f. positions to syndicates, as set out in Art. 100 (2)(d) and (3), if and to the extent that such claims are simultaneously included as a risk concentration component in the total position amount for one or more other syndicate members in accordance with Art. 101.

Art. 88 Upper limit excesses

¹ The upper limits on individual and aggregate risk concentrations shall never be exceeded unless

- a. the excess amount is covered by disposable eligible capital; or
- b. the excess is solely attributable to an affiliation between previously unconnected counterparties, or an affiliation between the bank and other companies active in the financial sector.

² Where capital is used to cover a risk concentration limit excess, this must be mentioned in the statement of capital specified in Art. 13.

³ Any excess for the reasons given in paragraph 1b above shall not be increased further. It shall be rectified within two years of the legal completion of the affiliation.

Art. 89 Intra-group positions

¹ Where a bank forms part of a financial group or financial conglomerate subject to proper supervision on a consolidated basis, intra-group positions may be exempted from the upper limits specified in Arts. 86 and 87 insofar as they relate to subsidiaries that have been fully incorporated into consolidated capital and risk diversification requirements (fully consolidated subsidiaries), where:

- a. such subsidiaries are subject to proper supervision on an individual basis; or
- b. the only counterparties of such subsidiaries are subsidiaries that are subject to proper supervision on an individual basis.

² Aggregated intra-group positions to other subsidiaries shall be subject to the normal upper limit of 25% of eligible capital.

Part 3: Duty of disclosure with regard to risk concentrations**Art. 90** Disclosure of risk concentrations

¹ Banks shall draw up a quarterly list of all risk concentrations existing at individual company level on the selected cut-off dates, based on a form to be prescribed by the supervisory authority, and shall submit said list to the governing body responsible for overall management, supervision and control and, within a period not exceeding one month, to the statutory auditor.

² In addition, at the consolidated level an equivalent disclosure shall be made every six months and forwarded within two months.

³ Risk concentrations pursuant to Art. 86 shall be disclosed prior to deducting the eligible capital appropriated to cover such risk concentrations (Art. 88 (1)(a)).

⁴ Any risk concentration involving a member of an executive body, any qualifying party with an interest in the bank within the meaning of Art. 3 (2) (c^{bis}) of the Swiss Banking Act of 8 November 1934²⁰, or any individual or company closely associated with such parties, shall be included under the general heading "Business transacted with governing bodies" in the list of risk concentrations.

⁵ Any risk concentration relating to other subsidiaries shall be listed under the umbrella heading "Group transactions". There shall also be an obligation to disclose any position components relating to group transactions, which are not included in the upper limit prescribed under Arts. 89 (1) and 103 (2) (d).

⁶ The statutory auditor shall verify that such risk concentrations are monitored internally and shall assess the status of such risks.

Art. 91 Disclosure of unauthorised excesses

If the bank learns that a risk concentration exceeds the upper limit without being subject to an exception under Art. 88 (1), it shall notify its auditor and the supervisory authority without delay.

Art. 92 Disclosure of intra-group positions

Banks shall prepare a quarterly statement of intra-group positions, as specified in Art. 89, and submit such statement to the auditors and the governing body responsible for overall management, supervision and control, together with the list of existing risk concentrations. In preparing such statement, banks shall ensure that any subsidiaries falling within the definitions set out in Art. 89 (1)&(2) are accounted for separately.

Part 4: Calculation principles**Art. 93** Approaches

¹ Banks which calculate capital adequacy for credit risks according to SA-CH shall calculate overall positions on the basis of the Swiss approach.

² Banks which calculate capital adequacy for credit risks according to SA-BIS or IRB shall calculate overall positions on the basis of the international approach.

Art. 94 Firm securities underwriting commitments

Positions to specific issuers arising from firm securities underwriting commitments shall be calculated as follows:

- a. Any firm underwriting commitments relating to issues of debt and equity instruments, less any sub-interests and firm subscriptions, provided the associated market risk for the bank is eliminated.
- b. The resulting amount shall be multiplied by one of the following credit conversion factors:
 1. 0.05 from and including the date on which the firm underwriting commitment was irrevocably entered into;
 2. 0.1 on the payment date for the underwriting;
 3. 0.25 on the second and third bank working days after the payment date for the underwriting;
 4. 0.5 on the fourth bank working day after the payment date for the underwriting;
 5. 0.75 on the fifth bank working day after the payment date for the underwriting;
 6. 1 from and including the sixth bank working day after the payment date for the underwriting.

Art. 95 Equity and subordinated debt securities

Equity and subordinated debt securities which have been deducted from Tier 1 capital (Art. 23 (2)), from adjusted Tier 1 capital and Tier 2 capital (Art. 31) or from eligible capital or which have been assigned a weighting of 1250% under Art. 53 (3)&(5) shall not included in the calculation of the aggregate position.

Art. 96 Specific valuation adjustments and provisions

Specific valuation adjustments and provisions formed for positions, off-balance-sheet items and net long positions shall be deducted prior to assigning weightings to specific positions.

Art. 97 Positions arising from unsettled transactions

Positions arising from unsettled transactions (Art. 63) shall be included in the aggregate position, with the multipliers and/or risk weighting duly applied, for the purpose of determining the capital requirement.

Art. 98 Derivatives

Derivatives shall be converted into their credit equivalents in accordance with Arts. 42–45.

Art. 99 Netting

Netting of claims against liabilities to counterparties, as prescribed by law or under netting agreements, shall be permitted to the same extent as when calculating capital.

Art. 100 Groups of related counterparties

¹ The total position amount for a group of related counterparties shall be the sum of the total position amounts calculated for each counterparty.

² Two or more individuals or legal entities shall be deemed to be a group of related counterparties and shall be treated as one entity, where:

- a. one of the counterparties holds shares in the other counterparties, which confer more than half of the voting rights, or exercises direct or indirect control over the other counterparties by some other means; or
- b. there is clear evidence of financial interdependence between the counterparties such that if one counterparty encountered financial difficulties, the other counterparties would be likely to have difficulty in meeting their payments; or
- c. the same individual or entity has an equity interest in or control of such counterparties; or
- d. they form a syndicate.

³ Where there are several syndicates, such syndicates shall not be deemed to constitute groups of related counterparties even if some or all the syndicate members are the same, and likewise other positions to individual syndicate members shall not be included.

⁴ Legally autonomous public-sector companies shall not be deemed to be related counterparties either *inter se* or together with any public-sector entity controlling such companies, where

- a. the law prescribes that the public-sector entity is not liable for the company's debts and obligations, or
- b. the entity concerned is a bank.

⁵ Collective investment undertakings and, in the case of collective investment undertakings with sub-funds (umbrella funds), each sub-fund shall be deemed to be autonomous counterparties. Where a bank has up-to-date information on the composition of the investments of a collective investment undertaking, it can instead opt to assign such investments to the total positions for the relevant issuers.

Art. 101 Positions to syndicates

¹ Any claims on a syndicate shall be applied to individual syndicate members in proportion to their share in the syndicate.

² In the case of joint and several liability, the entire position shall be attributed to the particular syndicate member whose credit rating was the highest when the credit was approved.

Art. 102 Intra-group positions

In relation to every bank in a financial group or financial conglomerate, subsidiaries shall be deemed to be a group of related counterparties.

Part 5: Authority to relax or tighten standards

Art. 103

¹ In exceptional circumstances, the supervisory authority shall be entitled to relax or tighten the applicable risk diversification standards.

² In particular it shall be entitled to:

- a. reduce disclosure limits or upper limits for specific total positions;
- b. prescribe upper limits for any real estate held directly or indirectly by a bank;

- c. permit short-term limit excesses subject to prior request;
- d. stipulate that the limit exemption applying to some or all subsidiaries pursuant to Art. 89 (1) does not apply or that it extends only to specific subsidiaries that do not satisfy the requirements set out in Art. 89 (1);
- e. exempt specific subsidiaries not operating in the financial sector from inclusion in the aggregated position as prescribed under Art. 89 (2);
- f. exempt equity interests that are not to be consolidated pursuant to Art. 8 (1)(a) from inclusion in the aggregate position as per Art. 89 (2);
- g. reduce or increase the risk weightings applicable to a specific counterparty;
- h. set a time limit other than the one envisaged in Art. 88 (3).

Chapter 2: Swiss approach

Art. 104 Total position

¹ The total position to a specific counterparty under the Swiss approach is the sum of the following positions:

- a. the risk-weighted positions in accordance with Art. 106–107;
- b. off-balance-sheet items converted into their credit equivalents and risk-weighted (Art. 108–110);
- c. positions in respect of securities lending, repo and repo-like transactions (Art. 111); and
- d. net long positions in securities (Art. 112).

² Any positions relating to real estate companies held by the bank and any equity securities pertaining thereto shall not be included in the calculation of total position if the corporate's assets consist solely of property, cash reserves and short-term receivables.

Art. 105 Inclusion in the total position

¹ Positions to a single counterparty shall be factored into the total position amount as follows:

- a. the value of any facilities approved by the relevant authority and available without any further credit decision, or any facilities actually drawn down, whichever is the higher;
- b. for internal counterparty-related limits for derivatives, the value of the risk limit expressed as a credit equivalent, or in the absence thereof, one tenth of the authorised volume limit;
- c. for internal counterparty-related limits for securities lending and borrowing (SLB) and repo transactions, the maximum value of permitted unsecured positions.

² In the case of intra-group positions, amounts actually drawn down may be included in the calculation, provided:

- a. the facilities authorised may be revoked;
- b. there is no legally enforceable right to payment; and
- c. the facilities drawn down are monitored on a daily basis to ensure ongoing compliance with risk diversification requirements.

Art. 106 Risk weighting

¹ For each counterparty position the risk weighting assigned to the counterparty or to any collateral provided shall be applied in accordance with the SA-CH rules for credit risk weighting (Art. 53–60).

² Notwithstanding paragraph 1 above, the following weightings shall apply:

- a. 100% for corporate positions (position category as per Art. 49 (2)(7));
- b. 0% for positions secured by a pledge to the bank or by guaranteed cash deposits in at least the equivalent amount;
- c. 0% for positions secured by medium-term notes, debenture bonds and other non-subordinated debt securities issued by the bank itself and pledged to the bank or secured by some other means that is at least equivalent.

³ Where a position has been secured by third-party debt or equity securities, or fiduciary deposits with third parties, or in respect of which a third party guarantee has been given, the bank shall include the collateralised component in the total position amount for the party whose credit standing was used as a basis for making the credit decision.

⁴ Where the counterparty and third party were deemed to have equivalent credit standing, or where the position was secured at some later date, the bank may either

- a. treat the collateralised component as a direct position to the third party; or
- b. include the collateralised component in the total position amount for the counterparty, disregarding the security provided.

Art. 107 Lombard loans

¹ Banks using the simple approach (Art. 48 (1)(a)) either in isolation or in conjunction with the flat-rate approach (Art. 60) shall be entitled to assign a risk weighting of 50% to Lombard loans which satisfy the criteria for the flat-rate approach (Art. 60 (2)).

² In the case of Lombard loans which do not satisfy the criteria for the flat-rate approach the bank shall:

- a. include the position in the total position amount for the counterparty, disregarding any collateral; or
- b. allot the security between specific positions and add such positions to the applicable total position amount.

³ Banks using the simple approach either in isolation or in conjunction with the comprehensive approach (Art. 48 (1)(b)) shall treat positions calculated using the simple approach in accordance with paragraph 2 and shall treat positions calculated using the comprehensive approach in accordance with Art. 118 (1).

Art. 108 Off-balance-sheet items

Off-balance sheet items shall be converted into their credit equivalents in accordance with Arts. 109 and 110 and shall be assigned the risk weightings applicable to the specific counterparty or collateral according to Art. 106.

Art. 109 Contingent liabilities and irrevocable commitments

¹ Credit equivalents for contingent liabilities and irrevocable loan commitments shall be determined by multiplying the nominal or present value of the item in question by the applicable credit conversion factor set out in Art. 41 (1).

² Irrevocable loan commitments shall, irrespective of the applicable term, be treated in the same way as loan facilities under Art. 105 (1)(a) which have been approved by the relevant body and may be drawn down without need for further credit decision.

³ Art. 106 (3)&(4) shall apply *mutatis mutandis* to the treatment of contingent liabilities and irrevocable loan commitments in which the bank has granted a sub-interest.

Art. 110 Derivatives

¹ Derivatives shall be treated in accordance with Art. 98.

² For contracts traded on a regulated stock exchange, banks may deduct any margin cover consisting of a pledge of cash deposits, securities traded on a regulated stock exchange or representative market, precious metals or commodities or any other form of security which is at least equivalent and is marked to market daily.

³ The provisions of Art. 97 shall apply in the event that any transaction is unsettled on maturity.

Art. 111 Securities lending, repo and repo-style transactions

Positions arising from securities lending, repo and repo-style transactions shall be calculated in accordance with Art. 61 and weighted as specified in Arts. 53–60.

Art. 112 Total positions relating to specific issuers

¹ Net long positions relating to debt and equity securities for each individual issuer with the same risk weighting, whether or not held in the trading book, shall be calculated in accordance with Art. 39, although firm securities underwriting commitments can be treated as stipulated in Art. 94. The resultant amount shall be weighted in accordance with Arts. 53–60.

² Any equity interests in companies outside the banking, financial and insurance sectors that are not to be consolidated under capital adequacy and risk diversification requirements shall be assigned a risk weighting of $166\frac{2}{3}\%$.

Section 3: International approach

Art. 113 Total position

The total position to a specific counterparty under the international approach is the sum of the following positions:

- a. positions weighted in accordance with Art. 115, making allowance for any items excluded in accordance with Art. 114;
- b. positions under Arts. 116–118;
- d. off-balance-sheet items converted into their credit equivalents (Art. 119);
- e. positions in respect of securities lending, repo and repo-like transactions (Art. 122);
- f. net long positions in securities (Art. 123).

Art. 114 Items excluded from the total position

The following items shall be excluded from the total position amount calculated:

- a. positions to:
 1. central banks and central governments, assigned a 0% weighting; and
 2. the BIS, the IMF and certain multilateral development banks stipulated by the supervisory authority;
- b. positions covered by an express guarantee from the above institutions;
- c. positions secured by debt securities issued by the above institutions (letter a);
- d. positions to a central bank or central government in its local currency, provided such positions are refinanced in that currency and the criteria set out in Art. 54 are satisfied;
- e. positions secured by cash deposits in the form of a pledge to the bank, the bank's parent company or a bank subsidiary, or by some other form of security which is at least equivalent;
- f. positions secured by debt securities issued by the bank itself or pledged or deposited with the bank, its parent company or a bank subsidiary;

- g. positions to a central counterparty as defined in Art. 56 (2)&(3);
- h. positions in Swiss mortgage bonds; and
- i. positions secured by a charge on residential property located either within or outside Switzerland and either occupied or let by the borrower, subject to a maximum of 50% of the property's market value.

Art. 115 Risk weighting

¹ As a general rule, positions to a single counterparty shall be assigned a risk weighting of 100%.

² A risk weighting of 20% shall apply to positions to banks.

³ A risk weighting of 20% shall apply to positions to public-sector entities rated 1 and 2.

Art. 116 Collateralised positions

¹ Banks may either include the collateralised component of collateralised positions in the total position amount for a third party, or the total position amount for the counterparty, provided that the position is secured by any of the following instruments:

- a. third-party debt or equity securities and units in collective investment instruments;
- b. fiduciary deposits with third parties; or
- c. third-party guarantees.

² If the collateral consists of third-party debt or equity securities or units in collective investment instruments, banks shall also be entitled to calculate the specific positions according to Art. 117 or Art. 118.

Art. 117 Eligibility of collateral under the simple approach

¹ Banks using the simple approach under SA-BIS can only allow for collateral which

- a. has been recognised for this approach by the supervisory authority;
- b. is marked to market;
- c. has no maturity, or has a maturity at least equal to that of the collateralised position; and
- d. has been assigned as surety or pledged for a maturity period equal to or greater than the position maturity period.

² Cash deposits, fiduciary deposits and medium-term notes can be allowed for at their nominal value.

³ The collateral specified in paragraph 1 above shall be eligible subject to the following haircuts:

- a. 33% for debt instruments
 - 1. of central governments and central banks assigned a rating of 3 or 4;
 - 2. of public-sector entities assigned a rating of 1 to 3; and
 - 3. of banks and securities traders subject to equivalent supervision and regulation assigned a rating of 1 to 4;
- b. 60% for equities included in a main index;
- c. 50% for all other recognised collateral instruments.

Art. 118 Eligibility of collateral under the comprehensive and IRB approaches

¹ Banks using the comprehensive approach as specified in Art. 48 (1)(b) under SA-BIS or the F-IRB approach shall calculate the fully adjusted position values for collateralised positions in accordance with Art. 48 (3).

² Banks using the A-IRB approach shall be entitled either to calculate collateralised positions as per paragraph 1 above or to use their own values for loss given default (LGD) and position at default (EAD), provided:

- a. the effect of financial collateral instruments can be reliably estimated independently of other LGD-relevant aspects; and
- b. the procedure corresponds to the one used under the chosen approach to capital requirements.

³ Collateral instruments shall be eligible under the corresponding approaches provided the resultant concentration risks are adequately limited and monitored. Otherwise, either the simple approach specified in Art. 117 or the procedure set out in Art. 116 (1) shall be applied on a uniform basis.

⁴ The exceptions pursuant to Art. 114 (c),(e)&(f) are not applicable under the comprehensive approach.

Art. 119 Off-balance-sheet items

Off-balance sheet items shall be converted into their credit equivalents in accordance with Arts. 120 and 121 and shall be assigned the risk weightings applicable to the specific counterparty according to Art. 115.

Art. 120 Contingent liabilities and irrevocable commitments

¹ Credit equivalents for contingent liabilities shall be determined by multiplying the nominal or present value of the item in question by the applicable credit conversion factor set out in Art. 40 (2) or, where applicable, Art. 41 (1).

² Notwithstanding the paragraph above, for irrevocable loan commitments the nominal values of the transaction in question shall be multiplied by the following credit conversion factors:

- a. 0.5 for loan facilities with an initial term of one year or less;
 - b. 1.0 for loan facilities with an initial term of more than one year.
- ³ The following credit conversion factors shall apply to irrevocable loan commitments under a syndicated loan arrangement:
- a. 0.0 from the date on which the commitment was made by the bank until the date on which the commitment is accepted and confirmed by the counterparty;
 - b. 0.5 from and including the date on which the counterparty accepts the commitment made by the bank until the syndication phase commences;
 - c. 0.5 for the non-syndicated tranche during the syndication phase, and 1.0 for the planned own tranche;
 - d. 1.0 of all non-syndicated tranches after a period of 90 days (residual risk).
- ⁴ Art. 116 (1) shall apply *mutatis mutandis* to the treatment of contingent liabilities and irrevocable loan commitments in which the bank has granted a sub-interest.

Art. 121 Derivatives

- ¹ Derivatives shall be treated in accordance with Art. 98.
- ² The provisions of Art. 97 shall apply in the event that any derivatives transaction is unsettled on maturity.

Art. 122 Securities lending, repo and repo-style transactions

Securities lending, repo and repo-style transactions shall be treated in accordance with Arts. 117 and 118.

Art. 123 Total positions relating to specific issuers

Subject to any items to be excluded in accordance with Art. 114, net long positions for each individual issuer, whether or not held in the trading book, shall be calculated separately for debt and equity securities in accordance with Art. 39, although firm securities underwriting commitments may be treated in accordance with Art. 94. The issuer-specific total position shall be equal to the sum of the individual net long positions.

5th Heading: Final provisions**Art. 124** Parallel calculation and minimum capital requirements

- ¹ Banks using the IRB approach to provide adequacy for credit risks or an institution-specific AMA to provide adequacy for operational risks shall temporarily continue to calculate their capital requirements in parallel according to both the old and new legal provisions. To ensure comparability, the following shall apply:
- a. When calculating under the new law, the deductions under Arts. 31 and 32 shall be added to the capital requirements specified in Art. 33 (2), while the valuation adjustments and allowable surplus under Arts. 25 und 26 shall be deducted.
 - b. When calculating according to the old law, the capital adequacy required for market risks as stipulated in Art. 12 (5) of the Swiss Banking Act Implementing Regulations of 17 May 1972²¹ and the deductions from the capital stipulated in Art. 11 (d) of said Implementing Regulations shall be added to the 8% of risk-weighted positions in accordance with Art. 12 (2) of said Implementing Regulations.
- ² The supervisory authority shall be entitled to authorise further adjustments to the capital requirements referred to in paragraph 1.
- ³ With due allowance for further adjustments as per paragraph 2 above, the capital under paragraph 1a above must be at least equal to the following percentages of the capital under paragraph 1b above:
- a. 95% for 2007;
 - b. 90% for 2008;
 - c. 80% for 2009.
- ⁴ Where they fall below these percentages, the capital requirement under Art. 33 (1) shall be increased to such an extent as to ensure compliance with the minimum threshold.
- ⁵ The parallel calculations shall be based on positions as at the same cut-off date.
- ⁶ The supervisory authority shall be entitled to define equivalent minimum thresholds for banks adopting the IRB approach or an institution-specific AMA for the first time after 1 January 2008.

Art. 125 Transitional provisions

- ¹ Banks shall be entitled to apply the provisions of this Ordinance with effect from 1 January 2007.
- ² These provisions shall be observed by 1 January 2008 at the latest.
- ³ Banks shall not use the A-IRB (for credit risks) or institution-specific AMAs (for operational risks) to determine capital adequacy requirements before 1 January 2008.

²¹ AS 1995 253, 1998 16

⁴ Until the bank-specific switch-over to this Ordinance, the provisions of the Swiss Banking Act Implementing Regulations of 17 May 1972²² shall continue to apply until 31 December 2007.

⁵ The switch to the new capital adequacy rules and the new risk diversification rules shall take place at the same time. The supervisory authority can authorise exceptions to this rule.

⁶ Any position which exceeds the upper limit set out in Art. 86 on switching to the risk diversification rules set out in this Ordinance shall not be increased any further. Any limit excesses shall be eliminated within two years.

⁷ The supervisory authority may extend the aforementioned period upon request, provided that legitimate reasons are shown.

Art. 126 Amendments to existing law

Amendments to existing law are regulated in Annex 7.

Art. 127 Entry into force

This Ordinance shall take effect on 1 January 2007.

In the name of the National Council

The Federal President: Moritz Leuenberger

The Federal Chancellor: Annemarie Huber-Hotz

²² AS 1972 821, 1995 253, 1996 45, 1998 16, 2004 2777

ANNEX 1 (Art. 41(1))

Credit Conversion Factors under SA-CH and SA-BIS

Number	Contingent liabilities and irrevocable loan commitments	Credit conversion factors	
		SA-CH	SA-BIS
1.	Loan commitments		
1.1.	under SA-CH with firm commitment up to residual term to maturity of one year, or under SA-BIZ with agreed original maturity of one year	0.25	0.20
1.2.	under SA-CH with firm commitment for residual term to maturity of more than one year, or under SA-BIZ with agreed original maturity of more than one year	0.50	
1.3.	callable at any time without restrictions, or which automatically become void if the borrower's credit standing deteriorates	0.00	
2.	Building contractor's guarantees		
2.1.	for construction projects in Switzerland	0.25	0.50
2.2.	for construction projects outside Switzerland	0.50	
3.	self-liquidating warranties in respect of commodity trades		
3.1.	self-liquidating warranties in respect of commodity trades	0.25	0.20
4.	initial and variation margin calls		
4.1.	in respect of equities not stated under equity interests	1.25	1.00
4.2.	in respect of equities that represent equity interests not to be consolidated	2.50	1.00
4.3.	in respect of equities that represent equity interests to be consolidated or are insurance corporate equities	6.25	1.00
5.	Warranties		
5.1.	not used as cover for credit risk	0.50	
5.2.	used as cover for credit risk	1.00	0.50
Number	Contingent liabilities and irrevocable loan commitments	Credit conversion factors	
		SA-CH	SA-BIS
6.	Other contingent liabilities		
6.1.	Other contingent liabilities	1.00	

ANNEX 2 (Art. 53(1))

Position categories according to SA-CH if external ratings and their risk weights are applied

	Position categories (SA-CH) with option of using external ratings	Rating categories								unrated	fixed
		1	2	3	4	5	6	7			
1.	Central governments and central banks										
1.1.	Central governments and central banks	0%	0%	25%	50%	100%	100%	150%	100%	-	
1.2.	Confederation, Swiss National Bank, European Central Bank, European Union	-	-	-	-	-	-	-	-	0%	
2.	Public-sector entities										
2.1.	Public-sector entities	25%	25%	50%	100%	100%	150%	150%	100%		
2.2.	Unrated public-sector entities, provided they have tax-raising powers or their liabilities are guaranteed in full and without restriction by a public entity	-	-	-	-	-	-	-	-	50%	
2.3.	Unrated cantons	-	-	-	-	-	-	-	-	25%	
3.	BIS, IMF and multilateral development banks										
3.1.	Multilateral development banks	25%	25%	50%	50%	100%	100%	150%	50%	-	
3.2.	Bank for International Settlements (BIS), International Monetary Fund (IMF), certain multilateral development banks stipulated by the supervisory authority	-	-	-	-	-	-	-	-	25%	
4.	Banks and securities traders										
4.1.	Banks and securities traders, residual term to maturity of receivable \leq 3 months	25%	25%	25%	25%	50%	50%	150%	25%	-	
4.2.	Banks and securities traders, residual term to maturity of receivable $>$ 3 months \leq 3 years	25%	25%	50%	50%	100%	100%	150%	50%	-	
4.3.	Banks and securities traders, residual term to maturity of receivable $>$ 3 years	25%	25%	50%	50%	100%	100%	150%	75%	-	
5.	Joint institutions of the banks										
5.1.	Joint institutions of the banks recognised by the supervisory authority	-	-	-	-	-	-	-	-	25%	
5.2.	Deposit liabilities to deposit guarantee holders	-	-	-	-	-	-	-	-	25%	
6.	Stock exchanges and clearing houses										
6.1.	Stock exchanges and clearing houses	25%	25%	50%	100%	100%	150%	150%	100%	-	
6.2.	Stock exchanges and clearing houses, where credit risks are in direct relation to performance of contracts traded on-exchange or OTC as guaranteed by a central counterparty	-	-	-	-	-	-	-	-	0%	
7.	Corporate positions										
7.1.	Corporate positions	25%	25%	50%	100%	100%	150%	150%	100%	-	

ANNEX 3 (Art. 53(1))

Position categories according to SA-BIS if external ratings and their risk weights are applied

	Position categories (SA-BIS) with option of using external ratings	Rating categories								fixed
		1	2	3	4	5	6	7	unrated	
1.	Central governments and central banks									
1.1.	Central governments and central banks	0%	0%	20%	50%	100%	100%	150%	100%	-
1.2.	Confederation, Swiss National Bank, European Central Bank, European Union	-	-	-	-	-	-	-	-	0%
2.	Public-sector entities									
2.1.	Public-sector entities	20%	20%	50%	100%	100%	150%	150%	100%	
2.2.	Unrated public-sector entities, provided they have tax-raising powers or their liabilities are guaranteed in full and without restriction by a public entity	-	-	-	-	-	-	-	-	50%
2.3.	Unrated cantons	-	-	-	-	-	-	-	-	20%
3.	BIS, IMF and multilateral development banks									
3.1.	Multilateral development banks	20%	20%	50%	50%	100%	100%	150%	50%	-
3.2.	Bank for International Settlements (BIS), International Monetary Fund (IMF), certain multilateral development banks stipulated by the supervisory authority	-	-	-	-	-	-	-	-	0%
4.	Banks and securities traders									
4.1.	Banks and securities traders, original maturity of receivable \leq 3 months	20%	20%	20%	20%	50%	50%	150%	20%	-
4.2.	Banks and securities traders, original maturity of receivable $>$ 3 months	20%	20%	50%	50%	100%	100%	150%	50%	-
5.	Joint institutions of the banks									
5.1.	Joint institutions of the banks recognised by the supervisory authority	20%	20%	50%	100%	100%	150%	150%	100%	-
5.2.	Deposit liabilities to deposit guarantee holders	-	-	-	-	-	-	-	-	20%
6.	Stock exchanges and clearing houses									
6.1.	Stock exchanges and clearing houses	20%	20%	50%	100%	100%	150%	150%	100%	-
6.2.	Stock exchanges and clearing houses, where credit risks are in direct relation to performance of contracts traded on-exchange or OTC as guaranteed by a central counterparty	-	-	-	-	-	-	-	-	0%
7.	Corporate positions									
7.1.	Corporate positions	20%	20%	50%	100%	100%	150%	150%	100%	-

ANNEX 4 (Art. 53(2))

Position categories according to SA-CH and SA-BIS without using external ratings and their risk weights

	Position categories (SA-CH & SA-BIS) without external ratings	Risk weightings	
		SA-CH	SA-BIS
1.	Individuals and small businesses (retail positions)		
1.1.	Retail positions where the total position value as per Art. 37 (1), excluding collateral in the form of charges on real estate, does not exceed 1.5 million Swiss francs or 1% of all retail positions per individual counterparty.	75%	
1.2.	Other retail positions	100%	
2.	Mortgage bonds		
2.1.	Swiss mortgage bonds	25%	20%
3.	Positions secured directly or indirectly by charges on real estate		
3.1.	Residential properties in Switzerland and abroad, up to two-thirds of the market value	35%	
3.2.	Residential properties in Switzerland and abroad, more than two-thirds of the market value	75%	50%
3.3.	Agricultural properties in Switzerland, up to two-thirds of the market value	50%	100%
3.4.	Agricultural properties in Switzerland, more than two-thirds of the market value	75%	100%
	Position categories (SA-CH & SA-BIS) without external ratings	Risk weightings	
		SA-CH	SA-BIS
3.5.	Offices, single-use and multi-use commercial properties, up to half the market value	75%	100%
3.6.	Large-scale commercial and industrial properties, up to one-third of the market value	75%	100%
3.7.	Other properties	100%	
4.	Subordinate positions		
4.1.	Subordinated positions to public-sector entities with a risk-weighting according to annex 2 (SA-CH) or annex 3 (SA-BIS) of no more than 50%	50%	weighted like non-subordinated positions
4.2.	Other subordinated positions	250%	

5.	Overdue debt claims		
5.1.	Positions under 3.1 adjusted by specific provisions, with positions secured against charges on real estate under 3.2 – 3.7 counting as non-collateralised	100%	
5.2.	The non-collateralised portions of positions adjusted by specific provisions, where the specific provisions represent at least 20% of the outstanding amount	100%	
5.3.	The non-collateralised portions of positions adjusted by specific provisions, where the specific provisions represent less than 20% of the outstanding amount	150%	
	Position categories (SA-CH & SA-BIS) without external ratings	Risk weightings	
		<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; text-align: center;">SA-CH</td> <td style="width: 50%; text-align: center;">SA-BIS</td> </tr> </table>	SA-CH
SA-CH	SA-BIS		
5.3.	The non-collateralised portions of positions adjusted by specific provisions, where the specific provisions represent less than 20% of the outstanding amount	150%	
6	Other positions		
6.1.	Liquid assets	0%	
6.2.	Credit equivalents from initial and variation margin calls	100%	
6.3.	Other positions (incl. accrued and deferred items)	100%	

ANNEX 5 (Art. 53(3))

Risk weights for equity securities and participations in collective investment vehicles according to SA-CH and SA-BIS

	Position category equity securities and participations in collective investment vehicles		Risk weightings				
			SA-CH	SA-BIS			
1.1.	Equity securities held as financial assets or in the trading book, provided the de minimis approach is used	Net position of equities held in the bank book and trading book (with allowance for any equities held indirectly via units in collective investment instruments) represents a qualifying equity interest within the meaning of Art. 3 (2)(c ^{bis}) of the Swiss Banking Act of 8 November 1934 ²³	They are traded on a regulated exchange.				
				Yes	Yes	500%	100% ²⁴
					No	500%	150% ²⁴
				No	Yes	125%	100%
No	250%	150%					
1.2.	Equity securities held in the trading book that constitute a qualifying equity interest within the meaning of Art.1 3 (2)(c ^{bis}) of the Swiss Banking Act of 8 November 1934 ²⁵	The equity interest is in a corporate in the financial sector					
				Yes	250%	26	
				No	250%	27	
1.3.	Units in collective investment instruments	Units in collective investment instruments authorised for distribution in Switzerland	Units in collective investment instruments with regulations requiring daily redemption of units				
				Yes	Yes	125%	100%
					No	250%	150%
				No	-	250%	150%
1.4.	Units in real estate funds	They are traded on a regulated exchange.					
			Yes	125%	100%		
			No	250%	150%		
1.5.	Equity interests outside the banking, financial and insurance sector	They are traded on a regulated exchange.					
				Yes	500%	100%	
				No	500%	150%	

²³ SR 952.0

With regard to qualification of the equity interest in accordance with Art. 3 (2)(c^{bis}) of the Swiss Banking Act of 8 November 1934, all equity securities held in the bank book and trading book shall be taken into account, as shall equity securities held indirectly in the form of portions of positions in collective investments where there are reasonable grounds for assuming that those investments are not diversified.

²⁴ The provisions on deductions from the adjusted Tier 1 capital and from the Tier 2 capital (Art. 31) shall be taken into account, provided the equity interests are held in companies active in the financial sector

²⁵ SR 952.0

²⁶ The market risk rules (Art. 68 et seq.) and the provisions on deductions from the adjusted Tier 1 capital and the Tier 2 capital (Art.31) shall be taken into account, i.e. capital adequacy for the portion below 10% shall be according to the market risk rules, while that for the portion above 10% shall be treated in accordance with Art. 31.

²⁷ The market risk rules (Art. 68 et seq.) shall be taken into account

	Position category equity securities and participations in collective investment vehicles	Risk weightings	
		SA-CH	SA-BIS
1.6.	Net long position in own equity securities or innovative capital instruments held either directly or indirectly by the bank in the trading book.	1250%	28

²⁸ The provisions governing deductions from the adjusted Tier 1 capital (Art. 23) shall be taken into account.

ANNEX 6 (Art. 72(1))

Factors for the calculation of capital adequacy requirements for the specific risk of interest rate instruments according to the standardised market risk approach.

Category	Rating category	Percentage
Central governments and central banks	1 or 2	0.00%
	3 or 4	0.25% (residual term to maturity \leq 6 months)
		1.00% (residual term to maturity $>$ 6 months and \leq 24 months)
		1.60% (residual term to maturity $>$ 24 months)
	5 or 6	8.00%
7	12.00%	
	Unrated	8.00%
Qualifying interest rate instruments (Art. 4 (e))		0.25% (residual term to maturity \leq 6 months)
		1.00% (residual term to maturity $>$ 6 months and \leq 24 months)
		1.60% (residual term to maturity $>$ 24 months)
Other	5	8.00%
	6 or 7	12.00%
	Unrated	8.00%

ANNEX 7 (Art. 126)

Amendments to existing law

The following ordinances have been amended as indicated below:

1. Swiss Banking Act Implementing Regulations of 17 May 1972²⁹
Art. 4 Para 2

² *If an existing corporate is...*³⁰

Section title preceding Art. 11

Part 4: Group and consolidated supervision

Art. 11 Financial sector

¹ *A company is deemed to be active in the financial sector if*

- a. it acts as a provider of or intermediary in financial services, in particular for itself or for third parties, and operates deposit or credit business, securities trading, investment or asset management; or*
- b. it acts as a holding company, i.e. holds qualifying equity interests primarily in companies active in the financial sector.*

² *Activity in the insurance industry is treated as equivalent to activity in the financial sector except where otherwise provided in these Implementing Regulations or in the Ordinance on Capital Adequacy and Risk Diversification for Banks and Securities Traders of [date]³¹.*

Art. 12 Economic entity and obligation to provide assistance

¹ *Companies constitute an economic entity if one directly or indirectly holds more than half of the votes or the capital in the other, or is in control of the other in some other way.*

² *An obligation to provide assistance within the meaning of Art. 3c (1)(c) of the Swiss Banking Act of 8 November 1934³² can arise as a result of other circumstances, in particular:*

- a. personal or financial connections;*
- b. use of a shared company name;*
- c. the same corporate identity; or*
- d. letters of comfort.*

²⁹ SR 952.02

³⁰ SR 952...

³¹ SR 952...

³² SR 952...

Art. 13 Group companies

Group companies are companies which are bound together in the same economic entity, or companies which have an obligation to provide assistance to each other.

Art. 14 Scope of consolidated supervision

¹ *Group supervision by the Federal Banking Commission shall include all group companies of a financial group that are active in the financial sector in accordance with Art. 11 (1). Conglomerate supervision also includes group companies as defined in Art. 11 (2).*

² *Where legitimate reasons exist, the Federal Banking Commission shall be entitled to exclude group companies active in the financial sector from consolidated supervision or to declare its rules as only partially applicable to it, most notably where such group companies are of little consequence for the purposes of consolidated supervision.*

³ *The Banking Commission may fully or partially subject any company active in the financial sector to consolidated supervision in accordance with paragraph 1 above, if it is jointly controlled by third parties and a financial group or financial conglomerate which is supervised by the Banking Commission.*

Art. 14a Content of consolidated supervision

¹ *The particular object of consolidated supervision is to ensure that the financial group*

- a. is appropriately organised;*
- b. has an appropriate internal control system;*
- c. records, mitigates and monitors the risks associated with its business activities appropriately;*
- d. is managed by persons who offer a guarantee of irreproachable conduct of business;*
- e. complies with the rules set out in Art. 8 on the separation in respect of personnel between the executive management and the governing body responsible for overall management, supervision and control;*
- f. complies with the capital adequacy and risk diversification rules;*
- g. has an appropriate level of liquidity;*
- h. applies the accounting regulations correctly; and*
- i. has engaged a recognised, independent and professionally competent company as its auditors.*

² *The Federal Banking Commission shall be entitled to deviate from the provisions set out in paragraph 1 above in respect of consolidated supervision of financial conglomerates.*

Art. 12 para 3

³ Banks must have appropriate liquid positions on the level of the financial group and the financial conglomerate according to Art.- 6-12 of the CAO³³.

Section title preceding Art. 21

Revoked

Art. 21-22

Revoked

2. Swiss Federal Stock Exchange Act Implementing Regulations of 2 December 1996³⁴

Art. 22 (6)

The provisions of the Capital Adequacy Ordinance of [date]³⁵ shall apply to banks.

Art. 29

¹ The provisions of the Capital Adequacy Ordinance of [date]³⁶ and the provisions concerning the annual financial statement (Art. 23 et seq.) set out in the Swiss Banking Act Implementing Regulations of 17 May 1972³⁷ shall also apply to securities traders.

² Where legitimate reasons exist, the Federal Banking Commission shall be entitled by way of exception

- a. to relax the requirements;
- b. to tighten the requirements with regard to capital adequacy and the risk diversification rules; in particular it shall be entitled to require a securities trader to produce statements of capital in accordance with Art. 13 of the Capital Adequacy Ordinance of [date] at briefer intervals.

³ In the case of securities traders not subject to the provisions of the Swiss Banking Act of 8 November 1934³⁸, the capital required shall amount to no less than one quarter of full annual costs, where:

³³ SR 952.xy

³⁴ SR 954.11

³⁵ SR 952.xy

³⁶ SR

³⁷ SR 952.02

³⁸ SR 952.0

- a. lower minimum thresholds are prescribed under Art. 33 of the Capital Adequacy Ordinance of [date]; and
- b. Tier 1 capital, as defined in Art. 18 of the Capital Adequacy Ordinance of [date] is less than CHF 10 million.

⁴ Full annual costs shall be deemed to be the expenditures stated in the income statement of the last annual accounts under headings 1.5.1 (Staff costs), 1.5.2 (General and administrative expenses), 2.2 (Depreciations on fixed assets) and 2.3 (Value adjustments, provisions and losses) in accordance with Art. 25a (1) of the Swiss Banking Act Implementing Regulations.

4. SFBC-Ordinance on Commissions from December 2, 1996³⁹

Art. 12 Para 1 letter i

¹ The SFBC claims commissions for its decrees in application of the Banking Law from November 8, 1934⁴⁰, the Stock Exchange Law from March 24 1995⁴¹, the Pfandbriefgesetz of June 25 1930⁴², the AFG⁴³ and the CAO⁴⁴ from...:

- i. for rating agencies
 - 1. up to 30000 CHF for the decision on recognition
 - 2. 2000-20000 CHF for recognition withdrawal

³⁹ SR 611.014
⁴⁰ SR 952.0
⁴¹ SR 952.0
⁴² SR 211.423.4
⁴³ SR 951.31
⁴⁴ SR 952..