

CONSTITUENTS OF ORIGINAL OWN FUNDS (Tier 1) IN MEMBER STATES

(i) Please list the eligible original own funds (Tier 1)

(ii) Please indicate the definition, main features of these instruments, the conditions, if applicable, imposed for their eligibility, and where relevant, whether there are treated differently for solo and consolidated purposes.

Article 57 of the CRD (2000/12)		Country (This is an example)
	Subject to the limits imposed in Art 66, the unconsolidated own funds of institutions shall consist of the following items (according to the breakdown of items in the CRD):	
Item (a)	Capital within the meaning of Article 22 of Directive 86/635/EEC, in so far as it has been paid up, plus share premium accounts but excluding cumulative preferential shares;	Capital: Equity capital for institutions registered as "XX" + Any other amount which takes the place of capital, according to the statute of the institution (such as etc....)
Item (b)	Reserves within the meaning of Article 23 of Directive 86/635/EEC and profits and losses brought forward as a result of the application of the final profit or loss	Reserves in the meaning of art XX of regulation YY : reserves, share premiums, retained earning etc
[para put moved to the end of Art 57 but put upfront here for easy readiness]	For the purposes of point (b), the Member States may permit inclusion of interim profits before a formal decision has been taken only if these profits have been verified by persons responsible for the auditing of the accounts and if it is proved to the satisfaction of the competent authorities that the amount thereof has been evaluated in accordance with the principles set out in Directive 86/635/EEC and is net of any foreseeable charge or dividend	we do use this clause for inclusion of (full or half for instance) the interim profits (i.e. the profits recorded on dates other than as of annual accounting year end) provided that etc....
[para put moved to the end of Art 57 but put upfront here for easy readiness] New rule	In the case of a credit institution which is the originator of a securitisation, net gains arising from the capitalisation of future income from the securitised assets and providing credit enhancement to positions in the securitisation shall be excluded from the item specified in point (b).	We intend to transpose this clause bearing in mind that the net gains will be evaluated in such and such ways...
Item (c)	funds for general banking risks within the meaning of Article 38 of Directive 86/635/EEC;	Funds for general banking risks as defined by Reg YY which are defined as

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(iii) When applying the various limits as set out in Art 66, the Original own funds (Tier 1) are calculated by the sums of item (a) to c) listed above minus the following items i) to k). Please indicate which items and how these items are deducted?

The following items shall be deducted in accordance with Article 66

		Country
Item (i)	own shares at book value held by a credit institution;	own shares at book value held by a credit institution;
Item (j)	intangible assets within the meaning of Article 4(9) («Assets») of Directive 86/635/EEC;	License, formation expenses etc...
Item (k)	material losses of the current financial year;	Any losses including interim losses

(iv) Do you deduct any items that are not listed above? If so, what are they?

Country
X% of Instrument Y is deductible because ...
Y% of Instrument Z is deductible because ...

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(v) Art 65 allows to incorporate 'negative items' when calculating the consolidated reserves in certain ways. Do members make use of this clause and if so, what do they deduct and do they impose any conditions for their deduction?

Article 65 of the CRD (2000/12)		Country (this is an example)
1	Where the calculation is to be made on a consolidated basis, the consolidated amounts relating to the items listed under Article 57 shall be used in accordance with the rules laid down in Chapter 4, Section 1. Moreover, the following may , when they are credit («negative») items, be regarded as consolidated reserves for the calculation of own funds:	Yes, we make use of this clause. The consolidation differences taken into account are: first consolidation differences, differences arising from the consolidation by the equity method, translation difference, minority interests.
<u>(a)</u>	any minority interests within the meaning of Article 21 of Directive 83/349/EEC, where the global integration method is used;	
<u>(b)</u>	the first consolidation difference within the meaning of Articles 19, 30 and 31 of Directive 83/349/EEC;	
<u>(c)</u>	the translation differences included in consolidated reserves in accordance with Article 39(6) of Directive 86/635/EEC;	
<u>(d)</u>	any difference resulting from the inclusion of certain participating interests in accordance with the method prescribed in Article 33 of Directive 83/349/EEC.	
2	Where the items referred to in points (a) to (d) of paragraph 1 are debit («positive») items, they shall be deducted in the calculation of consolidated own funds.	yes they are fully deducted

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(vi) Please give details of any other type of instrument which, although having the same economic characteristics as eligible Tier 1 own funds, do not belong to that category (not even as 'innovative T1 instruments') and explain why they have not been considered eligible. Please specify whether they have been included into another category, and if so, which one and with which limit?

Main characteristics		Country
Type 1		
Type of instruments:		
Characteristics of the issuer:		
Main characteristics that would have made them Tier 1 Capital		
Main characteristics that do not make them Tier 1 Capital		
any other remarks		
Type 2		
Type of instruments:		
Characteristics of the issuer:		
Main characteristics that would have made them Tier 1 Capital		
Main characteristics that do not make them Tier 1 Capital		
any other remarks		
Type 3 etc		

CONSTITUENTS OF ADDITIONAL OWN FUNDS (Tier 2) IN MEMBER STATES

(i) Please list the eligible additional own funds

(ii) Please indicate the definition, main features of these instruments, the conditions, if applicable, imposed for their eligibility, and where relevant, whether there are treated differently for solo and consolidated purposes.

Article 57 of the CRD (2000/12) (the whole Tier 2)		Country
Item (d)	revaluation reserves within the meaning of Article 33 of Directive 78/660/EEC;	
item (e)	value adjustments within the meaning of Article 37(2) of Directive 86/635/EEC;	
Item (f)	other items within the meaning of Article 63 ;	see below
Item (g)	the commitments of the members of credit institutions set up as cooperative societies and the joint and several commitments of the borrowers of certain institutions organised as funds, as referred to in Article 64 (1); Article 64 (1) reads The commitments of the members of credit institutions set up as cooperative societies referred to in point (g) of Article 57, shall comprise those societies' uncalled capital; together with the legal commitments of the members of those cooperative societies to make additional non-refundable payments should the credit institution incur a loss, in which case it must be possible to demand those payments without delay. The joint and several commitments of borrowers in the case of credit institutions organised as funds shall be treated in the same way as the preceding items. All such items may be included in own funds in so far as they are counted as the own funds of institutions of this category under national law. Article 64 (2) states that Member States shall not include in the own funds of public credit institutions guarantees which they or their local authorities extend to such entities.	
Item (h)	fixed-term cumulative preferential shares and subordinated loan capital as referred to in Article 64 (3).	see below

CONSTITUENTS OF ADDITIONAL OWN FUNDS (Tier 2) IN MEMBER STATES

(iii) Please indicate which instruments are qualified as 'other items' (or upper Tier 2) -Art 57(f) above- . Please indicate their definition, main features, the conditions, if applicable, imposed for their eligibility, and where relevant, whether there are treated differently for solo and consolidated purposes and indicate their main features.

Article 63 of the CRD (upper Tier 2)		Country
<u>1</u>	The concept of own funds used by a Member State may include other items provided that, whatever their legal or accounting designations might be, they have the following characteristics:	
(a)	they are freely available to the credit institution to cover normal banking risks where revenue or capital losses have not yet been identified;	
(b)	their existence is disclosed in internal accounting records;	
(c)	their amount is determined by the management of the credit institution, verified by independent auditors, made known to the competent authorities and placed under the supervision of the latter.	
2	Securities of indeterminate duration and other instruments that fulfil the following conditions may also be accepted as other items:	
(a)	they may not be reimbursed on the bearer's initiative or without the prior agreement of the competent authority;	
(b)	the debt agreement must provide for the credit institution to have the option of deferring the payment of interest on the debt;	
(c)	the lender's claims on the credit institution must be wholly subordinated to those of all non-subordinated creditors;	
(d)	the documents governing the issue of the securities must provide for debt and unpaid interest to be such as to absorb losses, whilst leaving the credit institution in a position to continue trading;	
(e)	only fully paid-up amounts shall be taken into account.	
New provision of the CRD	To these may be added cumulative preferential shares other than those referred to in point (h) of Article 57 (2).	

Main features to specify when filling in the boxes : Type of instruments: cumulative preferential shares, other instruments, Characteristics of the issuer: direct or SPV?, Prior supervisory authorisation required, Fully paid up, Undated/ Maturity, Loss absorption clause: able to absorb losses on a on-going basis?, Subordination clause, Main features to ensure permanency: call option, early redemption clause, any step-up?, Prior supervisory authorisation required, Existence of guarantees, Interest deferrals, any other features. *If necessary, members can use additional lines for different types of instruments (type 1, type 2...)*

CONSTITUENTS OF ADDITIONAL OWN FUNDS (Tier 2) IN MEMBER STATES

(iv) Please give details of any other type of instrument which, although having the same economic characteristics as eligible Upper Tier 2 own funds do not belong to that category (not even as 'innovative Upper T2 instruments') and explain why they have not been considered eligible. Please specify whether they have been included into another category, and if so, which one and with which limit?

Main characteristics	Country
Type 1	
Type of instruments:	
Characteristics of the issuer:	
Main characteristics that would make them Upper Tier 2 Capital	
Main characteristics that do not make them Upper Tier 2 Capital	
any other remarks	
Type 2	
Type of instruments:	
Characteristics of the issuer:	
Main characteristics that would make them Upper Tier 2 Capital	
Main characteristics that do not make them Upper Tier 2 Capital	
any other remarks	
Type 3 etc	

(iv) Please indicate whether you intend to apply that provision and if so, how? (criteria, case-by-case analysis etc...)

	Country
3/ New provision of the CRD	For credit institutions calculating risk-weighted exposure amounts under Section 3, Subsection 2, positive amounts resulting from the calculation in Annex VII, Part 1, paragraph 34, may, up to 0.6% of risk weighted exposure amounts calculated under Subsection 2, be accepted as other items . For these credit institutions value adjustments and provisions included in the calculation referred to in Annex VII, Part 1, paragraph 34 and value adjustments and provisions for exposures referred to in point (e) of Article 57 shall not be included in own funds other than in accordance with this provision. For these purposes, risk-weighted exposure amounts shall not include those calculated in respect of securitisation positions which have a risk weight of 1250%.

CONSTITUENTS OF ADDITIONAL OWN FUNDS (Tier 2) IN MEMBER STATES

(v) Please indicate which items referred to in Art 57(h) above and Article 64 (3) are eligible in your jurisdiction (Lower Tier 2)

(vi) Please indicate the definition, main features of the eligible instruments, the conditions, if applicable, imposed for their eligibility, and where relevant, whether there are treated differently for solo and consolidated purposes.

(vii) For the purpose of Art 64(3)c) below, please indicate how (according to what 'amortising plan') the own funds are gradually reduced

Article 64(3) of the CRD (2000/12) in relation to Article 57(h)		Country
	Member States or the competent authorities may include fixed-term cumulative preferential shares referred to in point (h) of Article 57 and subordinated loan capital referred to in that provision in own funds, if binding agreements exist under which, in the event of the bankruptcy or liquidation of the credit institution, they rank after the claims of all other creditors and are not to be repaid until all other debts outstanding at the time have been settled.	
	Subordinated loan capital must also fulfil the following additional criteria:	
(a)	only fully paid-up funds may be taken into account;	
(b)	the loans involved must have an original maturity of at least five years, after which they may be repaid,	
(c)	the extent to which they may rank as own funds must be gradually reduced during at least the last five years before the repayment date;	
(d)	the loan agreement must not include any clause providing that in specified circumstances, other than the winding-up of the credit institution, the debt will become repayable before the agreed repayment date.	
	ð For the purposes of point (b) of the second subparagraph, if the maturity of the debt is not fixed, they shall be repayable only subject to five years' notice unless the loans are no longer considered as own funds or unless the prior consent of the competent authorities is specifically required for early repayment. The competent authorities may grant permission for the early repayment of such loans provided the request is made at the initiative of the issuer and the solvency of the credit institution in question is not affected;	

Main features to specify when filling in the boxes :Type of instruments: cumulative preferential shares, other instruments, Characteristics of the issuer: direct or SPV?, Prior supervisory authorisation required, Fully paid up, Undated/ Maturity, Loss absorption clause: able to absorb losses on a on-going basis?, Subordination clause, Main features to ensure permanency: call option, early redemption clause, any step-up?, Prior supervisory authorisation required, Existence of guarantees, Interest deferrals, any other features. *If necessary, members can use additional lines for different types of instruments (type 1, type 2...)*

CONSTITUENTS OF ADDITIONAL OWN FUNDS (Tier 2) IN MEMBER STATES

(viii) Please give details of any other type of instrument which, although having the same economic characteristics as eligible Lower Tier 2 own funds, do not belong to that category (not even as 'innovative Lower T2 instruments') and explain why they have not been considered eligible. Please specify whether they have been included into another category, and if so, which one and with which limit?

Main characteristics		Country
Type 1		
<i>Type of instruments:</i>		
<i>Characteristics of the issuer:</i>		
<i>Main characteristics that would have made them Tier 1 Capital</i>		
<i>Main characteristics that do not make them Tier 1 Capital</i>		
any other remarks		
Type 2		
<i>Type of instruments:</i>		
<i>Characteristics of the issuer:</i>		
<i>Main characteristics that would have made them Tier 1 Capital</i>		
<i>Main characteristics that do not make them Tier 1 Capital</i>		
any other remarks		
Type 3 etc		

INSTRUMENTS DEDUCTIBLE FROM OWN FUNDS

(i) Please indicate which items is deducted from the own funds in your jurisdiction. Please specify the definition, main features, and the conditions, if applicable, imposed for their deduction, and where relevant, whether there are treated differently for solo and consolidated purposes.

Article 57 of the CRD		Country
	The following items shall be deducted in accordance with Article 66:	
item (l)	holdings in other credit and financial institutions amounting to more than 10 % of their capital;	
Item (m)	subordinated claims and instruments referred to in Article 63 and Article 64 (3) which a credit institution holds in respect of credit and financial institutions in which it has holdings exceeding 10 % of the capital in each case;	
Item (n)	holdings in other credit and financial institutions of up to 10 % of their capital, the subordinated claims and the instruments referred to in Article 63 and Article 64 (3) which a credit institution holds in respect of credit and financial institutions other than those referred to in points 12 and 13 of this subparagraph in respect of the amount of the total of such holdings, subordinated claims and instruments which exceed 10 % of that credit institution's own funds calculated before the deduction of items in points (l) to (p) of this subparagraph;	
Item (o)	participations within the meaning of Article 4(10) which a credit institution holds in:	
New clause of the CRD	(i) insurance undertakings within the meaning of Article 6 of First Council Directive 73/239/EEC, Article 4 of Directive 2002/83/EC or Article 1(b) of Directive 98/78/EC of the European Parliament and of the Council[3];	
	(ii) reinsurance undertakings within the meaning of Article 1(c) of Directive 98/78/EC;	
	(iii) insurance holding companies within the meaning of Article 1(i) of Directive 98/78/EC;	
Item (p)	each of the following items which the credit institution holds in respect of the entities defined in point (15o) in which it holds a participation:	
	(i) instruments referred to in Article 16(3) of Directive 73/239/EEC.	
New clause of the CRD	(ii) instruments referred to in Article 27(3) of Directive 2002/83/EC.	
Item (q) - New clause of the CRD	For credit institutions calculating risk-weighted exposure amounts under Section 3, Subsection 2, negative amounts resulting from the calculation in Annex VII, Part 1, paragraph 34 and expected loss amounts calculated in accordance with Annex VII, Part 1 paragraphs 30 and 31;	
Item (r) - New clause of the CRD	The exposure amount of securitisation positions which receive a risk weight of 1250% under Annex IX, Part 4, calculated in the manner there specified.	

INSTRUMENTS DEDUCTIBLE FROM OWN FUNDS

(ii) Please indicate whether Article 58 is used in your jurisdiction and how.

	Article 58 of the CRD	Instruments by Country
New clause of the CRD	Where shares in another credit institution, financial institution, insurance or reinsurance undertaking or insurance holding company are held temporarily for the purposes of a financial assistance operation designed to reorganise and save that entity, the competent authority may waive the provisions on deduction referred to in points (l) to (p) of Article 57	

(iii) Please indicate whether Article 59 is used in your jurisdiction and how.

	Article 59 of the CRD	Country
New clause of the CRD	As an alternative to the deduction of the items referred to in points (o) to (p) of Article 57, Member States may allow their credit institutions to apply <i>mutatis mutandis</i> methods 1, 2, or 3 of Annex I to Directive 2002/87/EC. Method 1 (Accounting consolidation) may be applied only if the competent authority is confident about the level of integrated management and internal control regarding the entities which would be included in the scope of consolidation. The method chosen shall be applied in a consistent manner over time.	

(iv) Please indicate whether Article 60 is used in your jurisdiction and how.

	Article 60 of the CRD	Country
New clause of the CRD	"Member States may provide that for the calculation of own funds on a stand-alone basis, credit institutions subject to supervision on a consolidated basis in accordance with Chapter 4, Section 1 or to supplementary supervision in accordance with Directive 2002/87/EC, need not deduct the items referred to in points (l) to (p) of Article 57 which are held in credit institutions, financial institutions, insurance or reinsurance undertakings or insurance holding companies, which are included in the scope of consolidated or supplementary supervision." This provision shall apply to all the prudential rules harmonised by Community Acts.	

CONSTITUENTS OF OWN FUNDS IN THE RECAST DIRECTIVE 93/6

(i) Please indicate whether the determination of own funds referred to in Article 13 (2) is used and if so, in what circumstances. Please specify, where relevant, the differences between solo and consolidated basis.

(ii) Please indicate how the item (b) of Article 13 (2) is taken into account.

(iii) Please indicate whether the illiquid assets referred to in item (d) are deducted

Art 12 *Original own funds* means the sum of - points (a) to (c) , less the sum of points (i) to (k) of Article 57 of Directive [2000/12/EC].

Article 13 of the Directive 93/6		Country
1	Subject to paragraphs 2 to 5 of this Article, and Articles 14 to 17, the own funds of investment firms and credit institutions shall be determined in accordance with Directive 2000/12/EC	
2	By derogation to paragraph 1, the competent authorities may permit those institutions which are obliged to meet the capital own funds requirements calculated in accordance with Articles 21 and 28 to 32 and Annexes I, III to VI to use, for that purpose only, an alternative determination of own funds. No part of the own funds used for that purpose may be used simultaneously to meet other capital requirements. This alternative determination shall be the sum of the items set out in points (a) to (c) below, minus the item set out in point (d) below, with the deduction of that last item being left to the discretion of the competent authorities:	
(a)	own funds as defined in Directive 2000/12/EC excluding only points (l) to (p) of Article 57 of that Directive for those investment firms which are required to deduct item (d) of this paragraph from the total of items (a), (b) and (c) of this paragraph;	
(b)	an institution's net trading-book profits net of any foreseeable charges or dividends, less net losses on its other business provided that none of those amounts has already been included in item (a) of this paragraph under the items set out in points (b) or (k) of Article 57 of Directive [2000/12/EC] ;	
(c)	subordinated loan capital and/or the items referred to in paragraph 5, subject to the conditions set out in paragraphs 3 and 4 and Article 14	see below
(d)	illiquid assets as specified in Article 15 .	see below

CONSTITUENTS OF OWN FUNDS IN THE RECAST DIRECTIVE 93/6

(iv) Please indicate the definition, main features of the instruments referred to in Article 13(3), the conditions, if applicable, imposed for their eligibility, and where relevant, whether there are treated differently for solo and consolidated purposes.

(v) Please indicate whether Art 13(4) is applied in your jurisdiction and if so under what circumstances

(vi) Please indicate whether Article 13(5) is applied in your jurisdiction and if so under what circumstances

(vii) Please indicate whether Article 14 is applied in your jurisdiction and if so under what circumstances

Article 13(3) to (5), Article 14 of Directive 93/6		Country
Art 13		
3	The subordinated loan capital referred to in point (c) of paragraph 2 shall have an initial maturity of at least two years. It shall be fully paid up and the loan agreement shall not include any clause providing that in specified circumstances other than the winding up of the institution the debt will become repayable before the agreed repayment date, unless the competent authorities approve the repayment. Neither the principal nor the interest on such subordinated loan capital may be repaid if such repayment would mean that the own funds of the institution in question would then amount to less than 100 % of that institution's overall requirements.	
	Main features to specify when filling in the boxes : Type of instruments: cumulative preferential shares, other instruments, Characteristics of the issuer: direct or SPV?, Prior supervisory authorisation required, Fully paid up, Undated/ Maturity, Loss absorption clause: able to absorb losses on a on-going basis?, Subordination clause, Main features to ensure permanency: call option, early redemption clause, any step-up?, Prior supervisory authorisation required, Existence of guarantees, Interest deferrals, any other features. <i>If necessary, members can use additional lines for different types of instruments (type 1, type 2...)</i>	
	In addition, an institution shall notify the competent authorities of all repayments on such subordinated loan capital as soon as its own funds fall below 120 % of its overall capital requirements.	
4	The subordinated loan capital referred to in point (c) of paragraph 2 may not exceed a maximum of 150 % of the original own funds left to meet the requirements calculated in accordance with Articles 21 and 28 to 32 and Annexes I to VI and may approach that maximum only in particular circumstances acceptable to the relevant authorities.	
5	The competent authorities may permit institutions to replace the subordinated loan capital referred to in point (c) of paragraph 2 with points (d) to (h) of Article 57 of Directive [2000/12/EC] Ö.	
Art 14		
1	The competent authorities may permit investment firms to exceed the ceiling for subordinated loan capital set out in Article 13(4) if they judge it prudentially adequate and provided that the total of such subordinated loan capital and the items referred to in Article 13(5) does not exceed 200 % of the original own funds left to meet the requirements calculated in accordance with Articles 21, 28 to 32 and Annexes I, and III to VI or 250 % of the same amount where investment firms deduct the item set out in point (d) of Article 13(2) when calculating own funds.	
2	The competent authorities may permit the ceiling for subordinated loan capital set out in Article 13(4) to be exceeded by a credit institution if they judge it prudentially adequate and provided that the total of such subordinated loan capital and points (d) to (h) of Article 57 of Directive [2000/12/EC] does not exceed 250 % of the original own funds left to meet the requirements calculated in accordance with Articles 28 to 32 and Annexes I, and III to VI .	

CONSTITUENTS OF OWN FUNDS IN THE RECAST DIRECTIVE 93/6

(viii) Please list the instruments qualified as illiquid assets according to the break down of Article 15 and indicate their main features

Article 15 of the Directive 93/6		Country
	Illiquid assets O as referred to in point (d) of Article 13(2) shall include the following:	
(a)	tangible fixed assets, except to the extent that land and buildings may be allowed to count against the loans which they are securing ;	
(b)	holdings in, including subordinated claims on, credit or financial institutions which may be included in the own funds of those institutions, unless they have been deducted under points (l) to (p) of Article 57 of Directive [2000/12/EC] or under Article 16(d) of this Directive ;	
(c)	holdings and other investments, in undertakings other than credit institutions and other financial institutions, which are not readily marketable;	
(d)	deficiencies in subsidiaries;	
(e)	deposits made, other than those which are available for repayment within 90 days, and also excluding payments in connection with margined futures or options contracts;	
(f)	loans and other amounts due, other than those due to be repaid within 90 days;	
(g)	physical stocks, unless they are already subject to capital requirements- at least as stringent as those set out in Articles 18 and 20 .	
	O For the purposes of point (b), w O Where shares in a credit or financial institution are held temporarily for the purpose of a financial assistance operation designed to reorganise and save that institution, the competent authorities may waive this provision. They may also waive it in respect of those shares which are included in the investment firm's trading book.	

CONSTITUENTS OF OWN FUNDS IN THE RECAST DIRECTIVE 93/6

(ix) Please indicate how Art 16 below is implemented in your jurisdiction

Article 16 of the Directive 93/6		Country
	9. Investment firms included in a group which has been granted the waiver provided for in Article 22 shall calculate their own funds in accordance with Articles 13 to 15 subject to the following :	
(a)	the illiquid assets referred to in point (d) of Article 13(2) shall be deducted;	
(b)	the exclusion referred to in point (a) of Article 13(2) shall not cover those components of points (l) to (p) of Article 57 of Directive [2000/12/EC] which an investment firm holds in respect of undertakings included in the scope of consolidation as defined in Article 2 (1) of this Directive;	
(c)	the limits referred to in points (a) and (b) of Article 66 (1) of Directive 2000/12/EC shall be calculated with reference to the original own funds less the components of points (l) to (p) of Article 57 of Directive 2000/12/EC referred to in point (b) which are elements of the original own funds of the undertakings in question;	
(d)	the components of points (l) to (p) of Article 57 of Directive 2000/12/EC referred to in point (c) shall be deducted from the original own funds rather than from the total of all items as laid down in point (c) of Article 66 (1) of that Directive for the purposes, in particular, of Articles 13(4), 13(5) and 14 of this Directive .	

CONSTITUENTS OF OWN FUNDS IN THE RECAST DIRECTIVE 93/6

(x) Please indicate how Art 17 below is implemented in your jurisdiction

Article 17 of the Directive 93/6		Country
1	Where an institution calculates risk-weighted exposure amounts for the purposes of Annex II in accordance with the provisions of Articles 84 to 89 of Directive [2000/12/EC], then for the purposes of the calculation provided for in Directive [2000/12/EC] Annex VII, Part 1, Sub-part 4, the following shall apply:	
(a)	value adjustments made to take account of the credit quality of the counterparty may be included in the sum of value adjustments and provisions made for the exposures indicated in Annex II;	
(b)	subject to the approval of the competent authorities, if the credit risk of the counterparty is adequately taken into account in the valuation of a position included in the trading book the expected loss amount for the counterparty risk exposure shall be zero.	
	For the purposes of point (a), for such institutions, such value adjustments shall not be included in own funds other than in accordance with this subparagraph.	
2	For the purposes of this Article, Article 153 and 154 of Directive [2000/12/EC] shall apply.	

CONSTITUENTS OF OWN FUNDS IN THE RECAST DIRECTIVE 93/6

(xi) Please give details of any other type of instrument which, although having the same economic characteristics as eligible Tier 3 own funds in accordance with the Directive 93/6, do not belong to that category (not even as 'innovative T3 instruments') and explain why they have not been considered eligible. Please specify whether they have been included into another category, and if so, which one and with which limit?

Main characteristics	Country
Type 1	
Type of instruments:	
Characteristics of the issuer:	
Main characteristics that would have made them Tier 3 Capital	
Main characteristics that do not make them Tier 3 Capital	
any other remarks	
Type 2	
Type of instruments:	
Characteristics of the issuer:	
Main characteristics that would have made them Tier 3 Capital	
Main characteristics that do not make them Tier 3 Capital	
any other remarks	
Type 3 etc	

INNOVATIVE INSTRUMENTS

(i) Please indicate the definition, main features of the types of innovative instruments which are eligible in your jurisdiction and the various treatments applicable to eligible innovative instruments and the impact of the quality of the regulatory capital. Please specify, where relevant, whether and to what extent the assessment differs from the one recommended by Basel.

Country	Characteristics by type of instruments	
General	Type 1	Type 2
Type of instrument		
Issued and fully paid		
Characteristics of the Issuer: direct or through SPV?		
Prior supervisory authorisation required		
Accounting treatment e.g. liability/equity		
Please indicate the reasons why they have been deemed eligible?		
Tax treatment e.g. are coupons/dividends tax deductible?		
Provisions that ensure that the main features are easily understood and publicly disclosed		
Others		
Limit of eligibility as own funds		
Part of Own funds (original-Tier 1/ additional-Tier 2)		
Part of the instruments included (e.g. ull? 50%? Without the coupons?)		
Ceilings (e.g. instruments included up to x% of Tier 1 or 2 or 3?)		
Characteristics of Permanence:		
Undated		
Maturity		
Requirement for the extent to which the capital may be eligible to gradually reduce before repayment		
Early redemption		
Call option e.g. the earliest date the first call can occur, any supervisory authorisation required		
Step-ups allowed		
Any other permitted features which may create incentives to early calls		
Mechanisms that ensure that the instrument is Callable at the initiative of the issuer only after a minimum of 5 years with supervisory approval and under the condition that it will be replaced with capital of same or better quality unless the supervisor determines that the bank has capital that is more than adequate to its risks		
Interest deferrals		
Non-cumulative i.e. discretion to waive coupons at all times		
Cumulative in cash/ in another instrument?		
Loss absorbency		
Subordination clause: Junior to depositors, general creditors, and subordinated debt of the bank?		
Existence of guarantees: neither be secured nor covered by a guarantee of the issuer or related entity or other arrangement that legally or economically enhances the seniority of the claim vis-à-vis bank creditors?		
Mechanisms of conversion into a higher form of own funds		
Loss absorption clause: able to absorb losses on a on-going basis?		
Any legal opinion confirming loss absorbency required?		
Mechanisms that ensure that proceeds are immediately available without limitation to the issuing bank or if proceeds are immediately and fully available only to the issuing SPV, they are available only to the bank (e.g through conversion into a direct issuance of the bank that is of higher quality or of the same quality at the same terms) at a predetermined trigger point, well before serious deterioration in the bank's financial position		
Mechanisms that allow the bank to have discretion over the amount and timing of distributions, subject only to prior waiver of distributions on the bank's common stock and to have full access to waived payments		
Mechanisms that ensure that distributions can only be paid out of distributable items; where distributions are pre-set they may not be reset based on the credit standing of the issuer		
Mechanisms to conserve resources in period of stress		
Mechanisms in the context of a winding up scenario		
Others		

INNOVATIVE INSTRUMENTS

(ii) Please indicate which main innovative instruments have not been deemed eligible and explain the rationale behind your assessment

Main characteristics	Country
Type 1	
Type of instruments:	
Characteristics of the issuer:	
Main characteristics that would have made them Innovative Tier 1 Capital	
Main characteristics that do not make them Innovative Tier 1 Capital	
any other remarks	
Type 2	
Type of instruments:	
Characteristics of the issuer:	
Main characteristics that would have made them Innovative Tier 1 Capital	
Main characteristics that do not make them Innovative Tier 1 Capital	
any other remarks	
Type 3 etc	

ADDITIONAL INFORMATION

Limits applicable to Own funds calculation

- (i) Please indicate how you apply the limits referred to in Article 66 and whether and under which circumstances institutions have been authorised to exceed the limit in accordance with Article 66(3)
- (ii) Do you apply different limits? If so, which ones ? (e.g. the Basel 50% minimum requirement on core tier 1 capital or gearing ratios for tiers 2 & 3.)

Article 66 of the CRD	Country
	Austria
1. The items referred to in points (d) to (h) of Article 57, shall be subject to the following limits:	
(a) the total of the items in points (d) to (h) may not exceed a maximum of 100% of the items in points (a) plus (b) and (c) minus (i) to (k) ;	
(b) the total of the items in points (g) to (h) may not exceed a maximum of 50% of the items in points (a) plus (b) and (c) minus (i) to (k) ;	
2. The total of the items in point (1) to (r) of Article 57 shall be deducted half from the total of the items in points (a) to (c) minus (i) to (k), and half from the total of the items (d) to (h) of Article 57, after application of the limits laid down in paragraph 1. To the extent that half of the total of the items (1) to (r) exceeds the total of the items (d) to (h), the excess shall be deducted from the total of the items (a) to (c) minus (i) to (k). Items in point (r) shall not be deducted if they have been included in the calculation of risk-weighted exposure amounts for the purposes of Article 75 as specified in Annex IX, Part 4. Items in point (r) shall not be deducted if they have been included in the calculation of risk-weighted exposure amounts for the purposes of Article 75 as specified in Annex IX, Part 4.	
2A For the purposes of Sections 5 and 6, the provisions laid down in this section shall be read without taking into account the items referred to in points (q) and (r) of Article 57 and Article 63(3).	
3. The competent authorities may authorise credit institutions to exceed the limit laid down in paragraph 1 in temporary and exceptional circumstances.	