

ROYAL DECREE 1332/2005, 11 November 2005, implementing Law 5/2005, 22 April 2005, on the supervision of financial conglomerates, amending other financial sector legislation. (Official State Gazette of 23 November)

Law 5/2005, 22 April 2005, on the supervision of financial conglomerates, amending other financial sector legislation has two basic goals: to implement a regime of supplementary supervision for financial conglomerates, and the revision of sectoral rules (banking, securities and insurance) so as to achieve an adequate level of consistency between them and align them with the new regime for financial conglomerates.

The Law partially translates into Spanish legislation Directive 2002/87/EC of the European Parliament and of the Council, 16 December 2002, on the supplementary supervision of credit institutions, insurance undertakings and investment firms in a financial conglomerate, which amends Directives 73/239/EEC, 79/267/EEC, 92/49/EEC, 92/96/EEC, 93/6/EEC and 93/22/EEC of the Council and Directives 98/78/EC and 2000/12/EC of the European Parliament and of the Council. Community regulation needs to be set in the context of the actions of the Financial Services Action Plan, which in its pursuit of the achievement of a single market in financial services, provided for the need to bolster the precautionary structures as one of its objectives. Along these lines of action, the Green paper on Financial Services (2005-2010), which defines the criteria for convergence over the next five years, has as one of its objectives the establishment of efficient and effective supervision through the translation, implementation and continuous evaluation of the directives provided for in this plan of action.

However, the law provided for a partial transposition of the directive, which should be completed through this Royal Decree, by virtue of the government's having been empowered in the second final provision of the law to implement the regulations.

Chapter I of this Royal Decree establishes the scope of the regulation, delimiting the entities subject to the supplementary supervision regime, the system for their identification and the determination of the relevant competent authorities. **(1)**

Chapter II establishes the elements of which this supplementary supervision consists: capital adequacy policies, intra-group transactions, risk concentration and management, internal control mechanisms, and the good repute and sufficient experience of the executives of mixed financial holding companies.

Chapter III envisages how the coordinator is to be appointed to supervise the conglomerate, completing its activities through the identification of the financial conglomerate and the entity at its head. Cooperation between competent authorities linked to the same financial conglomerate is also regulated.

Chapter IV covers the activities of the coordinator in the case of breach of the obligations provided for by the Law and by this Royal Decree.

Chapter V indicates the regulatory empowerment of the different supervisors for the implementation of supplementary supervisory methods for groups whose parent company is a regulated entity or a mixed financial holding company whose head office is located outside the European Union.

The final provisions establish the revision of the sectoral rules (banking, securities and insurance) at the level of regulations, in order to achieve sufficient consistency between them and align them with the new regime for financial conglomerates. These provisions also fulfil two purposes in this Royal Decree: firstly, the transposition of Directive 2005/1/EC of the European Parliament and of the Council, 9 March 2005, amending Directives 73/239/EEC, 85/611/EEC, 91/675/EEC, 92/49/EEC and 93/6/EEC of the Council, and Directives 94/19/EC, 98/78/EC, 2000/12/EC, 2001/34/EC, 2002/83/EC and 2002/87/EC, in order to establish a new organisational structure for financial services committees, which expands certain reporting obligations regarding credit institutions and insurance undertakings, and secondly, the establishment of requirements of common requirements of good professional and business repute for a series of regulated entities (which include money changing establishments and valuation firms), which aims to correct the conceptual dispersion that has existed up until now.

Also, in the insurance field, the regulatory amendments included in the final provisions to establish the reasonable valuation of real property by insurance undertakings.

In virtue whereof, at the proposal of the Ministry of the Economy and the Treasury, in accordance with the Council of State and prior to the Meeting of the Council of Ministers on the 11 November 2005,

I hereby P R O V I D E :

CHAPTER I

General provisions

Article 1. Object.

The object of this decree is to implement the provisions of Law 5/2005, 22 April 2005, on the supervision of financial conglomerates, amending other laws on the financial sector (hereinafter, the Law).

Article 2. Scope of application.

1. Without prejudice to the provisions on the supervision of groups of financial institutions envisaged in the sectoral rules, regulated entities belonging to financial conglomerates shall be subject to the set of obligations envisaged in this Royal Decree and their implementing provisions.

2. **(2)**

2. In the case of the groups referred to in the last indent of the second sub-paragraph of Article 2.5 of the Law, the coordinator and the relevant competent authorities may decide, by common accord:

a) That they are not subject to the set of obligations established in this Royal Decree, save for reporting of the information necessary for the identification of financial conglomerates envisaged in Article 13.2 and the provisions of Articles 5, 6 and 7 of the Law that are necessary for compliance with that reporting requirement.

b) That they are subject to the obligations envisaged in this Royal Decree, with the exception of those established in Articles 8 to 11.

The aforementioned authorities may take the decisions referred to in this paragraph if they consider that application of the set of obligations envisaged in this Royal Decree is unnecessary or inappropriate or could lead to error in respect of the supplementary supervision goals. Those authorities shall reassess, at least annually, the decisions on total or partial exemption envisaged in this paragraph and review the quantitative indicators established in Article 2 of the Law and the assessment of the risks associated with each group. **(3)**

3. In the case of regulated entities, as referred to in Article 4.4 of the Law, in which one or more natural or legal persons hold participations or have capital ties, or exercise significant influence, the competent authorities may, by mutual accord, require fulfilment of some or all of the obligations envisaged in this chapter, as if the regulated entity constituted a financial conglomerate, provided that at least one of the companies belongs to the insurance sector and another to the banking and investment services sector and that both sectors are significant in the terms laid down in Article 2.5 of the Law.

When arriving at their decision, the aforementioned authorities must take into account the following factors:

- a) The possibility that the aforementioned persons may assume, *de facto* or *de jure*, whether by virtue of contractual agreements or any other legal link, sufficient powers, independently from whether they exercise such powers or not, to determine the strategy or form of management of the business of the regulated entities, or appoint a third or more of the members of the board of directors of these entities.
- b) The existence of economic interrelations between regulated entities based, among other factors, on direct, indirect or reciprocal financial support, or similar interrelations that entail substantial financial or economic dependence.
- c) In the case of cooperatives or mutual insurers, the partner base, whether direct or indirect partners, common to the credit cooperative or mutual insurer affected. **(2)**

Article 3. Financial institutions and the financial sector.

1. For the purposes of this Royal Decree and the provisions of Article 2.4 of the Law, the following entities shall be considered to make up the financial sector of a group:

- a) Regulated entities as described in 2.3 of the Law.
- b) Mixed financial holding companies envisaged in Article 2.7 of the Law.
- c) Venture capital firms. **(4)**
- d) Variable capital investment companies.
- e) Entities whose main activity is the holding of shares or participations; an entity's main activity shall be understood to be that of holding shares or participations when, on the date of the consolidated financial statements, more than half its assets consist of permanent financial investments in capital, whatever the activity, corporate purpose or articles of association of the participated entities.
- f) Conduit companies whose activity is the extension of the business of a financial institution, or which fundamentally consists of providing group entities with auxiliary services, such as holding real property

or material assets, providing computer services, valuations, representation, intermediation, or other similar services.

2. The banking and investment services sector will consist of the credit institutions and investment firms of the financial conglomerate, and all the other entities that form a consolidatable group or subgroup of credit institutions or a consolidatable group or subgroup of investment firms.

The insurance sector will consist of the insurance and reinsurance undertakings of the financial conglomerate, and all the other undertakings that form a consolidatable group or subgroup of insurance undertakings.

Management companies of collective investment institutions and management companies of venture capital entities will be added to the sector to which they belong within the group. If the latter do not belong exclusively to one sector within the group, they will be added to the smallest financial sector. **(4)**

Article 4. *Rules applicable to the calculations necessary to identify financial conglomerates.*

1. The calculations envisaged in Article 2 of the Law will be made twice a year at all groups that include at least one entity belonging to the insurance sector and at least one entity belonging to the banking and investment services sector. **(5)**

2. The calculations regarding the balance sheet shall be carried out on the basis of the total aggregate balance sheet of the group's entities, in accordance with their annual accounts. Nevertheless, when consolidated accounts are available and these offer independent data for the sectors mentioned in the preceding article, prepared using criteria for assignment equivalent to those indicated in it, these shall be used instead of the aggregate accounts. For the purposes of these calculations, participations held in companies will be taken into account at the value of the total balance which corresponds to the aggregated proportional part held by the group, provided that consolidated accounts are not used or when they are used that these companies are not included in the figures for the sector in which they have to be integrated.

3. The relevant competent authorities may, by common accord:

a) Exclude an entity when the calculations referred to in Article 2.4 and 2.5 of the Law are made, unless there is evidence that the entity has moved from a Member State of the European Union to a third country in order to elude the regulation.

b) Take into consideration whether the thresholds envisaged in the Law are respected over three consecutive years, to prevent abrupt changes in systems, and cease to take this into account if the structure of the group undergoes significant changes.

c) Exclude one or more holdings in the smallest sector if those holdings are decisive for the identification of a financial conglomerate and are, collectively, of no significant interest for the supplementary supervision goals.

For financial conglomerates that are already identified as such, the aforementioned decisions will be taken on the proposal of the coordinator of the conglomerate. **(5)**

4. The relevant competent authorities may, in exceptional cases and by common accord, adopt the decision envisaged in Article 2.6 of the Law when they consider that the parameters referred to in the aforementioned precept are especially important for the purposes of supplementary supervision.

Article 5. *Relevant competent authorities.*

For the purposes of the provisions of this Royal Decree, the following shall be the relevant competent authorities:

- a) The Spanish competent authorities, or those of other Member States of the European Union that are responsible for the supervision on a consolidated basis of the regulated entities belonging to a financial conglomerate.
- b) The coordinator appointed in accordance with Article 14 if different from the authorities referred to in sub-paragraph a) above.
- c) Other competent authorities concerned, when so decided by common accord among the authorities referred to in the two preceding sub-paragraphs; to that effect, and in the absence of rules issued by the European Supervisory Authorities in this respect, the authorities referred to in sub-paragraphs a) and b) will especially take into account the market share of the regulated entities of the conglomerate in other Member States of the European Union, in particular if it exceeds 5%, and the importance in the conglomerate of any regulated entity established in another Member State. **(6)**
- d) In the case of a financial conglomerate whose foreign regulated entities do not belong to a Member State of the European Union, the *Banco de España* if the financial conglomerate includes a Spanish credit institution; the *Comisión Nacional del Mercado de Valores* if the financial conglomerate includes a Spanish investment services company; or the *Dirección General de Seguros y Fondos de Pensiones* if the financial conglomerate includes a Spanish insurance or reinsurance undertaking.

CHAPTER II

Elements of supplementary supervision

Article 6. *Supplementary capital adequacy requirements.*

1. Where the parent entity of the conglomerate is a Spanish regulated entity, or where all the relevant competent authorities are Spanish, the rules established in paragraphs 2, 3 and 4 will apply.

In all other cases, the coordinator will decide, after consulting with the other relevant competent authorities and the reporting entity of the financial conglomerate, which method of those described at annex will be used to calculate the capital adequacy requirements of the regulated entities of the financial conglomerate. **(7)**

2. The eligible own funds of the financial conglomerate will consist of the sum of:

- a) The eligible own funds of the credit institution or consolidatable group of credit institutions that form part of the financial conglomerate, as defined in Part Two of Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on the prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012.

b) The eligible own funds of the investment firm or consolidatable group of investment firms that form part of the financial conglomerate, as defined in Part Two of Regulation (EU) No 575/2013 of 26 June 2013.

c) The uncommitted own equity of the insurance undertaking or consolidatable group of insurance undertakings that form part of the financial conglomerate, as defined in the regulations on the organisation and supervision of private insurance approved by Royal Decree 2486/1998 of 20 November 1998.

The following will be deducted from that sum:

1. Cross-shareholdings between entities of the financial conglomerate, unless the amount of those shareholdings has already been eliminated by consolidation or deducted from the eligible own funds of the entities or consolidatable groups making up the conglomerate. The deductions will be made for the book value at the entity holding the shareholdings.

2. Any excess of those elements making up the eligible own funds or uncommitted own equity that are not classed as such according to the legislation applicable to individual financial institutions or consolidatable financial groups supervised by the Spanish authority that acts as coordinator of the financial conglomerate, over the minimum own funds or uncommitted equity requirements of the individual financial institution or consolidatable group in which they are eligible. To determine that excess, any lower-quality eligible own funds in accordance with the provisions of the applicable sectoral legislation will be applied first, and the requirements covered by the own funds of the same group will be distributed on a pro-rata basis to those of the elements to be excluded.

The coordinator may determine that the sum of any financial commitments or transactions performed, either between any of the financial institutions belonging to the conglomerate that are not consolidatable or between any of the financial institutions belonging to the group and any third party, that lead to double-counting of the own funds of the financial conglomerate or that undermine the effectiveness of the own funds to cover losses or address the risks assumed by the financial conglomerate overall be deducted from its effective own funds.

In addition, the coordinator may authorise that the eligible own funds of the financial conglomerate be calculated on the basis of the sectoral consolidated statements, which to that end shall be understood to be those statements that group together the credit institutions and investment firms, on one hand, and the insurance and reinsurance undertakings on the other. **(7)**

3. The effective own funds of the financial conglomerate, once the deductions envisaged in the preceding paragraph have been made, may not be less at any time than the sum of the own funds and solvency margin requirements established, according to the specific rules, for each class of entities or consolidatable groups making up the financial conglomerate.

When the assets represented by participations or other internal transactions between non-consolidatable entities belonging to the financial conglomerate imply own resource requirements for any of them, or for the consolidatable group, these requirements will not be taken into account in the calculation of the minimum own-resource requirements of the financial conglomerate.

The assets deducted from the own funds will not be considered in the calculation of the minimum own

resource requirements of the financial conglomerate.

4. The coordinator may decide not to include a particular entity in the scope of calculation of the supplementary capital adequacy requirements if:

a) The entity is situated in a third country where there are legal impediments to the transfer of the necessary information, unless there is evidence that the entity has moved from a Member State of the European Union to a third country in order to elude the regulation.

b) The entity on an individual basis is of negligible interest with respect to the supplementary supervision goals. If several companies of the group fit this description, they will not be excluded unless, overall, they are of negligible interest for the purpose indicated.

c) The inclusion of the entity would be inappropriate or misleading with respect to the supplementary supervision goals. In this case, and except in cases of urgency, the coordinator will consult the other relevant competent authorities before taking a decision.

Notwithstanding the foregoing, the coordinator must reassess the grounds justifying the exclusion annually.

In addition, if a regulated entity is excluded on the basis of sub-paragraphs b) and c), the competent authority entrusted with its supervision on an individual basis may ask the reporting entity of the financial conglomerate for information to facilitate the supervision of the regulated entity. **(7)**

5. The solvency requirements referred to in this article will be calculated in accordance with the relevant sectoral rules.

Article 7. *Technical principles of capital adequacy.*

1. In the cases envisaged in paragraph 2 and in those envisaged in paragraph 5 of the previous article, independently of the method used in this latter case, the technical principles stated in this article shall apply.

2. Whichever method is used, when the entity is a subsidiary undertaking and has a solvency deficit, or, in the case of a non-regulated financial sector entity, a notional solvency deficit, the total solvency deficit of the subsidiary has to be taken into account. Where in this case, in the opinion of the coordinator, the responsibility of the parent company owning a part of the capital is limited strictly and unambiguously to that part of the capital, the coordinator may give permission for the solvency deficit of the subsidiary undertaking to be taken into account on a proportional basis.

Where there are no capital ties between entities in a financial conglomerate, the coordinator, after consultation with the other relevant competent authorities, shall determine which proportional part will have to be taken into account, bearing in mind the liability to which the existing relationship gives rise.

3. Moreover, the following principles must be taken into account:

a) The multiple use of elements eligible for the calculation of own funds at the level of the financial conglomerate (multiple gearing) as well as any inappropriate intra-group creation of own funds must be eliminated; in order to ensure the elimination of multiple gearing and the intra-group creation of own

funds, competent authorities shall apply by analogy the relevant principles laid down in the relevant sectoral rules.

b) The solvency requirements for each different financial sector represented in a financial conglomerate shall be covered by own funds elements in accordance with the corresponding sectoral rules; when there is a deficit of own funds at the financial conglomerate level, only own funds elements which are eligible according to each of the sectoral rules shall qualify for verification of compliance with the additional solvency requirements.

c) Where sectoral rules provide for limits on the eligibility of certain own funds instruments, which would qualify as cross-sector capital, these limits would apply *mutatis mutandis* when calculating own funds at the level of the financial conglomerate.

d) When calculating own funds at the level of the financial conglomerate, competent authorities shall also take into account the effectiveness of the transferability and availability of the own funds across the different legal entities in the group, given the objectives of the capital adequacy rules.

e) Where, in the case of a non-regulated financial sector entity, a notional solvency requirement is calculated according to the Annex, the notional solvency requirement means the capital requirement with which such an entity would have to comply under the relevant sectoral or general rules as if it were a regulated entity of that particular financial sector. In the case of mixed financial holding companies, the notional solvency requirement shall be calculated according to the sectoral rules for the financial conglomerate's most significant financial sector.

Article 8. *Intra-group transactions.*

1. The entity considered to be the head of the financial conglomerate must inform the coordinator, with the frequency the latter decides, and at least annually, of any significant intra-group transactions between the financial conglomerate's regulated entities.

2. For the purposes of the preceding paragraph, an intra-group transaction shall mean any transaction or dealings, independently of their nature, directly or indirectly between the regulated entities belonging to a financial conglomerate and companies of the same group and any natural or legal person linked to the undertakings within that group by "close links", for the fulfilment of an obligation, whether or not contractual, and whether or not for payment.

3. Without prejudice to the provisions of Article 10, any intra-group transaction shall be considered significant if the amount involved is more than five per cent of the eligible own funds of the financial conglomerate.

Article 9. *Risk concentration.*

1. The entity considered to be the head of the financial conglomerate must inform the coordinator, with the frequency the latter decides, and at least annually, of any significant concentration of risk within the financial conglomerate. 2. For the purposes of the preceding paragraph, risk concentration" shall mean all exposures with a loss potential borne by entities within a financial conglomerate, which are large enough to threaten the solvency or the financial position in general of the regulated entities in the financial conglomerate. Such exposures may be caused by counterparty risk/credit risk,

investment risk, insurance risk, market risk, other risks, or a combination or interaction of these risks.

3. Without prejudice to the provisions of the following articles, risks exceeding 10 per cent of the financial conglomerate's eligible own funds shall be considered a significant risk concentration.

Article 10. *Provisions common to intra-group transactions and risk concentrations.*

1. The coordinator, following consultation with the other relevant competent authorities, shall identify those types of operations and risks which regulated entities belonging to financial conglomerates must report, in accordance with the provisions of the two preceding articles, and the valuation criteria of such transactions and risk and other technical points that must be taken into account for the calculations.

For this purpose the aforementioned authorities will take into account the specific characteristics of each financial conglomerate and its risk management structure.

2. The coordinator, following consultation with the other relevant competent authorities and with the financial conglomerate, may define specific thresholds for transactions and risks to be considered significant that are lower than those established in the two preceding articles.

3. When overseeing the intra-group transactions and risk concentrations, the coordinator shall in particular monitor the possible risk of contagion in the financial conglomerate, the risk of a conflict of interests, the risk of circumvention of sectoral rules, and the level or volume of risks.

4. The Ministry of Economy and Finance is empowered to establish, following a report from the *Banco de España*, *Comisión Nacional del Mercado de Valores* and the *Dirección General de Seguros y Fondos de Pensiones*, general quantitative limits and qualitative requirements in relation to significant intra-group transactions and risk concentrations referred to in this article.

Article 11. *Risk management and internal control.*

1. Regulated entities must have, at the level of the financial conglomerate, risk management procedures and adequate internal control mechanisms, and a good administrative and accounting organisation.

2. The risk management processes shall include:

a) Sound governance and management with periodic approval and review by the set of management bodies of the entities included in the conglomerate.

b) Capital adequacy policies appropriate to envisage the impact of the financial conglomerate's commercial strategy on the risk profile and its additional capital requirements.

c) Appropriate procedures to ensure the risk control systems are integrated in the organisation and that the necessary measures are taken to guarantee that the systems applied in all entities included in the financial conglomerate are consistent and that risks can be measured, monitored and controlled at the level of the financial conglomerate.

3. The internal control mechanisms shall include:

a) Adequate mechanisms with respect to the adequacy of additional capital so as to identify and calculate all the significant internal and external risks to which the entity is exposed, and to establish an appropriate relationship between own funds and risks.

b) Sound reporting and accounting procedures to identify measure, monitor and control the intra-group transactions and the risk concentration.

c) Mechanisms established to contribute to the preparation and development, where necessary, of recovery and resolution plans and instruments. These mechanisms will be updated regularly as determined by the coordinator. **(8)**

4. Bearing in mind the specific characteristics of each financial conglomerate, the coordinator may, after consulting the other relevant competent authorities, determine the scope and minimum content of the risk management procedures and internal control mechanisms the financial conglomerate must have, as referred to in paragraphs 2 and 3.

5. All the companies included in a financial conglomerate must have appropriate internal control mechanisms in order to collect the necessary data and information for the purposes of supplementary supervision.

6. The reporting entities in financial conglomerates shall report, annually to the coordinator, detailed information on their legal structure and their governance and organisational structure, including all the regulated entities, non-regulated subsidiaries and main branches. The coordinator will convey that information to the Joint Committee of the European Supervisory Authorities. In addition, the reporting entities must publish annually, at the level of the financial conglomerate, in full or by reference to equivalent information, a description of their legal structure and their governance and organisational structure. **(9)**

7. The coordinator may perform stress tests at the level of the financial conglomerate with the frequency and scope determined in each case. To that end, further parameters may be added to the stress tests performed at the sectoral level envisaging the specific risks associated with financial conglomerates. **(9)**

Article 12. Requirements upon the directors of mixed financial holding companies. (10)

1. All members of the boards of directors of mixed financial holding companies, and of the boards of directors of their parent company, where applicable, must have recognised commercial and professional integrity, appropriate knowledge and experience to perform their duties, and a readiness to ensure sound governance of the entity. General managers or those holding similar positions must also satisfy the requirements as to integrity, knowledge and experience, and also those holding internal control functions or key posts for the day-to-day running of the business of the entity and its parent company, as established by the Banco de España.

For that purpose, the suitability assessment of board members, and of general managers or those holding similar positions and of those holding internal control functions or key posts for the day-to-day running of the business of the entity, shall conform to the control procedures and criteria as to integrity, experience and good governance established in Article 2 of Royal Decree 1245/1995 of 14 July 1995 on the creation of banks, cross-border activity and other matters relating to the legal regime of credit

institutions.

2. The reporting entity of the financial conglomerate must approach the coordinator to inform it of the persons acting as directors or managers referred to in this article, requesting that they be included in a special register kept by the coordinator. This information must be provided within fifteen business days following acceptance of their post and must include the personal and professional details established, with general nature, by the coordinator responsible for the register, together with a document evidencing acceptance of the post and a declaration by the persons concerned stating that they satisfy the requirements as to integrity and, where appropriate, experience referred to in this article and that they are not subject to any restrictions or incompatibilities established in any rules that may be applicable.

Article 13. *Obligation to submit information.*

1. The reporting entities for financial conglomerates must send the coordinator the information, whether periodic or otherwise, the latter requires of them in order to fulfil their obligations. They must also respond to the coordinator's requirements and facilitate inspections, if applicable, without prejudice to the fact that the competent authorities responsible for supervising entities or groups belonging to the conglomerate may address the latter directly in the exercise of their powers of supervision on a standalone or consolidated basis in relation to the entities included in the conglomerate.

2. In the case of the groups envisaged in Article 4.1, the reporting entity shall submit to the coordinator any information that may be requested by the latter relating to the calculations envisaged in Article 2 of the Law, for the purposes of verifying that the group is subject to the obligations relating to supplementary supervision, and in respect of the calculation of any additional capital requirements that may be imposed upon it should it acquire the status of financial conglomerate.

In addition, the groups envisaged in Article 2.3 b) shall submit information on the calculation of capital adequacy equivalent to that envisaged for financial conglomerates as a consequence of the application of paragraph 1.

The reporting entity referred to in the preceding sub-paragraph will be the corresponding entity by application of similar criteria to those envisaged in Article 5.5 of the Law. **(11)**

CHAPTER III

Elements of supplementary supervision

Article 14. *Rules for the appointment of the coordinator.*

1. When the parent company of a financial conglomerate is a Spanish regulated entity, the coordination function will be exercised by the competent authority responsible for supervision of the consolidatable group to which it belongs or, otherwise, of the entity itself on a standalone basis.

2. In cases other than those provided for in the preceding paragraph, the coordination function will be exercised by the competent authority responsible for supervision of the Spanish regulated entity with the largest balance-sheet total in the most important financial sector.

3. The relevant competent authorities may by common agreement waive the criteria referred to in

paragraph 2 if their application would be inappropriate, taking into account the structure of the conglomerate and the relative importance of its activities in different countries, and appoint a different competent authority as coordinator. In such cases, before taking their decision, the competent authorities shall give the conglomerate an opportunity to state its opinion on that decision.

Article 15. *Identification of the financial conglomerate and the reporting entity.*

1. The Banco de España, the National Securities Market Commission (CNMV) and the Directorate General of Insurance and Pension Funds (DGSFP) shall cooperate closely with each other and with the other competent authorities to identify financial conglomerates that include Spanish entities. To that effect, they may approach the regulated entities under their remit to request of them any information, not already in their power, necessary to make that identification.

If a competent authority considers that a regulated entity authorised by it belongs to a group that could be a financial conglomerate as yet unidentified in accordance with the Law and this Royal Decree, it shall report this to the other competent authorities involved and to the Joint Committee of the European Supervisory Authorities. **(12)**

2. Once a financial conglomerate has been identified, the coordinator will inform the reporting entity of the financial conglomerate as referred to in Article 5.5 of the Law of that circumstance, of its capacity as coordinator and of the scope of the obligations of the conglomerate as provided for in the first subparagraph of Article 2.1 of this Royal Decree.

The same procedure shall apply, for the purposes of Article 12, in the case of the groups referred to in Article 2.3 a) and b). **(12)**

3. The coordinator shall also report the identification made, the designation of reporting entity and its capacity as coordinator to the competent authorities that authorised the regulated entities of the financial conglomerate, the competent authorities of the Member State in which the mixed financial holding company has its head office, where applicable, and the Joint Committee of the European Supervisory Authorities referred to in respective Articles 54 to 57 of Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), Regulation (EU) No 1094/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority), and Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority). **(13)**

4. The Ministry of Economy and Finance may establish a register of financial conglomerates detailing the composition and structure of each conglomerate. The Ministry of Economy and Finance may maintain his register itself or through the competent authorities.

Article 16. *Cooperation between competent authorities.*

The collection and exchange of information between competent authorities will take place under the terms of Article 6.3 of the Law and shall cover at least the following aspects:

a) Identification of the group's legal structure and its governance and organisational structure,

including all the regulated entities, non-regulated subsidiaries and main branches belonging to the financial conglomerate and the holders of qualifying holdings at the level of the ultimate parent company, and of the competent authorities of the group's regulated entities. This information will be supplied by the coordinator to the Joint Committee of the European Supervisory Authorities. **(14)**

- b) Information on the financial conglomerate's strategic policies;
- c) The financial situation of the financial conglomerate, in particular as regards capital adequacy, intra-group transactions, risk concentration and profitability.
- d) Identification of the main shareholders and of the management of the financial conglomerate and its regulated entities. **(14)**
- e) The organisation, risk management and internal control systems at the level of the financial conglomerate.
- f) Procedures for the collection of information from the entities in a financial conglomerate, and the verification of that information;
- g) Adverse developments in regulated entities or in other entities of the financial conglomerate which could seriously affect the regulated entities.
- h) Penalties imposed for having committed serious or very serious breaches, and the exceptional measures taken by the competent authorities.

CHAPTER IV

Enforcement measures

Article 17. *Actions in the event of breach.*

1. If the coordinator is of the view that the financial conglomerate is failing to comply with any of the obligations upon it by virtue of the Law and this Royal Decree, and its implementing provisions, it shall notify the competent authorities concerned so as to coordinate its actions to apply those powers granted to it by legislation over regulated entities and mixed financial holding companies.
2. If the breach refers to additional solvency requirements, intra-group transactions or risk concentration, the coordinator, in agreement with the other relevant competent authorities, shall require the reporting entity to prepare an appropriate plan for its return to compliance. This requirement shall not be obligatory when the non-compliance detected in the financial conglomerate is a direct consequence of a deficit of an individual entity or consolidatable group belonging to it, unless, in the coordinator's judgment, this situation places the solvency of the other entities or consolidatable groups of financial institutions belonging to the financial conglomerate at risk.

CHAPTER V

Groups based in third countries

Article 18. *Regulatory empowerment.*

Under the provisions of the second sub-paragraph of Article 8.2 of the Law, the Ministry of Economy and Finance, the *Banco de España* (Bank of Spain) and the *Comisión Nacional del Mercado de Valores* (National Securities Market Commission), each within its respective area of competence, are empowered to provide for other methods of supplementary supervision of groups of which the parent company is a regulated entity or a mixed financial holding company which has its head office outside of the European Union. These methods shall include the indicated authorities' having the power to demand the creation of a mixed financial holding company which has its head office in the European Union.

The methods must achieve the objectives of supplementary supervision and must be notified to the other competent authorities involved and the European Commission.

First transitional provision. *Transitional regime for non-consolidatable mixed groups. (15)*

Second transitional provision. *Inscription in special registers.*

Within six months of the entry into force of this Royal Decree, the members of the board of directors, managers or similar of the parent company of any Spanish regulated entity, other than a credit institution, investment services company or insurance or reinsurance undertaking, must apply for its inscription in the corresponding register of senior officials, pursuant to the applicable regulations.

Third transitional provision. *Transitional regime for dossiers of applications for valuation of real property belonging to insurance undertakings by the services of the Dirección General de Seguros y Fondos de Pensiones.*

Applications for the valuation of real property belonging to insurance undertakings by the technical services of the *Dirección General de Seguros y Fondos de Pensiones* (Directorate-General for Insurance and Pension Funds) submitted prior to the entry into force of this Royal Decree shall be processed and decided in accordance with the legislation in force at the time of the application.

Single repealing provision. *Regulatory repeal.*

Titles IV and V of Royal Decree 1343/1992, 6 November 1992, implementing Law 13/1992, 1 June 1992, on the own funds and supervision on a consolidated basis of financial institutions, are hereby repealed.

The provisions regarding applications for the valuation of real property belonging to insurance undertakings by the technical services of the *Dirección General de Seguros y Fondos de Pensiones* contained in Order ECO/805/2003, 27 March 2003, on standards of valuation of real property and particular rights for certain financial purposes, are also repealed.

First final provision. *Amendment of Royal Decree 1343/1992, 6 November 1992, implementing Law 13/1992, 1 June 1992, on the own funds and supervision on a consolidated basis of financial institutions. (16)*

Second final provision. *Amendment of the Regulations implementing Law 13/1989, 26 May 1989, on credit cooperatives, approved by Royal Decree 84/1993, 22 January 1993.*

Paragraph 2 of Article 2, "Requirements for obtaining and retaining authorisation", of the Regulation

implementing Law 13/1989, 26 May 1989, of credit cooperatives, approved by Royal Decree 84/1993, 22 January 1993, reads as follows:

"2. A person may be deemed to be of good professional or business repute when their career has been characterised by an observance of the laws of commerce or other laws regulating economic activity and business life, and to have abided by good commercial, financial and banking practices. At all events, a person shall be understood to lack such good professional or business repute when they have a criminal record in Spain or abroad, have been disqualified from holding public office, directorships or the management of financial institutions, or are disqualified pursuant to Law 22/2003, 9 July 2003, on Bankruptcy, until the period of disqualification laid down in the court order delivered during the bankruptcy proceedings has elapsed, or are disqualified and not rehabilitated as a result of bankruptcy proceedings prior to the entry into force of the afore-mentioned Law."

Third final provision. *Amendment of Royal Decree 1245/1995, 14 July 1995, on the creation of banks, cross-border activity and other issues relating to the legal regime of credit institutions.*

Royal Decree 1245/1995, 14 July 1995, on the creation of banks, cross-border activity and other issues relating to the legal regime of credit institutions, is amended as follows:

One. Sub-paragraph f) of paragraph 1 and paragraph 2 of Article 2 "Requirements for the exercise of banking activity", reads as follows, and a new paragraph 6 is added, which reads as follows:

"f) Have a board of directors comprising no less than five members. All the members of the board of directors of the entity, and the members of the board of directors of the parent company, if any, shall be persons of recognised good business and professional repute and the majority, at least, must have adequate knowledge and experience to perform their duties. General managers or other similar executives of the entity and its parent company, if any, must also be of good business and professional repute and have sufficient experience."

"2. A person may be deemed to be of good professional or business repute when their career has been characterised by an observance of the laws of commerce or other laws regulating economic activity and business life, and to have abided by good commercial, financial and banking practices. At all events, a person shall be understood to lack such good professional or business repute when they have a criminal record in Spain or abroad, have been disqualified from holding public office, directorships or the management of financial institutions, or are disqualified pursuant to Law 22/2003, 9 July 2003, on Bankruptcy, until the period of disqualification laid down in the court order delivered during the bankruptcy proceedings has elapsed, or are disqualified and not rehabilitated as a result of bankruptcy proceedings prior to the entry into force of the afore-mentioned Law.

"6. In addition to managing the register of the senior officials of the banking industry, the *Banco de España* (Bank of Spain) shall also be responsible for the creation and management of a register of directors and general managers of parent companies of Spanish banks, other than credit institutions, investment services companies, or insurance or reinsurance undertakings, in which it shall be obligatory to inscribe the directors and other similar executives. For the inscription in this register of these persons their appointment must be notified within 15 days of their taking up their position, together with their personal and professional details, established, in a general way, by the *Banco de España*, and expressly declare in the document that accredits their acceptance of the position, that they meet the

requirements of good repute, and if applicable, professional repute, as referred to in this article, and that they are not subject to any limitations or incompatibilities as established in the applicable standards."

Two. Paragraph 2 of the final sub-paragraph of Article 7, "Authorisation of banks subject to control by foreign persons", reads as follows:

"2 If a Spanish bank is due to be controlled by a credit institution, investment services company, or an insurance or reinsurance undertaking authorised in another Member State of the European Union, by the parent company of such entities, or by the same natural or legal persons who control a credit institution, investment services company, or an insurance or reinsurance undertaking in another Member State, before issuing its report as referred to in paragraph 1 of Article 1, the *Banco de España* must consult the authorities responsible for supervision of the foreign credit institution, investment services company, or an insurance or reinsurance undertaking."

"Authorisations granted to banks indicated in this paragraph shall be notified by the *Banco de España* to the European Commission and the competent authorities in the other Members States, specifying the structure of the group to which the controlled entity belongs."

Three. Paragraph 2 of Article 19, "Information on the capital structure of credit institutions", reads as follows:

"3 As soon as it becomes aware of the transfer of shares or contributions of a credit institution that imply a change in control over the entity, as indicated in Article 4 of Law 24/1988, of 28 July 1988, the *Banco de España* shall notify the Ministry of Economy and Finance. The *Banco de España* shall also notify the European Commission and the competent authorities of the other Member States of the modifications in the capital structure established in this paragraph."

Fourth final provision. *Amendment of Royal Decree 692/1996, 26 April 1996, on the legal regime applicable to credit finance institutions.*

Royal Decree 692/1996, 26 April 1996, on the legal regime applicable to credit finance institutions is amended as follows:

One. Paragraph 2 of Article 4, "Authorisation and registration of credit finance establishment subject to control by foreign persons", reads as follows:

"2. If a Spanish credit finance establishment is due to be controlled by a credit institution, investment services company, or an insurance or reinsurance undertaking authorised in another Member State of the European Union, by the parent company of such entities, or by the same natural or legal persons who control a credit institution, investment services company, or an insurance or reinsurance undertaking in another Member State, before issuing its report as referred to in Article 3.1, the *Banco de España* must consult the authorities responsible for supervision of the foreign credit institution, investment services company, or an insurance or reinsurance undertaking."

Authorisations granted to credit finance establishments indicated in this paragraph shall be notified by the *Banco de España* (Bank of Spain) to the European Commission and the competent authorities in the other Members States, specifying the structure of the group to which the controlled entity belongs."

Two. Sub-paragraph e) of paragraph 1 and of Article 5 "Requirements for the exercise of the activity", reads as follows, and a new second sub-paragraph is added to paragraph 3, which reads as follows:

"e) Have a board of directors comprising no less than three members. All the members of the board of directors of the entity, and the members of the board of directors of the parent company, if any, shall be persons of recognised good business and professional repute and at least three of the members of each of the boards must have adequate knowledge and experience to perform their duties. General managers or other similar executives of the entity and its parent company, if any, and natural persons representing legal entities on the board, must also be of good business and professional repute and have sufficient experience.

A person may be deemed to be of good professional or business repute when their career has been characterised by an observance of the laws of commerce or other laws regulating economic activity and business life, and to have abided by good commercial, financial and banking practices. At all events, a person shall be understood to lack such good professional or business repute when they have a criminal record in Spain or abroad, have been disqualified from holding public office, directorships or the management of financial institutions, or are disqualified pursuant to Law 22/2003, 9 July 2003, on Bankruptcy, until the period of disqualification laid down in the court order delivered during the bankruptcy proceedings has elapsed, or are disqualified and not rehabilitated as a result of bankruptcy proceedings prior to the entry into force of the afore-mentioned Law.

Persons who have performed duties of top management, direction, control or consultancy in financial institutions or had similar duties in other public or private entities or similar size to the entity which is planned to create for not less than three years shall be considered to have appropriate knowledge and experience to perform their duties in credit finance establishments."

"The *Banco de España* shall also be responsible for creating and managing a register of directors and general managers of parent companies of Spanish credit finance establishments other than credit institutions, investment services companies and insurance and reinsurance undertakings, in which it shall be mandatory to inscribe directors, managers and other executives with similar responsibilities." The same procedure as envisaged in the preceding sub-paragraph shall be followed for the inscription of such persons in this register."

Fifth final provision. *Amendment of Royal Decree 775/1997, 30 May 1997, on the legal regime for the official approval of valuation services and companies.*

Paragraph 2 of Article 3, "Requirements of official approval" in Royal Decree 775/1997, 30 May 1997, on the legal regime for the official approval of valuation services and companies reads as follows:

"2. For the purposes of official approval, a person may be deemed to be of good professional or business repute when their career has been characterised by an observance of the laws of commerce or other laws regulating economic activity and business life, and to have abided by good commercial, financial and banking practices.

At all events, a person shall be understood to lack such good professional or business repute when they have a criminal record in Spain or abroad, have been disqualified from holding public office, directorships or the management of financial institutions, or are disqualified pursuant to Law 22/2003, 9 July 2003, on Bankruptcy, until the period of disqualification laid down in the court order delivered

during the bankruptcy proceedings has elapsed, or are disqualified and not rehabilitated as a result of bankruptcy proceedings prior to the entry into force of the afore-mentioned Law."

Sixth final provision. *Amendment of the Regulation on the organisation and supervision of private insurance, approved by Royal Decree 2486/1998, 20 November 1998.*

The Regulation on the organisation and supervision of private insurance, approved by Royal Decree 2486/1998, 20 November 1998, is amended as follows:

One. In Article 4, "Application and administrative authorisation", paragraph 1, sub-paragraph b') is added and sub-paragraph e) is amended, to read as follows:

"b') List of shareholders that are classified as insurance undertakings, credit institutions or investment services companies, and, if applicable, participations, regardless of amount, of which the holder is any shareholder in an insurance undertaking, credit institution or investment services company."

"e) List of those who, under any title, are responsible for the effective management of the entity, or its parent entity, with which shall be included the completed questionnaire established for this purpose by the Ministry of Economy and Finance, referring to the conditions in terms of qualifications and professional experience laid down in Article 15 of the Law."

Two. Article 50, "Property and rights suitable for investment of technical provisions", paragraph 10, sub-paragraph d), reads as follows:

"d) Have been valued by an entity authorised to value property in the mortgage market, in accordance with the specific rules for the valuation of real property suitable for the coverage of the technical provisions of insurance undertakings approved by the Ministry of Economy and Finance."

Three. A final sub-paragraph is added to paragraph 1.d) of Article 52, "Valuation of investments of technical provisions", which reads as follows:

"Through its technical services, the *Dirección General de Seguros y Fondos de Pensiones* may verify and review, ex officio, the valuations given to real property and rights over real property."

Four. In Article 59, "Uncommitted own assets", sub-paragraphs e) and f) are added to paragraph 2, and a new paragraph 2' is added, which read as follows:

"e) Participations by insurance undertakings in insurance or reinsurance undertakings, credit institutions, investment services companies, or entities whose main activity consists of the holding of participations in insurance undertakings, equal to or greater than 20 per cent of the capital or voting rights of the entity in which the participation is held."

f) Subordinate finance or other eligible securities in the uncommitted own funds issued by the entities mentioned in the preceding sub-paragraph and acquired by the insurance undertaking."

"2'. The deductions envisaged in paragraph 2 above shall be made at their book value in the holding entity."

As an alternative to the deduction of the elements envisaged in sub-paragraphs e) and f) of paragraph

2, that the insurance undertaking hold in credit institutions, investment services companies and any entity in the financial sector, insurers may apply the methods in the annex to Royal Decree 1332/2005, 11 November 2005, implementing Law 5/2005, 22 April 2005, on the supervision of financial conglomerates and amending other laws on the financial sector. The method ("accounting consolidation") shall only be applied when the entities included in the scope of application of consolidation have a level of integrated management and internal control in accordance with the provisions of Article 110 of this regulation. The method chosen shall be applied in a consistent manner over time.

At all events, entities belonging to insurance groups and financial conglomerates subject to supplementary supervision may not deduct the elements envisaged in paragraph 2 sub-paragraphs e) and f) that they hold in credit institutions, investment companies, insurance or reinsurance undertakings or insurance undertaking holding companies included within the scope of supplementary supervision."

Five. Sub-paragraph e) of paragraph 1 of the Article "Consolidated group of insurance undertakings" reads as follows:

"e) Entities whose main activity is the holding of shares or participations, except mixed financial holding companies subject to supervision at the level of the financial conglomerate that are not controlled by an insurance or reinsurance undertaking."

Six. The title of Article 110 and paragraph 1 thereof read as follows:

"Article 110. *Internal control and risk management of insurance undertakings.*

1. Insurance undertakings must establish adequate risk management processes and internal control mechanisms, including sound administrative and accounting procedures, and have sufficient information available, so that the management of the entity may have up-to-date knowledge of the progress of its activity, the functioning of its departments and distribution networks, and the behaviour of the basic economic and actuarial figures of its business.

The consolidatable group of insurance companies, through the entities comprising it, shall establish adequate risk management processes and internal control mechanisms, including sound administrative and accounting procedures to ensure the full availability and adequate presentation of all data and information in general that are necessary for the preparation and completion of the consolidated accounts, including consolidated statements of coverage of solvency margin technical provisions."

Seven. Article 121 reads as follows:

"Article 121. *Administrative registers.*

Books will be opened for each of the types of insurance and reinsurance undertakings envisaged in the Law and the organisations for the distribution of risk coverage between entities or for the provision of common services relating to its activity, and for senior officials and those of the parent company, and for insurance brokers and insurance brokerage firms and their senior officials, all with the necessary breakdown."

Eight. The first sub-paragraph of Article 123, "Administrative register of senior officials of insurance and reinsurance undertakings", paragraph 1, reads as follows:

"1. Insurance undertakings and those whose main activity is the holding of participations in insurance undertakings must apply for the inscription of their directors, general managers or executives with similar responsibilities, authorised representatives, and any other person, whatever their title, responsible for the effective management of such undertakings."

Nine. A ninth additional provision is added, which reads as follows:

"Ninth additional provision. *Information that must be supplied by the Dirección General de Seguros y Fondos de Pensiones to the European Union's supervisory bodies.*

In those cases referred to in sub-paragraphs a) and b) of Article 77.2 of the Law, the *Dirección General de Seguros y Fondos de Pensiones* shall inform both the European Commission and the competent authorities in the other Member States."

Seventh final provision. *Amendment of Royal Decree 2660/1998, 14 December, on the changing of foreign currency in establishments open to the public other than credit institutions.*

Paragraph 3 of Article 4, "Requirements for the obtaining and maintaining of authorisation to undertake foreign currency changing activities", of Royal Decree 2660/1998, 14 December, on the changing of foreign currency in establishments open to the public other than credit institutions, reads as follows:

"3. A person may be deemed to be of good professional or business repute when their career has been characterised by an observance of the laws of commerce or other laws regulating economic activity and business life, and to have abided by good commercial, financial and banking practices.

In those cases envisaged in Article 2.1, it shall be considered that the requirements of good professional or business repute are met by the existence of an establishment open to the public in which the applicant's main activity is being undertaken.

At all events, a person shall be understood to lack such good professional or business repute when they have a criminal record in Spain or abroad, have been disqualified from holding public office, directorships or the management of financial institutions, or are disqualified pursuant to Law 22/2003, 9 July 2003, on Bankruptcy, until the period of disqualification laid down in the court order delivered during the bankruptcy proceedings has elapsed, or are disqualified and not rehabilitated as a result of bankruptcy proceedings prior to the entry into force of the afore-mentioned Law."

Eighth final provision. *Amendment of Royal Decree 867/2001, 20 July 2001, on the legal regime applicable to investment services companies. (17)*

Ninth final provision. *Amendment of the Regulation on pension funds and plans, approved by Royal Decree 304/2004, 20 February 2004.*

The second sub-paragraph of Article 75, paragraph 2, of the Regulation on pension funds and plans, approved by Royal Decree 304/2004, reads as follows:

"The fund's real property must be valued at least annually. These valuations must be performed by a valuation entity authorised to undertake valuations in the mortgage market, in accordance with the specific regulations for the valuation of real property approved by the Ministry of Economy and Finance.

Through its technical services, the *Dirección General de Seguros y Fondos de Pensiones* may verify and review, ex officio, the valuations given to real property."

Tenth final provision. *Basic character.*

This Royal Decree, which shall be basic in nature, is decreed under the competency envisaged in Article 149.1.11 and 13 of the Spanish Constitution.

Eleventh final provision. *Incorporation of European Union Law.*

This Royal Decree completes the translation into Spanish legislation of Directive 2002/87/EC of the European Parliament and of the Council, 16 December 2002, on the supplementary supervision of credit institutions, insurance undertakings and investment firms in a financial conglomerate, which amends Directives 73/239/EEC, 79/267/EEC, 92/49/EEC, 92/96/EEC, 93/6/EEC and 93/22/EEC of the Council and Directives 98/78/EC and 2000/12/EC of the European Parliament and of the Council. This Royal Decree also incorporates into Spanish law Directive 2005/1/EC of the European Parliament and of the Council, 9 March 2005, amending Directives 73/239/EEC, 85/611/EEC, 91/675/EEC, 92/49/EEC and 93/6/EEC of the Council, and Directives 94/19/EC, 98/78/EC, 2000/12/EC, 2001/34/EC, 2002/83/EC and 2002/87/EC, in order to establish a new organisational structure for financial services committees.

Twelfth final provision. *Empowerment for regulatory implementation.*

The Ministry of Economy and Finance, the *Banco de España* and the *Comisión Nacional del Mercado de Valores* are expressly empowered to issue all such provisions as are necessary for the implementation and enforcement of this Royal Decree.

Thirteenth final provision. *Entry into force.*

This Royal Decree shall enter into force on the day following its publication in the "*Boletín Oficial del Estado*" (Official State Gazette) and shall first be applied to the supervision of annual accounts in the 2005 financial year.

ANNEX

CALCULATION METHODS

The methods referred to Article 6.1 are the following:

Method 1: "Accounting consolidation" method

1. The calculation of the supplementary capital adequacy requirements of the regulated entities in a financial conglomerate shall be carried out on the basis of the consolidated accounts.
2. The supplementary capital adequacy requirements shall be calculated as the difference between:
 - a) The own funds of the financial conglomerate calculated on the basis of the consolidated position of the group; the elements eligible are those that qualify in accordance with the relevant sectoral rules; and

b) The sum of the solvency requirements for each different financial sector represented in the group; the solvency requirements for each different financial sector are calculated in accordance with the corresponding sectoral rules.

In the case of non-regulated financial sector entities which are not included in the aforementioned sectoral solvency requirement calculations, a notional solvency requirement shall be calculated.

4. The difference shall not be negative.

Method 2: "Deduction and aggregation method"

1. The calculation of the supplementary capital adequacy requirements of the regulated entities in a financial conglomerate shall be carried out on the basis of the accounts of each of the entities in the group.

2. The supplementary capital adequacy requirements shall be calculated as the difference between:

a) The sum of the own funds of each regulated and non-regulated financial sector entity in the financial conglomerate; the elements eligible are those which qualify in accordance with the relevant sectoral rules; and

b) The sum of:

1. The solvency requirements for each regulated and non-regulated financial sector entity in the group; the solvency requirements shall be calculated in accordance with the relevant sectoral rules, and

2. The book value of the participations in other entities of the group.

3. In the case of non-regulated financial sector entities, a notional solvency requirement shall be calculated. The solvency requirements will be taken into account in the ratio of their proportional parts, in accordance with the provisions of Article 6.3 and Article 7.

4. The difference shall not be negative.

..... (18)

Method 3: Combined method

The calculation of the supplementary capital adequacy requirements of the regulated entities in a financial conglomerate may be carried out using a combination of the two previous methods. (19)

- (1) The fourth paragraph as drafted in the third final provision of Royal Decree 84/2015 of 13 February 2015.
- (2) Article 2, paragraph 2 repealed, with paragraphs 3 and 4 becoming paragraphs 2 and 3, respectively, by the third final provision of Royal Decree 84/2015 of 13 February 2015.
- (3) Article 2, present paragraph 2 as drafted in the third final provision of Royal Decree 84/2015 of 13 February 2015.
- (4) Article 3, sub-paragraph 1 c) and paragraph 2 as drafted in the third final provision of Royal Decree 84/2015 of 13 February 2015.
- (5) Article 4, paragraphs 1 and 3 as drafted in the third final provision of Royal Decree 84/2015 of 13 February 2015.
- (6) Article 5, sub-paragraph c) as drafted in the third final provision of Royal Decree 84/2015 of 13 February 2015.
- (7) Article 6, paragraphs 1, 2 and 4 as drafted in the third final provision of Royal Decree 84/2015 of 13 February 2015.
- (8) Article 11, sub-paragraph c) included in paragraph 3 by Article 4 of Royal Decree 1336/2012 of 21 September 2012.
- (9) Article 11, paragraphs 6 and 7, which are added, as drafted in the third final provision of Royal Decree 84/2015 of 13 February 2015.
- (10) Article 12 as drafted in the third final provision of Royal Decree 256/2013 of 12 April 2013.
- (11) Article 13, paragraph 2 as drafted in the third final provision of Royal Decree 84/2015 of 13 February 2015.
- (12) Article 15, paragraphs 1 and 2 as drafted in the third final provision of Royal Decree 84/2015 of 13 February 2015.
- (13) Article 15, paragraph 3 as drafted in Article 4 of Royal Decree 1336/2012 of 21 September 2012.
- (14) Article 16, sub-paragraphs a) and d) as drafted in the third final provision of Royal Decree 84/2015 of 13 February 2015.
- (15) First transitional provision repealed by the third final provision of Royal Decree 84/2015 of 13 February 2015.
- (16) Tacitly repealed by the single repealing provision of Royal Decree 216/2008 of 15 February 2008.
- (17) Tacitly repealed by the single repealing provision of Royal Decree 217/2008 of 15 February 2008.
- (18) Method 3 repealed, with method 4 becoming present method 3, by the third final provision of Royal Decree 84/2015 of 13 February 2015.
- (19) Present method 3 as drafted in the third final provision of Royal Decree 84/2015 of 13 February 2015.