Overview of hybrids Instruments eligible as original own funds-Main characteristics

Country	Type of instrument	Issued and fully paid	Characteristics of the Issuer: direct or through SPV?	Prior supervisory authorisation required
Austria	Any type as long as it meets the requirements of § 24 (2) 5 and 6	Yes, pursuant to § 24 (2) 5 a	According to § 24 (2) 6 b: if the proceeds from the issue of the hybrid capital are available to the superordinated credit institution only through a company of the group of credit institutions, they must be made available to the former either immediately as core capital or as capital pursuant to § 23 (1) 5 [supplementary capital, participation capital] or when a predetermined event occurs; such an event is for instance the falling beneath a certain own funds ratio or below an amount of own funds taken into account.	No
Belgium	mandatory convertible bonds, profit sharing certificates, preferred shares (issued by spv)	yes	direct and indirect	yes
Cyprus	Debt Instrument	Yes	Direct	Yes
Czech Republic	innovative instruments (including preference shares) are not acceptable as eligible own funds			
Denmark	Hybrid Core Capital	Yes.	Direct	No.
Estonia	These clauses are not used.	na	na	
Finland	Capital loans (subordinated)	yes	direct	yes
France	Deeply subordinated notes (*titres super-subordonnés -TSS*) issued pursuant to the provisions of Article L228-97 of the French Code de Commerce. TSS with any step up features are included in innovative hybrid Tier 1 instruments. TSS without any step up features are included in non-innovative hybrid Tier 1 instruments.	Yes	Direct	Yes
	Indirect preferred shares with any step up features are included in innovative hybrid Tier 1 instruments. Indirect preferred shares without any step up features are included in non-innovative hybrid Tier 1 instruments.	Yes	Indirect through SPV	Yes
Germany	silent partnership	yes	both is possible	no
	trust preffered shares/trust preffered securities	yes	via SPV' s	no
Greece	preferred securities and similar instruments of indeterminate duration callable after 10 years with a moderate step up clause	Yes	Through SPV	Yes
	preferred securities and similar instruments of indeterminate duration callable after 5 years with no step up clause	Yes	Through SPV	Yes
Hungary	Core loan capital	Yes	Direct	License in not necessary before issuance, but cancellation of the agreeement or early capital repayment is possible only on prior approval of the Supervisory Authority
	Additional loan capital	Yes	Direct	License in not necessary before issuance, but cancellation of the agreeement or early capital repayment is possible only on prior approval of the Supervisory Authority

Overview of hybrids Instruments eligible as original own funds-Main characteristics

Country	Type of instrument	Issued and fully paid	Characteristics of the Issuer: direct or through SPV?	Prior supervisory authorisation required
Ireland	Provisions for treatment of innovative instruments do not specifically differentiate between different types of instrument - however, instruments with step-ups and redemption provisions linked to tax events are innovative at best and limited accordingly.	Yes	Both : requirement that indirect Alternative Capital Instruments -ACI- issues should utilise a subsidiary of the credit institution or an SPV. This entity must be located within the European Union. The legal structure underlying the relationships between the subsidiary or SPV and the credit institution must be subject to the law of an EU Member State	Yes
Italy	Preferred securities	Yes	A Trust issues preferred securities to place in the market and purchases similar instruments issued by an SPV; by the proceeds, the SPV underwrites a Subordinated Deposit with the bank.	Yes
	Convertible Preferred Securities	Yes	A Trust issues prefered securities to place in the market and purchases similar instruments issued ba an SPV; by the proceeds, the SPV underwrites a Subordinated Deposit with the bank.	Yes
Latvia	cumulative preference shares of unlimited duration	Yes	directly issued	na
Lithuania	the provisions of directive 2000/12 related to preference share are implemented in our legislation (no issuance by credit institution so far)	na		na
Luxembourg	Silent partnerships submitted to German law have been accepted following the recommendations of the Basel Committee's press release of October 1998.	yes	direct	yes
	Capital contributions by "associés en participation": an "association en participation" arises from contract under Article 139 of the Law of 10 August 1915 on commercial companies, as amended, between an investor and a bank, where the latter manages the business of the "association en participation" in its own name as manager of the association.			
Malta	preference shares	yes	directly issued	na
	innovative instruments	yes	na	for instruments with step-up
Netherlands	trust preferred securities	yes	spv/direct	yes
	perpetual debt securities	yes	through holding company	yes
	member (share) certificate	Yes	issued directly	yes
Norway	Hybrid capital eligible as tier 1 capital.	Yes	Direct	Yes
Poland	innovative instruments (including preference shares) are not acceptable as eligible own funds			

Overview of hybrids Instruments eligible as original own funds-Main characteristics

Country	Type of instrument	Issued and fully paid	Characteristics of the Issuer: direct or through SPV?	Prior supervisory authorisation required
Portugal	Preferential shares	Yes	Through SPVs	Yes. Analysis of the terms on a case-by-case basis
	Mandatory Convertible Securities (3-year maturity) (single issuance until today)	Yes	Direct	Eligibility of the proceeds of the issue for Tier 1 was previously assessed and approved by Banco de Portugal, after analysis of the terms of the instrument. The securities could only and mandatory be converted into ordinary shares, so the proceeds of the issuance represented an antecipation of a future subscription of share capital, having the same characteristics of paid up capital (namely ability to absorb losses on a going-concern basis and protection of creditors in a winding-up scenario).
Slovakia	innovative instruments (including preference shares) are not acceptable as eligible own funds			
Slovenia	Innovative instruments	issued and fully paid, i.e. only the fully paid-up amount is taken into consideration;	direct (issued by a bank);	prior approval of the Bank of Slovenia (supervisory authorithy) before including innovative instruments in the core capital;
Sweden	preference share	na	na	na
	Capital contributions	Yes	Both	Yes
UK	Instruments eligible to be classified as innovative tier 1. Includes deeply subordinated debt instruments and preference shares	Yes	SPV issuance is permitted	Prior supervisory authorisation is required 1 month before any redemption of the instrument.
	Preference shares classified as non-innovative tier 1	Yes	directly issued	Prior supervisory authorisation is required 1 month before any redemption of the instrument.
	PIBS - Permanent Interest Bearing Shares issued by mutuals	Yes	directly issued	Prior supervisory authorisation is required 1 month before any redemption of the instrument.
Spain	participaciones preferentes with features that create A presumption that the issue will be redeemed	yes	direc/SPV	yes
	preferential shares issued by foreign subsidiaries with features that create A presumption that the issue will be redeemed			

Overview of hybrids Instruments eligible as original own funds-Main characteristics (ctd)

Country	Type of instrument	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
Austria	Any type	liability item	Reason of competitiveness (global developments)		According to § 24 (2) 6 a: the controlling constituents of hybrid capital must be published in easibly understandable format in a printed publication medium with Austria-wide distribution or on the internet on the homepage of the issuer and of the superor	
Belgium	mandatory convertible bonds, profit sharing certificates, preferred shares (issued by spv)	Depending on the features of the instruments	The instruments enumerated above have been deemed eligible because they fulfil the conditions set out in the Basel Committee's press release of October 1998.	Depending on the features of the instruments	yes	not applicable
Cyprus	Debt Instrument	Liability	Fullfil criteria recommended by Basle Committee	Yes	Yes	
Denmark	Hybrid Core Capital	Liability.	According to press release from Basel Committee in October 1998.	Yes, interest paid is deductible.	Not regulated	
Finland	Capital loans (subordinated)	Liability after 1 January 2005, before that it was a separate item in equity.	Capital loans were created in beginning of the 90's when Finland was undergoing banking crisis. At that time they were considered as part of capital in accordance with Article 22 of Directive 86/635/EEC which states that all amounts, regardless of their actual designations, which in accordance with the legal structure of the institution concerned, are regarded under national law as equity capital subscribed. They are still part of the Tier 1 capital in the Credit Institutions Act. The Basel pressrelease of 1998 is not legally binding in Finland and the supervisory authority is to guide the institutions to follow the international recommendations.	Interest paid is tax deductible	Yes.	Two types of instruments: 1. only call option and 2. call option and step-up
France	Deeply subordinated notes	Liability (French Accounting rules) Equity (IFRS)	Inclusion in Tier 1 based on the 1998 BCBS criteria	Coupons are tax deductible in France	Yes	
	Indirect preferred shares	Equity (inclusion in Tier 1 as minority interests)	Inclusion in Tier 1 based on the 1998 BCBS criteria	Dividends are not deductible in France (tax deduction via US branches)	Yes	
Germany	silent partnership	equity under the German accounting standards	silent partnerships rank pari passu with common shareholders and share fully in any loss on a going concern basis	generally, coupons are tax deductible; however, depending on the structure, some silent partnerships are taxed like common equity	basically regulated in the German Commercial Code	n.a.
	trust preferred shares/ trust preffered securities	We permit instruments accounted as either a liability or equity	issuances are in line with the Basel Committee on Banking Supervision' s Sydney Press Release dated October 1998	coupons are tax deductible	yes, in line with the Basel Committee on Banking Supervision' s Sydney Press Release	n.a.

Overview of hybrids Instruments eligible as original own funds-Main characteristics (ctd)

Country	Type of instrument	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
Greece	preferred securities	Under national GAAPs: Treated as laibilities Under IFRS : usually treated as equity but they may be classified as liabilities	ability to absorb losses on an on-going basis, interest deferral, non-cumulative	no	yes	
Hungary	Core loan capital	liability	na	In conjunction with Accounting treatment	Not regulated	* The creditor is not allowed to inititate the winding up of the issuer in case of non-payment *The lender of the loan capital shall not be permitted any setoff right against the borrower
Ireland	any type	Accounting treatment not specifically addressed	Must meet both legal requirements of Art.34(2) 1-3 and prudential characteristics of permanence and loss absorption.	Not under Irish tax law - significant number of indirects issued via ECPs which are tax deductible	Issues must meet disclosure requirements, particularly in respect of non-cumulative deferred distributions.	Financial Regulator requires unequivocal legal confirmation that the proposed issue comes within paragraphs 1-3 of Art. 34(2) of Directive 2000/12/EC and/or where own funds calculation is to be made on a consolidated basis. Where a credit institution proposes to issue an instrument indirectly, the Financial Regulator requires additional legal opinion that no significant or material cross-border legal risk exists.
Italy	Preferred securities	Liability	The instruments meet the requirements to be eligible for inclusion in Tier I capital according to the Regulations of the Bank of Italy (Title IV, Chapter I, Section 2, paragraph 3 of the "Istruzioni di Vigilanza della Banca d'Italia").	Yes	An offering circular explains the main features of the operation.	
Italy	Convertible Preferred Securities	The securities are liabilities. After the introduction of IAS/IFRS the call option, included in this kind of financial instruments, is included in the accounting category of equity.	The instruments meet the requirements to be eligible for inclusion in Tier I capital according to the Regulations of the Bank of Italy (Title IV, Chapter I, Section 2, paragraph 3 of the "Istruzioni di Vigilanza della Banca d'Italia").	Yes	An offering circular explaines the main features of the operation.	
Latvia	cumulative preference shares of unlimited duration	Liability	Directive 2000/12/EC Article 63, paragraph 2 (last sentence)	Yes	Yes	
Luxembourg	any type	Equity: line 2-82.000 "Instruments hybrides de capital" of the assets and liabilities sheet as contained in the "recueil des instructions aux banques".	The instruments enumerated above have been deemed eligible because they fulfil the conditions set out in the Basel Committee's press release of October 1998.	yes	yes	not applicable

Overview of hybrids Instruments eligible as original own funds-Main characteristics (ctd)

Country	Type of instrument	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
Malta	innovative instruments	na	na	na	marketing of instruments must be in line: if an instrument is marketed as dated, it should not be eligible to tier 1	
Netherlands	trust preferred securities	liability	trigger event (BIS-ratio 8%) to upgrade capital, going concern loss absorption	coupons deductible	public disclosure in an understandable way is required; clear term sheet; description in annual accounts	
	perpetual debt securities	liability	trigger event (BIS-ratio 8%) to upgrade capital, going concern loss absorption	coupons deductible	public disclosure in an understandable way is required; clear term sheet; description in annual accounts	
	member (share) certificate	equity	perpetual, interest stopper, non cumulative, junior to all subordinated debt	deductible	public disclosure like the other two above	
Norway	Hybrid capital eligible as tier 1 capital.	Liability	The loss absorbent ability, the permanence, and the non-cumulative features.	Tax deductable cupons	Yes, capital instruments traded on a regulated market are subject to a regulation implementing the prospectus directive. This also applies to new issuances covered by the prospectus directive. For instruments traded on the alternatvie bond market (unregulated according to the definition in the directive) a full description of the instruments traded, must be given	Other capital elements may only be equated with tier 1capital if they: - are fully paid up, - are available to absorb losses or deficits on current operations, - not yield returns independent of the annual operating profit/loss - are not repayable except in the event of liquidation
Portugal	Preferential shares	Equity	The assessment of the inherent characteristics concluded for the verification of the principles of permanence and loss absorvency.	Not applicable	Yes	
	Mandatory Convertible Securities (3-year maturity)	Depending on the features of each issuance. In the specific issue: Debt (component comprised of the present value of the quarterly interest payments due during the 3 years of the issuance). Equity (the diference between the total amount of the issuance and the value of the debt component).	See comment made in the previous column 'prior supervisory authorisation required'	Not applicable	Yes	
Slovenia	innovative instruments	as a liability;	compliance with Basel Press Release 1998 (permanence, ability to absorb losses on a going-concern basis, non-cumulative)	tax deductible;	the main features of the instruments must be easily understood and publicly disclosed;	
Sweden	Capital contributions	Liability, but under IFRS we don't necessary determine this	Corresponds to the type of instruments referred to in the Basel press release	We presume so. According to the Swedish Bankers Association the answer is generally yes.	No	
UK	Instruments eligible to be classified as innovative tier 1. Includes deeply subordinated debt instruments and preference shares	We permit instruments accounted as either a liability or equity	They comply with Basel Press Release (1998)	They are typically tax deductible but this is not a requirement	No specific provisions but we require the description of the instruments charateristics used in its marketing is consistent with its prudential treatment	These instruments may be included as tier 1 for pillar 2 purposes but are not included for the purpose of meeting the directive minimum on original own funds.
Spain	paticipaciones preferentes	liability	no maturity, non cumulative instrument and loss absorption	tax deductible;	issuance prospectus	issued only for institutional inverstors
	preferential shares					

Overview of hybrids Instruments eligible as original own funds-Limitations

Country	Type of instrument	Part of Own funds	Part of the instruments included (e.g. full? 50%? Without the coupons?)	Ceilings (e.g. instruments included up to x%?)
Austria	Any type	According to § 24 (2) 1 in connection with § 23 (1) 2: Tier 1		According to § 24 (2) 1: hybrid capital may be counted towards the consolidated own funds only up to a mximum amount of 15 % of the consolidated core capital pursuant to 23 (14) 1 [paid-up capital + disclosed reserves + funds for general banking risks - intangible assets - net loss as well as substantial negative results in the ongoing business yr] and this only if at the time of the issue the superordinated credit institution and group of credit institutions meet the own capital reqirement pursuant to § 22 (1); if no increase agreement pursuant to § 24 (2) 6 e exists, however, it may be counted towards consolidated own funds upt to a maximum of 30 %.
Belgium	mandatory convertible bonds, profit sharing certificates, preferred shares	original own funds	normally full amount but after tax impact.	up to a maximum of 15% of the original own funds in tier I. The difference can be included in upper tier II. For some non callable instrument, up to 33 % of original own funds (if features are similar to common shares : not reedemable, non cumulative coupon, no recourse for the investor, only senior to common shares, no call option, no step up, loss absorption).
Cyprus	Debt Instrument	Limit 15% of Tier 1	Full amount issued	Subject to limit 15% of Tier 1, the rest is included in Tier 2 subject to respective limits (Tier 2 <= Tier 1)
Denmark	Hybrid Core Capital	Tier 1 (Tier 2 if above the applicable limits)	Full.	Up to 15 % of Tier 1 capital. Excess capital can be included in Tier 2 capital up to 100 % of total Tier 1 capital. Hybrid Core Capital can only be included in Tier 1 capital, if the Tier 1 capital is no less than 5 % of the risk-weighted assets.
Finland	Capital loans (subordinated)	Supervisory classification part of non-core original own funds. The excess would in principle be eligible as additional own funds, but it has not been stated in regulations.		For new instruments allowed up to 15 percent of the original own fund. We have allowed these instruments up to 33 % of original own funds and in exceptional cases up to 50%.
France	Any type	Tier 1 (Tier 2 if above the applicable limits)	Full inclusion if the eligibility criteria are fulfilled	Up to 15% of Tier 1 if the instrument is considered innovative (step-up) or up to 25% otherwise;Innovative + Non-innovative hybrid instruments can reach a maximum of 25% of Tier 1.

Overview of hybrids Instruments eligible as original own funds-Limitations

Country	Type of instrument	Part of Own funds	Part of the instruments included (e.g. full? 50%? Without the coupons?)	Ceilings (e.g. instruments included up to x%?)
Germany	silent partnership	Tier I capital	100% less write offs in case of sharing in any losses of the bank	inclusion allowed up to 50% of Tier I capital
	trust preffered shares/trust preffered securities	depends on the structure; non cumulative transactions are Tier I capital, cumulative transactions are Tier II capital	100%	inclusion allowed up to 50% of Tier I capital; Tier I-instruments, which include an explicit feature other than a pure call option, which makes them likely to be repayable, are at issuance limited to 15% of the banking groups Tier I capital
Greece	preferred securities and similar instruments of indeterminate duration callable after 10 years with a moderate step up clause	Non core Tier 1	the full principal amount subject to the fulfilment of the limits set for non core Tier 1 instruments	up to 15% of Tier 1 for issues until 2005 and up to 10% for issues from 2006 onwards
	preferred securities and similar instruments of indeterminate duration callable after 5 years with no step up clause	Non core Tier 2	the full principal amount subject to the fulfilment of the limits set for non core Tier 1 instruments	up to 30% of Tier 1 for issues until 2005 and 25% for issues from 2006 onwards including any innovative. Moreover, these are the highest limits up to which both innovative and non-innovative may be included in Tier 1 capital.
Hungary	Core loan capital	Core loan capital is part of original own funds	100%, however not defined explicitly in the regulation.	The sum of core loan capital shall not exceed the 15% of the total of original own funds
	Additional loan capital	Additional loan capital is part of additional own funds	100%, however not defined explicitly in the regulation.	No additional limit other than limits concerning the sum of additional own funds
Ireland	Any type	Non core Tier 1 capital can include innovative instruments as defined at the discretion of the Financial Regulator. Approved non-core Tier 1 Capital which exceeds the limits in Tier1 may be warehoused in Tier 2. The Financial Regulator must be notified any warehousing and de-warehousing.		Limits within Tier 1: following limits must be maintained on an ongoing basis: I. credit institution shall meet 50% of its minimum capital ratio with Tier 1 capital; ii. credit institution shall maintain its 4% Tier 1 ratio with core Tier 1 capital and iii. credit institution's Tier 1 capital shall be predominantly in the form of core Tier 1 (This includes perpetual non-cumulative preference shares). Predominant will normally be interpreted as 51% or more of total Tier 1 capital after all Tier 1 deductions. Limits at issuance also apply: total amount of innovative non-core Tier 1 capital that may be counted as part of Total Tier 1 capital is limited to 15% of total Tier 1 capital.
Italy	Any type	Tier I	Full without the coupons.	Up to 15% of Tier I (including innovative instruments).
Latvia	cumulative preference shares of unlimited duration	Tier 2	fully paid amount	No additional limits except that Tier 2 capital in total may not exceed Tier 1 capital
Lithuania	the provisions of directive 2000/12 related to preference share are implemented in our legislation (no issuance by credit institution so far)		na	according to our Law on Companies, preference shares may constitute less than 1/3 of the statutory (share) capital

Overview of hybrids Instruments eligible as original own funds-Limitations

Country	Type of instrument	Part of Own funds	Part of the instruments included (e.g. full? 50%? Without the coupons?)	Ceilings (e.g. instruments included up to x%?)
Luxembourg	Any type	original own funds	full	up to a maximum of 15% of the consolidated original own funds
Malta	preference shares	original own funds (tier 1)	na	na
	innovative instruments	original own funds (tier 1)	na	0.15
Netherlands	trust preferred securities and perpetual debt securities	tier 1	full	(1) preferent + innovative capital max. 50% of tier 1 (when 25% is reached discussion with the supervisor); (2)dated innovative capital max. 15% of tier 1
	member (share) certificate	tier 1	full	50% of tier 1
Norway	Hybrid capital eligible as tier 1 capital.	Part of tier 1 capital (Excess capital in tier 2)	full inclusion if the eligibility criteria are fulfilled	Included up to 15 per cent of total tier 1 capital. Excess capital is included in tier 2 capital.
Poland	innovative instruments (including preference shares) are not acceptable as eligible own funds			
Portugal	Preferential shares	Minority interests arising through the consolidation of the SPVs are eligible for original own funds (Tier 1), up to the limit of 20% of the consolidated own funds. The excess is eligible, within the regulatory limits, to additional own funds (Upper Tier 2)	In principle the full amount of the issuance is eligible, subject to the fulfilment of the limits for Tier 1 and availability at Upper Tier 2 level.	20% of the consolidated own funds
	Mandatory Convertible Securities (3-year maturity)	Original own funds (Tier 1)	Full	No
Slovenia	innovative instruments	part of Tier 1, excess in Tier 2;	full;	up to 15% of Tier 1 (net of deductions) applying at all times, possibility to include the amount of excess in Tier 2;
Sweden	preference share	Tier 1	na	na
	Capital contributions	Tier 1	In principle the full amount of the issuance is eligible, subject to the fulfilment of the limits for Tier 1	Up to 15 % of Tier 1(the amount above 15 % can be included in Tier 2)
UK	Instruments eligible to be classified as innovative tier 1. Includes deeply subordinated debt instruments and preference shares	For the purpose of meeting the directive requirements innovative instruments will typcially meet the requirements for inclusion in addional own funds. For the purpose of meeting our pillar 2 requirements they will be included in tier 1 capital.	The full principal amount	No more than 15% of tier 1 capital (net of deductions) can be innovative.
	Preference shares classified as non-innovative tier 1	Original own funds. Preference shares which do not fulfil all the conditions for eligibility may qualify for tier 2 (additional own funds)	The full principal amount	Limited to 50% of total tier 1 capital
	PIBS - Permanent Interest Bearing Shares issued by mutuals	Original own funds. PIBS which do not fulfil all the conditions for eligibility may qualify for tier 2 (additional own funds)	The full principal amount	Limited to 50% of total tier 1 capital

Overview of hybrids Instruments eligible as original own funds-Permanence

Country	Type of instrument	Undated	Maturity	Requirement for the extent to which the capital may be eligible to gradually reduce before repayment	Early redemption
Austria	Any type	According to § 24 (2) 5 e: put at the institution's lifetime disposal			According to § 24 (2) 5 g: it may be terminated by giving extraordinary notice only if it can be replaced by capital of equal or better quality and if either termination because of important changes in tax treatment is not unreasonable or if the statutory inclusion into own capital changes; the condition of replacement lapses if the FMA determines that even after repayment the credit institution and the group of credit institutions dispose of adequate own funds required for an adequate risk coverage; § 24 (2) 5 h: it may be terminated by the issuer only after 5 yrs under the condition that it is replaced with capital of equal quality; the condition of replacement lapses if the FMA determines that even after repayment the credit institution and the group of credit institutions dispose of adequate own funds required for an adequate risk coverage.
Belgium	mandatory convertible bonds, profit sharing certificates, preferred shares	yes	no	no	Yes, but only with the prior written approval of the CBFA.
Cyprus	Debt Instrument	Yes	No	No	Subject to supervisory approval.
Denmark	Hybrid Core Capital	Yes, hybrid Tier 1 is perpetual.	No.	No.	Early redemption is permitted in the case of certain events (see call options below) with the prior approval of the Danish FSA
Finland	Capital loans (subordinated)	Yes.	Perpetual	No.	Early redemption with the prior approval of the Supervisory Authority.
France	any type	Yes	Perpetual	No	Early redemption acceptable for tax or regulatory reasons + call options under conditions
Germany	silent partnership	depending on the structure (silent partnerships of internationally active banks are undated)	at least five years (for internationally active banks at least 10 years)	if dated, no eligibility in last two years before repayment	possible only in the case of changes in the tax treatment or in the case of derecognition as regulatory capital. In these cases the silent partnerships have to be replaced by capital of at least the same quality or the bank has a supervisory approval for the repayment and holds capital that is more than adequate to its risks.
	trust preffered shares/trust preffered securities	Tier I-instruments usually yes, Tier II-instruments can be dated	Tier II-instruments: at least five years		possible only in the case of changes in the tax treatment or in the case of derecognition as regulatory capital. In these cases the instruments have to be replaced by capital of at least the same quality or the bank has a supervisory approval for the repayment and holds capital that is more than adequate to its risks.
Greece	preferred securities	yes	pepretual	no	Early redemption acceptable in the case of tax or regulatory changes

Overview of hybrids Instruments eligible as original own funds-Permanence

Country	Type of instrument	Undated	Maturity	Requirement for the extent to which the capital may be eligible to gradually reduce before repayment	Early redemption
Hungary	Core loan capital	Yes	No maturity	No	In general not allowed, only on the prior approval of the Supervisory Authority
Ireland	Provisions for treatment of innovative instruments do not specifically differentiate between different types of instrument - however, instruments with step-ups and redemption provisions linked to tax events are innovative at best and limited accordingly.	Must be perpetual: must satisfy at a minimum the following: i. be permanently available; ii. Contain no explicit or implict promise of redemption under any circumstance except where it takes the form of a call option subejct to conditions specified below; iii. not contain any economic provision that may imply redemption at some future date. Moderate step ups may be acceptable subject to certain conditions. No default can be generated as a result of the credit institution waiving payments including payments of capital, dividend or coupon. There must be no implication that the instrument will be redeemed at any future date. For example: i. no provision giving the holder the right to redeem under any circumstances; ii. no feature that would result in pressure, economic or otherwise, on the credit institution to redeem the instrument (except for moderate step ups where allowed).	na	na	Innovatve instrument with step-up and call option only after a minimum of 10 years
Italy	Preferred securities	Yes	No	No	Early redemption is permitted in the case of certain events (see below).
	Convertible Preferred Securities	Yes	No	No	Early redemption is permitted in the case of certain events (see below).
Latvia	cumulative preference shares of unlimited duration	Yes	No maturity date	No	N.A.
Lithuania	the provisions of directive 2000/12 related to preference share are implemented in our legislation (no issuance by credit institution so far)	yes	no maturity date	na	na
Luxembourg	any type	yes	not less than 10 years	A gradual reduction before repayment is not allowed.	Yes, but only with the prior written approval of the CSSF.
Malta	preference shares	yes	no	na	na
	innovative instruments	yes	no		yes

Overview of hybrids Instruments eligible as original own funds-Permanence

Country	Type of instrument	Undated	Maturity	Requirement for the extent to which the capital may be eligible to gradually reduce before repayment	Early redemption
Netherlands	trust preferred securities	perpetual (undated)	30 years between spv and bank	N.A.	Subject to supervisory approval.
	perpetual debt securities	perpetual (undated)	perpetual (undated)	N.A.	Subject to supervisory approval.
	member (share) certificate	perpetual (undated)	perpetual (undated)	N.A.	Subject to supervisory approval.
Norway	Hybrid capital eligible as tier 1 capital.	The hybrid capital is perpetual in the sense that an investor cannot demand its repayment.	No	No	Early redemption at the initiativ of the bank (i.e.the issuer) may be allowed after 10 years with prior approval of Kredittilsynet
Portugal	Preferential shares	Yes (see comment on early redemption).	No	Not applicable	Depends on the characteristics of each issue. However early redemption is subject to the prior approval of Banco de Portugal.
	Mandatory Convertible Securities (3-year maturity)	No (due to the specific nature of the issuance)	Mandatory conversion after 3 years into ordinary shares.	Not applicable	The subscribers had, from the first anniversary and at each interest payment date, the option to require the conversion into ordinary shares.
Slovenia	innovative instruments	they are permanent, i.e. they cannot be withdrawn at the bearer's request;	they do not have an explicit or indicated maturity;	na	the withdrawal or redemption of the instruments at the initiative of the bank (i.e. the issuer) with a prior approval of the Bank of Slovenia;
Sweden	preference share	na	na	na	na
	Capital contributions	Yes		No, the instruments are perpetual	Subject to approval
UK	Instruments eligible to be classified as innovative tier 1. Includes deeply subordinated debt instruments and preference shares	Yes	no maturity date	Not applicable	Redemption is permitted after 5 years subject to supervisory non-objection.
	Preference shares classified as non-innovative tier 1	Yes	no maturity date	Not applicable	The shares cannot be redeemable at the option of the holder but can be redeemable at the option of the issuer with the FSA's prior consent
	PIBS - Permanent Interest Bearing Shares issued by mutuals	Yes	no maturity date	Not applicable	The shares cannot be redeemable at the option of the holder but can be redeemable at the option of the issuer with the FSA's prior consent
Spain	participaciones preferentes/preferential shares	undated	no maturity	Not applicable	after 5 year with supervisory approval. If does not affect the issuing´s institution solvency. Repurchase by the issuer, guarantor or institution within the group provided that these repurchases take place after a period of 5 years and are submitted to the prior approval of the Banco de España

Country	Type of instrument	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
Austria	Any type		No		See § 24 (2) 5 h above
Belgium	mandatory convertible bonds, profit sharing certificates, preferred shares	Callable at the initiative of the issuer only after a minimum of five years and the previous approval of the CBFA and under the condition that it will be replaced with capital of the same or better quality unless the CBFA determines that the bank has capital that is more than adequate to its risks.	yes (under the conditions laid down in Basel Committee's press release of October 1998 : after 10 years and max of 100 bp).	normally no	yes
Cyprus	Debt Instrument	At least five years after issue and supervisory approval required.	Not earlier than 10 years after issue, and subject to supervisory approval	NO	Yes
Denmark	Hybrid Core Capital	The instrument may only be callable after 10 years at the initiative of the issuer and with prior supervisory approval. Under very special circumstances the repayment can be authorised after 5 years.	Yes. Follows guidelines from press release in October 1998.	No.	Yes
Finland	Capital loans (subordinated)	Five years with the prior supervisory authorisation.	A step-up in respect of capital invested under the terms of a capital loan is permitted only once over the life of the loan and at a minimum of 10 years after the issue date. The step-up shall be at most 1 percentage point or at most 50 per cent of the initial credit spread.	Changes of tax legislation or capital adequacy regulations with prior supervisory authorisation.	Issuer call is stated in the loan agreement. The rest is a supervisory practice which is considered when institution wants to use its call option.
France	Any type	Call option is acceptable subject to a minimum period of 5 years and the prior approval of the SGCB	No step-up during the first 10 years + only one step-up during the whole life of the instrument	No	Yes (see above)
Germany	silent partnership	after five years (ten years if step ups are included)	yes	no	explicitely regulated in section 10 paragraph 4 of the German banking act
	trust preffered shares/trust preffered securities	after five years with supervisory approval (ten years if step ups are included)	yes	n.a.	issuances have to be in line with Basel Committee on Banking Supervision' s Sydney Press Release dated October 1998, which must be testified by the external auditors on a yearly basis

Overview of hybrids Instruments eligible as original own funds-Permanence (ctd)

Country	Type of instrument	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
Greece	preferred securities and similar instruments of indeterminate duration callable after 10 years **with a moderate step up clause**	the earliest date the first call can be exercised is 10 years and a supervisory authorisation is required	Under the conditions laid down in the 1998 Basel Press release	no	yes
	preferred securities and similar instruments of indeterminate duration callable after 5 years with **no step up clause**	the earliest date the first call can be exercised is 5 years and a supervisory authorisation is required	no	no	yes
Hungary	Core loan capital	Not regulated	Not allowed, except the change of variable rates		Not exists
Ireland	Provisions for treatment of innovative instruments do not specifically differentiate between different types of instrument - however, instruments with step-ups and redemption provisions linked to tax events are innovative at best and limited accordingly.	For innovative instruments, first call date (will step-up) is 10 years. The only exception is where call option is linked to a tax event - minimum call is 5 years and ACI is classified as innovative.	Instruments with call options accompanied by moderate step-ups permitted only if the moderate step-up occurs at a minimum of 10 years after issue date and if it results in an increase over the initial rate that is no greater than: i. 100 basis points, less the swap spread between the initial index basis and the stepped-up index basis or ii. 50% of the initial credit spread between the initial index basis and the stepped up index basis. Terms of instrument should provide for not more than one rate step-up over the life of the instrument. Swap spread should be fixed as of the pricing date and reflect the differential in pricing on that date between the initial reference security or rate and the stepped-up reference security or rate.	Yes. Tax event (innovative) - capital disqualification, certain other legal events.	This applies to all call/redemption options

Overview of hybrids Instruments eligible as original own funds-Permanence (ctd)

Country	Type of instrument	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
Italy	Preferred securities	Yes, after 10 years and with the prior approval of the Bank of Italy.	Yes. According to the 1998 Basle Committee Press Release, the Step-up mustn't exceed 100 bp or the 50% of the spread.	Yes. Upon the occurance certain events ("Capital Event": the instruments are no longer computable in Tier I; "Investment Company Event": the Trust and/or the LLC risk to be considered "investment companies" under the US Law, "Tax Event": certain changes in taxations) and with the prior approval of the Bank of Italy, the instruments may be redeemed by the SPV.	Callable at the initiative of the issuer, at its option, in whole or in part, only after a minimum of 10 years with the prior approval of the Bank of Italy.
	Convertible Preferred Securities	No call option.	No	Yes. Upon the occurance certain events ("Capital Event": the instruments are no longer computable in Tier I; "Investment Company Event": the Trust and/or the LLC risk to be considered "investment companies" under the US Law, "Tax Event": certain changes in taxations) and with the prior approval of the Bank of Italy, the instruments may be redeemed by the SPV. The bank may elect to pay the redemption price by delivering shares and paying an amount of cash equal to the difference, if positive, between the applicable redemption price and the market value of shares.	NA
Latvia	cumulative preference shares of unlimited duration	N.A.	N.A.	N.A.	N.A.
Luxembourg	any type	Callable at the initiative of the issuer only after a minimum of five years and the previous approval of the CSSF and under the condition that it will be replaced with capital of the same or better quality unless the CSSF determines that the bank has capital that is more than adequate to its risks.	yes (under the conditions laid down in Basel Committee's press release of October 1998).	no	Yes, this requirement has to be included in the stipulations of the contract.
Malta	preference shares	na	na	na	na
	innovative instruments	10 years	yes, provided no step-up occurs before the tenth anniversary of the date of issue	stock settlement feature allowing holders to elect to redeem instruments in the original own funds in exchange of ordinary share in the event the call is not exercised	yes
Netherlands	trust preffered securities and perpetual debt securities	Call option 5 years; supervisory approval required	moderate step ups in conjunction with a call option allowed (100 basis points or 50% of the initial credit spread	no	implented in supervisory rules: 5 years; in case of a step up 10 years
	member (share) certificate	Call option 5 years; supervisory approval required	na	no	conditions to intercompany loan

Overview of hybrids Instruments eligible as original own funds-Permanence (ctd)

Country	Type of instrument	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
Norway	Hybrid capital eligible as tier 1 capital.	The instrument may only be callable after ten years, at the initiative of the issuer, and with supervisory approval.	Yes, after ten years, and maximum 100 bp over the life of the instrument.	No	No, the instrument may only be callable at the initiative of the issuer after ten years with supervisory approval. A condition for approval is that that the capital is replaced with capital of same or better quality unless the institution has capital that is more than adequate to its risks.
Portugal	Preferential shares	Depends on the characteristics of each issue. However the exercise of the call option by the issuer is subject to the prior approval of Banco de Portugal.	Yes		Yes
	Mandatory Convertible Securities (3-year maturity)	Not applicable	Not applicable. Fixed-rate interest during the 3 years.	Not applicable	Not applicable
Slovenia	innovative instruments	first possible only after a minimum of five years after issue and with the prior approval of the Bank of Slovenia;	moderate step-ups permitted at a minimum of 10 years after the issue date of innovative instruments; 100bp or 1/2 initial credit spread; the terms of the instrument should provide for no more than one rate step-up over the life of the instrument;	No	the withdrawal or redemption of the instruments by the issuing bank or the acceptence of the instruments as collateral foor a claim is first possible only after a minimum of five years after issue and with the prior approval of the Bank of Slovenia and under the condition that the bank will replace the instruments with another form of capital of the same or better quality, unless the Bank of Slovenia determines that even without the innovative instruments the capital is more than adequate to the risks assumed by the bank and its commercial strategy;
Sweden	preference share	na	na		na
	Capital contributions	5 years, subject to approval	Yes, corresponds to "Basel 98"	No	Yes
UK	Instruments eligible to be classified as innovative tier 1. Includes deeply subordinated debt instruments and preference shares	The earliest date the first call can occur is 5 years, supervisory notification is required. If the instrument has a step up or any other incentive to call, the first call date is 10 years after issue.	Yes, 10 years after issuance and subject the the Basel limits.	Innovative tier 1 instruments are permitted to include other features which create incentives to call such as bonus coupons if the instrument is not called or redemption at a premium to the original issue price of the share.	These requirements are incorporated in our rules.
	Preference shares classified as non-innovative tier 1	The earliest date the first call can occur is 5 years, supervisory notification is required.	No	No	These requirements are incorporated in our rules.
	PIBS - Permanent Interest Bearing Shares issued by mutuals	The earliest date the first call can occur is 5 years, supervisory notification is required. If the instrument has a step up or any other incentive to call, the first call date is 10 years after issue.	Yes, 10 years after issuance and subject the the Basel limits.	PIBS are permitted to include other features which create incentives to call such as bonus coupons if the instrument is not called or redemption at a premium to the original issue price of the share.	These requirements are incorporated in our rules.
Spain	participaciones preferentes/preferential shares	call option after 5 year with supervisory approval. If does not affect the issuing´s institution solvency	10 year after issuance date. Only for moderate step-up (Basle criteria)	if any, with the authorization of the Banco de España	this provision must be included in the issuance prospectus

Overview of hybrids Instruments eligible as original own funds-Loss absorbency

Country	Type of instrument	Non-cumulative i.e. discretion to waive coupons at all times	Cumulative in cash/ in another instrument?	Subordination clause: Junior to depositors, general creditors, and subordinated debt of the bank?	Exitence 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?
Austria	Any type	According to § 24 (2) 5 b: it does not carry any obligation to pay dividends in arrears; § 24 (2) 6 c: the superordinated credit institution must have the power to control the amount and timing of dividend payments; § 24 (2) 6 d: dividends may be paid only out of distributable profits; if the amount of the dividend is guaranteed, a change thereof must not be linked to the rating of an institution of the group of credit institutions; § 24 (2) 6 e: an increase of a minimum dividend in connection with a termination right of the issuer may be agreed on only if aa) the agreed increase takes effect only after a ten yr term; bb) only one agreement to increase is fixed; and cc) the agreement to increase does not exceed the following thresholds: 100 bp as compared to the initial minimum dividend or 50 bp of the initial return on investment difference between the minimum dividend and a comparable dividend value.		According to § 24 (2) 5 d: it is subordinated to deposits, other liabilities and other subordinated liabilities.	According to § 24 (2) 5 f: it is unsecured, not guaranteed by a third party or a company connected with the issuer and is not subject to conditions or connected with financial instruments that form a legal or economic perspective produce equal or preferre
Belgium	mandatory convertible bonds, profit sharing certificates, preferred shares	yes but the defferal is mandatory if the institution is not able to pay dividends and in case of supervisory event (breach of solvency ratio, tier I ratio is less than 5 %). Dividend pusher/stopper provisions are authorized.	yes (cumulative only in common or prefered shares = alternative coupon method)	yes	not authorized
Cyprus	Debt Instrument	Right to waive (not defer) interest payment if such payment results in capital adequacy ratio falling below the minimum required.	No	Yes	Unsecured
Denmark	Hybrid Core Capital	Yes.	No.	Yes.	No.
Finland	Capital loans (subordinated)	Yes.	No.	Yes.	No security or guarantee.
France	Deeply subordinated notes	Yes	No	The deeply subordinated notes are junior to all other obligations of the issuer.	No guarantees (in particular, there should be no negative pledge)
	Indirect preferred shares	Yes	No	Yes	No guarantees

Country	Type of instrument	Non-cumulative i.e. discretion to waive coupons at all times	Cumulative in cash/ in another instrument?	Subordination clause: Junior to depositors, general creditors, and subordinated debt of the bank?	Exitence 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?
Germany	silent partnership	The large majority of German Banks uses non-cumulative structures; however the German Banking Act only requires a deferral of interest payments	deferral of interest payments must be possible	yes	no guarantee allowed
	trust preferred shares/trust preferred securities	Tier I-instruments: yes	Tier II-instruments can be cumulative in cash	yes	no guarantee allowed
Greece	preferred securities	yes	no	yes	No. Only deeply subordinated guarantees by the parent bank that do not enhance the seniority of the claim
Hungary	Core loan capital	Non-cumulative	Not possible	Yes	The issuer should not take any exposure in order to buy the issued papers manifasting the core loan capital.
Ireland	any type	Yes	No coupon stock settlement permitted	Must be sufficiently subordinated. For example: i. may not qualify for repayment before preference shares or any Tier 2 items of the credit institutions in an insolvency or liquidation situation; ii. holders cannot receive funds in preference to holders of preference shares or of Tier 2 items (this does not preclude repayments to holders where a call option has been exercised); iii. must absorb losses on ongoing basis.	Guarantee subordinated to that of equivalent perpetual non-cumulative preference shares.
Italy	Preferred securities	Yes	No	Yes	No enhancement of seniority. The bank guarantees, on a subordinated basis, the holders of the preferred securities the rights to dividends and the rights upon redemption and liquidation. Rights are equivalent to those to which the holders would be entitled if the preferred securities, as the case may be, were issued directly by the bank. The bank's obligations constitute unsecured obligations and will rank subordinate and junior to all indebtedness of the bank, pari passu with the most senior preferred securities of the bank qualifying as Tier I capital instruments, if any, and senior to the share capital of the bank.
	Convertible Preferred Securities	Yes	No	Yes	No enhancement of seniority. The bank guarantees, on a subordinated basis, the holders of preferred securities the rights to dividends, redemption, liquidation and "make whole amounts" (related to early redemption and determined on the basis to the share price) related to the conversion in shares. Rights are equivalent to those to which the holders would be entitled if the preferred securities, as the case may be, were issued directly by the bank. The bank's obligations constitute unsecured obligations and will rank subordinate and junior to all indebtedness of the bank, pari passu with the most senior preferred securities of the bank, if any, and senior to the share capital of the bank.
Latvia	cumulative preference shares of unlimited duration	yes	in cash	na	na

Overview of hybrids Instruments eligible as original own funds-Loss absorbency

Country	Type of instrument	Non-cumulative i.e. discretion to waive coupons at all times	Cumulative in cash/ in another instrument?	Subordination clause: Junior to depositors, general creditors, and subordinated debt of the bank?	Exitence 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?
Lithuania	the provisions of directive 2000/12 related to preference share are implemented in our legislation (no issuance by credit institution so far)	yes	na	na	na
Luxembourg	any type	yes	no	yes	no
Malta	preference shares	yes	na	na	na
	innovative instruments	yes	no	yes	yes
Netherlands	trust preffered securities and perpetual debt securities	Non cumulative; required deferral if payment would result in insolvency or in non-compliance with capital regulations	No	yes	not allowed
	member (share) certificate	Non cumulative	no	yes	na
Norway	Hybrid capital eligible as tier 1 capital.	Yes	No	Yes	Not allowed
Portugal	Preferential shares	Yes	No	Yes	Usually the existence of guarantees, by the parent company of the SPV, is not to enhance the seniority of the claim but for guaranteeing the payment of the preferential dividend, then guaranteeing conditions similar to those that would apply if it where to be a direct issue of the parent company.
	Mandatory Convertible Securities (3-year maturity)	Yes	No	Yes	Not applicable. Direct issuance.
Slovenia	Innovative instruments	yes; in the event the bank has not posted balance sheet available profit, the bank must have discretion of not paying out returns and bank must have full access to waived payments;	na	they are subordinated to depositors, general creditors and subordinated debt instruments, which means that in the case of the bank's bankruptcy these instruments rank just above non-cumulative preferential shares and ordinary shares;	they are neither secured nor covered by a guarantee of the issuing bank or related entity or any other form of arrangement that legally or economically enhances the seniority of the claim vis-à-vis of other creditors;
Sweden	preference share	yes	na	na	na
	Capital contributions	Non-cumulative		Yes	Yes

Overview of hybrids Instruments eligible as original own funds-Loss absorbency

Country	Type of instrument	Non-cumulative i.e. discretion to waive coupons at all times	Cumulative in cash/ in another instrument?	Subordination clause: Junior to depositors, general creditors, and subordinated debt of the bank?	Exitence 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?
UK	Instruments eligible to be classified as innovative tier 1. Includes deeply subordinated debt instruments and preference shares	Innovative tier 1 instruments must have discretion to waive coupons in cash at all times, but they may be stock cumulative.	Coupons on innovative instruments must not be cash cumulative but defered coupons can be paid in the form of tier 1 capital	Must be subordinated to the same degree as a share.	Only permitted for inclusion in innovative Tier 1 capital if there are no connected transactions which have the effect of reducing the economic benefit to beneath that which is required of an innovative tier 1 capital instrument
	Preference shares classified as non-innovative tier 1	Must have discretion to waive coupons in cash and in stock at all times.	No	Yes	Only permitted for inclusion in non-innovative Tier 1 capital if there are no connected transactions which have the effect of reducing the economic benefit to beneath that which is required of a non-innovative tier 1 capital instrument
	PIBS - Permanent Interest Bearing Shares issued by mutuals	PIBS must have discretion to waive coupons in cash at all times, but they may be stock cumulative.	Coupons on PIBS must not be cash cumulative but defered coupons can be paid in the form of tier 1 capital	Yes	Only permitted for inclusion in Tier 1 capital if there are no connected transactions which have the effect of reducing the economic benefit to beneath that which is required of a tier 1 capital instrument
Spain	participaciones preferentes/preferential shares	Non-cumulative	no	yes	yes

Overview of hybrids Instruments eligible as original own funds-Loss absorbency (ctd)

Country	Type of instrument	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
Austria	Any type	No	According to § 24 (2) 5 c: it is able to absorb losses of the superordinated credit institution even prior to the initiation of an insolvency procedure.	No	See § 24 (2) 6 b above
Belgium	mandatory convertible bonds, profit sharing certificates, preferred shares	yes (mandatory conversion in case of supervisory events)	yes (no possibility to pay interest or principal in case of supervisory events, mandatory conversion features in case of supervisory event, no right of recourse for the investor).	on case by case basis	yes (trigger point is defined as a supervisory event : breach of solvency ratio, tier I ratio is less than 5 %, provision relating to minimum capital is not respected, supervisory action of the CBFA).
Cyprus	Debt Instrument	Non-convertible into equity	Yes	No	All instruments are issued directly by banks and proceeds are immediately available to the bank.
Denmark	Hybrid Core Capital	No. Hybrid Tier 1 capital included in Tier 2 capital can be replaced in Tier 1, if Tier 1 capital increases.	Yes.	No	Not regulated. Only direct issuance is allowed
Finland	Capital loans (subordinated)	In principle it's up to contracting parties to include such mechanism in the agreements. In a recent case capital loan will be converted to preference shares when the new Company Act will enter in force in autumn 2006. The preference shares shall not have voting rights, unless dividends are missed.	Any interest or principal cannot be paid if the institution does not have distributable funds.	No.	Direct issues which must have been paid in.
France	Deeply subordinated notes	No	Yes (interest deferrals + reduction of interest and nominal amount up to the amount sufficient to cover losses in case of a supervisory event. A supervisory event is defined as a fall of the solvency ratio below the minimum percentage or by the SGCB when it considers that the solvency ratio is going to fall below the official threshold in the near term)	No	Not necessarily (direct issuance)
	Indirect preferred shares	No	Yes	No	Yes (specific mechanisms must be in place : if the trigger event is activated, then for example the funding of the SPV by the bank is automatically cancelled)
	silent partnership	n.a.	yes, see below	no	see below

Overview of hybrids Instruments eligible as original own funds-Loss absorbency (ctd)

Country	Type of instrument	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
Germany	trust preffered shares/trust preffered securities	n.a.	yes	no	see below
Greece	preferred securities	no	yes	yes	yes
Hungary	Core loan capital	Not regulated	Yes	Not required	Not regulated
Ireland	Any type		All Tier 1 capital must absorb losses on a going concern basis	Not explicitly - but must demonstrate how loss absorbency is achieved. Financial Regulator has right to seek additional legal opinion.	Yes. Required for loss absorbency.
Italy	Preferred securities	No	Yes	na	As above mentioned, the proceeds from market placement of the Trust securities are transferred to the SPV and then, through the Subordinated Deposit, to the Bank. This Deposit secures the SPV payment obligations to the Bank under a Derivative Contract. Upon the occurrence of a Capital Deficiency Event, the SPV will be obliged to pay to the Bank an amount equal to the lesser of (1) the amount that is sufficient to cure the Capital Deficiency Event and (2) the outstanding amount net of previous payments for previous capital deficieny events.
	Convertible Preferred Securities	The holders of the instruments have a conversion option that may be exercised in certain time periods. Securities are automatically converted in equity in the cases of a "Capital Deficiency Event" (see below) or if at any time, starting 7 years from issue, the market price is above a predetermined level.	Yes	na	As above mentioned, the proceeds from market placement of the Trust securities are transferred to the SPV and then, through the Subordinated Deposit, to the bank. Upon the occurrence of a Capital Deficiency Event, the preference shares are automatically converted in shares at a predermined rate.
Latvia	cumulative preference shares of unlimited duration	na	yes	na	na
Lithuania	preference share (no issuance by credit institution so far)	na	the bank must be able to eliminate dividend on the share	na	na
Luxembourg	any type	no	yes	No, as issuance is subject to the prior approval by the CSSF.	yes
	preference shares	na	na	na	na

Overview of hybrids Instruments eligible as original own funds-Loss absorbency (ctd)

Country	Type of instrument	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
Malta	innovative instruments	it is acceptable to pay interest or dividend in scrip if a cash dividend is withheld, as it is merely the conversion of one type of capital into another and provided this does not result in issuing lower quality capital. However to qualify for tier 1 an obligation to pay in cash should not accumulate. When coupon stock settlement features are included in original own funds, bank should ensure they have an appropriate buffer of authorised capital to fulfil thier potential obligations under such issues.	yes	na	na
Netherlands	trust preferred securities	a market price related conversion right for the holder of innovative capital is acceptable under certain conditions (see national supervisory regulation)	yes	no	spv is a group company; proceeds are transferred to bank by means of a subordinated intercompany loan; minority interest in spv counted as tier 1
	perpetual debt securities	a market price related conversion right for the holder of innovative capital is acceptable under certain conditions (see national supervisory regulation)	yes	no	proceeds are transferred from holding company to bank by means of a subordinated intercompany loan
	member (share) certificate	no	no	no	proceeds are transferred form spv to cooperative bank by means of an intercompany loan
Norway	Hybrid capital eligible as tier 1 capital.	No, but capital exceeding the 15 per cent limit may be included in tier 1 capital if tier 1 capital increases.	Yes, the hybrid capital must be able to be written down pro rata with the share capital if core (tier 1) capital falls below 5 per cent or capital adequacy falls below 8 per cent.	No, but the clause mentioned (be able to be written down pro rata with the share capital if core tier 1 capital or capital adequacy falls below certain limits) is a requirement for approval.	All instruments are issued directly by banks and proceeds are immediately available to the bank.
Portugal	Preferential shares	No	Yes	No	Yes
	Mandatory Convertible Securities (3-year maturity)	Yes (mandatory conversion into ordinary shares).	Yes	No	Not applicable. Direct issuance.
Slovenia	innovative instruments	at the moment there is no special clause about possible conversion into a higher form of own funds;	Yes	no formal opinion requested about loss absorbency;	proceeds must be immediately and unconditionally available to the issuing bank;
Sweden	preference share	na	na	na	na
	capital contributions	No	Yes	No	Yes

Overview of hybrids Instruments eligible as original own funds-Loss absorbency (ctd)

Country	Type of instrument	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
UK	Instruments eligible to be classified as innovative tier 1. Includes deeply subordinated debt instruments and preference shares	If a Tier 1 instrument converts into a higher form of own funds the conversion ratio at the date of redemption is not permitted to be greater than the conversion ratio at the time of issuance by 200%. Additionally the market value of the conversion instruments issued must not be greater than the issue price of the original capital instrument.	Must have the ability to absorb losses on an ongoing basis	Yes - the firm must obtain a properly reasoned independent legal opinion from an appropriately qualified individual confirming the required loss abosorbency and subordination.	The terms must include an obligation on the firm to substitute for the instrument issued by thte SPV a directly issued non-innovative instrument issued by the firm, when the capital of the firm falls below, or is likley to fall below, its capital resource
	Preference shares classified as non-innovative tier 1	If a Tier 1 instrument converts into a higher form of own funds the conversion ratio at the date of redemption is not permitted to be greater than the conversion ratio at the time of issuance by 200%. Additionally the market value of the conversion instruments issued must not be greater than the issue price of the original capital instrument.	Must have the ability to absorb losses on an ongoing basis	No	Directly issued and fully paid up
	PIBS - Permanent Interest Bearing Shares issued by mutuals	If a Tier 1 instrument converts into a higher form of own funds the conversion ratio at the date of redemption is not permitted to be greater than the conversion ratio at the time of issuance by 200%. Additionally the market value of the conversion instruments issued must not be greater than the issue price of the original capital instrument.	Must have the ability to absorb losses on an ongoing basis	No	Directly issued and fully paid up

Country	Type of instrument	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
Spain	participaciones preferentes/preferential shares	no	yes	no	They are available to the issuing institution for the coverage of risks and losses. In addition, there should be an effective connection with the coverage of losses or decline in value of the group´s parent undertaking or, if explicitly authorised by the Banco de España, of those of a Spanish credit institution or of the group. For this, it is deemed sufficient that the issue contract envisages the winding up of the issuer when, as a result of losses, the winding up of the parent undertaking (or with which the issue is linked) has been initiated, or the procedure envisaged in article 169 of the Limited companies (reduction at 0 of the capital amount and later increase of it) has been initiated.

Overview of hybrids Instruments eligible as original own funds-Loss absorbency (end)

Country	Type of instrument	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
Austria	Any type	No	See § 24 (2) 6 c - e above	No, but § 24 (2) 5 c: it is able to absorb losses of the superordinated credit institution even prior to the initiation of an insolvency procedure.	No, but § 24 (2) 5 c: it is able to absorb losses of the superordinated credit institution even prior to the initiation of an insolvency procedure.	
Belgium	mandatory convertible bonds, profit sharing certificates, preferred shares	yes	yes	yes	yes	
Cyprus	Debt Instrument	Not applicable	Yes	Right to waive payment of interest	Rank after depositors, general creditors and other subordinated debt of the bank.	
Denmark	Hybrid Core Capital	Yes	Yes	na	Payment of interest shall lapse if the institution does not have distributable reserves	
Finland	Capital loans (subordinated)	Yes.	Yes	Any interest or principal cannot paid if the institution does not have distributable funds.	Yes.	
France	Deeply subordinated notes	Yes (in general, the payment of interest is compulsory when the bank has already paid a dividend and when there is no supervisory event)	Yes	Yes (see early redemption and loss absorption clauses above)	Yes (mechanisms are based on the subordination order)	
	Indirect preferred shares	Yes	Yes	Yes (see early redemption and loss absorption clauses above)	Yes	
Germany	silent partnership	Assets contributed by silent partners shall be counted as part of the liable capital if 1. they share fully in any loss and the institution is entitled to defer interest payments in the event of a loss or in the case of non-compliance with the minimum capital requirements (some structures already contain a clause, which prohibits the payment of interest in the case the institution does not reach a solvency ratio of 9% or higher), 2. it has been agreed that, in the event of the initiation of insolvency proceedings over the institution's assets or of the institution's liquidation, they will not be repaid until all creditors (including subordinated debt) have been satisfied (section 10, paragraph 4 of the German Banking Act)				n.a.
	trust preferred shares/trust preferred securities	issuances have to be in line with Basel Press Release dated October 1998, which must be testified by the external auditors on a yearly basis				n.a.
Greece	preferred securities	yes	yes	yes	yes	
Hungary	Core loan capital	Not regulated	Interests or other charges can be paid only from after tax profit less reserves, but before dividends	Not regulated	Not regulated	
Ireland	Any type			Yes. Non-cumulative distributions (deferral)		Credit institution must have ability to defer distributions in any case without generating a fixed cost to the credit institution or its subsidiaries.

Overview of hybrids Instruments eligible as original own funds-Loss absorbency (end)

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Italy	Preferred securities	A Capital Deficiency Event occurs if (1) as a result of losses incurred by the bank, on a consolidated or stand-alone basis, the total risk-based capital ratio of the bank, on a consolidated or stand alone basis, as calculated in accordance with applicable Italian banking laws and regulations, and either (A) reported in the bank's annual or semi-annual consolidated or stand-alone accounts or (B) determined by the Bank of Italy and communicated to the bank falls below 5%; or (2) the Bank of Italy, in its sole discretion, notifies the bank that it has determined that the bank's financial condition is deteriorating such that an event specified in clause (1) will occur in the near term.	The SPV is not required to pay dividends on the instruments if the bank does not have, according to the last unconsolidated annual accounts the Distributable Profits and/or the bank has not declared or paid dividends on any class of its share capital.	na	In addition to the above mentioned condition, the SPV is not required to pay dividends also when: (1) the bank is otherwise prohibited under applicable Italian banking laws or regulations from declaring a dividend or making a distribution on any class of its share capital; or (2) a Capital Deficiency Event has occurred and is continuing or would result from the payment thereof; the SPV will be prohibited from paying dividends for any dividend period upon the occurance and during the continuation of a Capital Deficiency Event.	So long as the preferred shares are outstanding, the SPV will only be liquidated, dissolved or wound-up upon the liquidation, dissolution or winding-up of the bank and with the prior approval, if then required, of the Bank of Italy. In the event of any voluntary or involuntary disollution, liquidation or winding-up of the SPV, holders of the preferred securities will, subject to certain limitations, be entitled to receive out of assets of the SPV available for distribution to security holders after satisfaction of liabilities of creditors in accordance with applicable law and distribution of the Subordinated Deposit. The Subordinated Deposit constitutes an unsecured obligation of the bank that will be the most subordinated instrument of the bank and will be junior in right of payment to all present and future senior indebtedness of the bank.
	Convertible Preferred Securities	A Capital Deficiency Event occurs if (1) as a result of losses incurred by the bank, on a consolidated or stand-alone basis, the total risk-based capital ratio of the bank, on a consolidated or stand alone basis, as calculated in accordance with applicable Italian banking laws and regulations, and either (A) reported in the bank's annual or semi-annual consolidated or stand-alone accounts or (B) determined by the Bank of Italy and communicated to the bank falls below 5%; or (2) the Bank of Italy, in its sole discretion, notifies the bank that it has determined that the bank's financial condition is deteriorating such that an event specified in clause (1) will occur in the near term.	The SPV is not required to pay dividends on the instruments if the bank does not have, according to the last unconsolidated annual accounts the Distributable Profits and/or the bank has not declared or paid dividends on any class of its share capital.	na	In addition to the above mentioned condition, the SPV is not required to pay dividends also when the Bank is otherwise prohibited under applicable Italian banking laws or regulations from declaring a dividend or making a distribution on any class of its share capital.	
Latvia	cumulative preference shares of unlimited duration	na	na	na	na	
Luxembourg	Any type	yes	yes	yes	yes	not applicable
Malta	preference shares	na	na	na	na	
	innovative instruments	yes	yes	na	na	
Netherlands	trust preferred securities	yes	yes	yes	yes	na
	perpetual debt securities	yes	yes	yes	yes	na
	member (share) certificate	conditions to intercompany loan	na	yes	subordination	na

Country	Type of instrument	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
Norway	Hybrid capital eligible as tier 1 capital.	Kredittilsynet expects the hybrid capital instrument to be designed in such a way as to require an adequate core-capital and total-capital ratio on the part of the bank in order to service the hybrid capital. Kredittilsynet demands that the bank, after paying interest on the hybrid capital, shall have an adequate capital ratio and not less than 0.2 per cent in excess of the minimum requirement applying to the bank at any time. Furthermore, the bank must be entitled to omit to pay a return on hybrid capital if PCC holders or shareholders are not paid dividends in the same period."	Yes	Yes	Yes, the hybrid capital must be able to be written down pro rata with the share capital if core (tier 1) capital falls below 5 per cent or capital adequacy falls below 8 per cent.	Depending on risk profil, the institution must have a minimum tier 1 capital ratio of between 6 and 7 per cent before the innovative capital issue. Innovative capital cannot be used as a basis for issuance of dated subordinated loan capital. The interest calculation base has to be revised down in the event of a write down. If the innovative capital is written down, it can be written up before share capital is serviced. If the entire share capital is lost, innovative capital is to be written down with final effect.
Portugal	Preferential shares	Yes	Yes	Yes	Yes	
	Mandatory Convertible Securities (3-year maturity)	No	Yes	Yes	Yes	
Slovenia	innovative instruments	in the event the bank has not posted balance sheet available profit, the bank must have discretion of not paying out returns on innovative instruments and bank must have full access to waived payments;	Yes			
Sweden	preference share	na	na	na	na	
	Capital contributions	No	Yes	No	No	
UK	Instruments eligible to be classified as innovative tier 1. Includes deeply subordinated debt instruments and preference shares	The terms must be such that the firm is under no obligation to pay a coupon in cash at any time and the instrument must be marketed accordingly. We do not permit the use of dividend pusher clauses in innovative tier 1 instruments.	Distributions may not be reset on the basis of the credit standing of the issuer. No formal mechanism that disallows distributions to be paid out of non-distributable reserves.	Firm must be able to eliminate the cash coupon. Prior supervisory authorisation required 1 month before any redemption of the instrument.	Must be deeply subordinated	These instruments may be included as tier 1 for pillar 2 purposes but are not included for the purpose of meeting the directive minimum on original own funds.
	Preference shares classified as non-innovative tier 1	The terms must be such that the firm is under no obligation to pay a coupon in cash or stock at any time and the instrument must be marketed accordingly. We do not permit the use of dividend pusher clauses.	Distributions may not be reset on the basis of the credit standing of the issuer. Distributions can only be paid out of distributable reserves.	Firm must be able to eliminate the dividend. Prior supervisory authorisation required 1 month before any redemption of the instrument.	Must be deeply subordinated	
	PIBS - Permanent Interest Bearing Shares issued by mutuals	The terms must be such that the firm is under no obligation to pay a coupon in cash at any time and the instrument must be marketed accordingly. We do not permit the use of dividend pusher clauses for PIBS.	Distributions may not be reset on the basis of the credit standing of the issuer. Distributions can only be paid out of distributable reserves.	Firm must be able to eliminate the dividend. Prior supervisory authorisation required 1 month before any redemption of the instrument.	Must be deeply subordinated	

Overview of hybrids Instruments eligible as original own funds-Loss absorbency (end)

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Spain	participaciones preferentes/preferential shares	yes	they do not grant cumulative rights to pay-outs, thereby signifying that they will neither accrue nor give rights to pay-outs in the event that the issuing institution records losses in its profit and loss account for the year, or in a shortest period set in the issue´s prospectus or contract, for the duration of said situation	rank junior to common and subordinated creditors	it is not possible to pay, as settlement value, an amount greater that the amount receive	not grant right of attendance and vote at any issuer´s shareholders´meeting