

**COMMISSION de SURVEILLANCE
du SECTEUR FINANCIER**

In case of discrepancies between the French and the English text, the French text shall prevail

Luxembourg, 28 May 2010

To all Luxembourg law credit institutions and branches of non-EU credit institutions

CIRCULAR CSSF 10/461

Re: Reporting of interim net profit or loss (at the end of the financial year) and net profit or loss of the most recent financial year (the previous financial year) where pending appropriation in the reporting tables regarding capital adequacy (tables B 1.4 and B 6.4)

Ladies and Gentlemen,

The purpose of this circular, which completes the verification rules applicable to the tables B 1.4 and B 6.4, is to summarise the reporting of certain accounting elements of own funds of credit institutions (tables B 1.1 and B 6.1) in the prudential reporting tables on capital adequacy (tables B 1.4 CA-SRO and B 6.4 CA-SRO).

The circular follows an analysis carried out by the CSSF on the quality of the data of the reporting tables regarding capital adequacy provided by the credit institutions during the last quarters; it appears that some errors or breaches remained in the transmitted tables, particularly as regards the reporting of interim net profit or loss, net profit or loss of the most recent financial year where pending appropriation and the related dividends/interim dividends.

This circular specifies the reporting and the verification rules concerning:

- interim net profit or loss (at the end of the financial year)
- foreseeable interim dividends, to be withdrawn from the interim profit and paid interim dividends, withdrawn from the interim profit;
- net profit or loss of the most recent financial year (the previous financial year) where pending appropriation;

- foreseeable dividends to be withdrawn from the profit of the most recent financial year where pending appropriation and paid interim dividends, withdrawn from the profit of the most recent financial year where pending appropriation.

In the future, besides the rules specified in the technical documents relating to the transmission of the tables B 1.4 and B 6.4 ("Schedule of conditions"¹), every credit institution will verify before submitting the reports B 1.4 and B 6.4 the compliance with the additional rules listed in the Annexe to this circular. These verification rules, listed in Section 5 of the Annexe to this circular, will be included in the next update of the above-mentioned technical document. Non compliance with these verification rules will result in the refusal of the transmitted tables.

Moreover, the CSSF reminds that it expects the drawing-up of the whole legal reporting to be subject to appropriate control processes which will guarantee its good quality.

Please find enclosed the relevant rules. In addition, please check if the tables B 1.4 CA-SRO (or B 6.4 CA-SRO) transmitted for March 2010 observe the listed rules and send us, if applicable, a corrected version.

For further information, please contact Mr Pierrot Rasqué as from 8 June 2010 (pierrot.rasque@cssf.lu) or Mrs Marguy Mehling (marguy.mehling@cssf.lu).

Yours faithfully,

COMMISSION DE SURVEILLANCE DU SECTEUR FINANCIER

Andrée BILLON
Director

Claude SIMON
Director

Jean GUILL
Director General

Annexe

¹ The last update was in December 2009.

Annexe to the circular concerning the interim net profit or loss (at the end of the financial year) and the net profit or loss of the most recent financial year (the previous financial year) where pending appropriation in the reporting tables regarding capital adequacy (tables B 1.4 and B 6.4)

1. Processing of interim net profit or loss (at the end of the financial year)

As regards accounting, the interim net profit or loss (at the end of the financial year) is indicated in the item 3.7 "Profit or loss of the financial year" of the table B 1.1/6.1.

1.1 Possible situations

As the processing is prudential, the table B 1.4 CA-SRO (or B 6.4 CA-SRO) provides under the items 0160 to 0240 different categories of items for reporting interim net profit or loss depending on whether they:

- constitute a profit or loss (before eliminating the portion subject to prudential filters), and
- are or are not audited by the *réviseur d'entreprises* (statutory auditor).

The following table summarises the items applicable in this matter in the table B 1.4 CA-SRO (or B 6.4 CA-SRO), according to different situations that may occur. The following sections specify the methods for the reporting of these items.

Interim net profit or loss (table B 1.1/6.1: item 3.7)	Applicable items of the table B 1.4/6.4 CA-SRO
Unaudited interim profit	0190, 0200, 0210
Unaudited interim loss	0190, 0200, 0210
Audited interim profit	0160, 0170, 0180
Audited interim loss	0220, 0230, 0240

It should be borne in mind that the net profit or loss at the end of a financial year (reported under the item 3.7 of the table B 1.1/6.1) is integrated in the interim net profit or loss and shall be allocated to one of the above-mentioned item categories.

1.2 Recognition for the purposes of determining regulatory own funds

Any interim loss, whether audited or not, reduces prudential own funds, whereas the interim profit may only be included in prudential own funds if it is audited (Circular CSSF 06/273, Part IV, points 16(e) and 17, fifth indent).

Note: Where the *réviseur d'entreprises* (statutory auditor) is able to report to the credit institution that nothing has come to his attention that causes him to believe that the interim profits for the period in question do not show a true and fair view, the credit institution is authorised to include the interim profit figure in prudential own funds and it shall submit the relevant auditor's report to the CSSF (Circular CSSF 06/273, Part IV, point 16(e)).

1.3 Reporting in the table B 1.4 CA-SRO (or B 6.4 CA-SRO)

The steps to follow for the reporting of interim net profit or loss in the table B 1.4 CA-SRO (or B 6.4 CA-SRO) are:

1. The credit institution determines which item category of the table under point 1.1. above is applicable to interim net profit or loss.

It should be noted that any interim profit/loss, whether audited or not, must be allocated to the relevant item category and that the items of this category shall be filled in in any case.

2. The credit institution reports interim profit/loss (including the portion subject to prudential filters) under the item 0170, 0200 or 0230 according to its nature:
 - unaudited interim profit is allocated to the item 0200;
 - unaudited interim loss is allocated to the item 0200;
 - audited interim profit is allocated to the item 0170;
 - audited interim loss is allocated to the item 0230.

The amount of the interim profit/loss reported under the item 0170, 0200 or 0230 corresponds to that included in the item 3.7 "Profit or loss of the financial year" of the table B 1.1/6.1.

It should be borne in mind that the interim profit, reported under the item 0170 or 0200 includes possible paid interim dividends, withdrawn from the interim profit (item 3.8 of the table B 1.1/6.1) or foreseeable interim dividends to be withdrawn from the interim profit.

3. The credit institution determines the portion of the interim profit/loss subject to prudential filters and included in the item 0180, 0210 or 0240.

The amount indicated under the item 0180, 0210 or 0240 corresponds to the sum of the unrealised net profit or loss registered in the interim net profit or loss, to which prudential filters apply: i) an unrealised net profit subject to prudential filters shall be reported therein in negative values; ii) an unrealised net loss subject to prudential filters shall be reported therein in positive values.

Note: The following valuation differences registered in the interim net profit or loss are subject to prudential filters: i) valuation differences linked to a variation of the credit quality of the bank issuing financial liabilities designated as at fair value as a compensation for the net profit or loss; ii) valuation differences in the investment property at fair value as a compensation for the net profit or loss. The valuation differences in these elements, registered in the interim net profit or loss, shall be included (together with those previously accounted as net profit or loss brought forward) in the items 0330 and/or 0370; the prudential filters applicable to them (items 0340 and/or 0375) are specified in Circular CSSF 06/273, Part IV, Section 3.3.3.

4. In the item 0160, 0190 or 0220, the credit institution indicates the portion of the interim profit/loss effectively eligible under prudential own funds.

- The item 0190 (portion of the unaudited interim net profit or loss, not subject to prudential filters) is equivalent to the minimum of the sum of the items 0200 (interim net profit or loss before eliminating the portion subject to prudential filters) and 0210 (portion of the interim net profit or loss subject to prudential filters) and '0':

Where the sum of the items 0200 and 0210 is negative, it is included in the item 0190 and is part of prudential own funds; where the sum of the items 0200 and 0210 is positive, it is not part of prudential own funds and the amount 0 is filled in under the item 0190; the item 0190 may not show a positive amount (greater than zero).

Any unaudited interim loss (initially reported under the item 0200) is thus taken into account for the determination of prudential own funds (through the item 0190) as regards the negative portion not subject to prudential filters pursuant to the provisions of Circular CSSF 06/273, Part IV, point 17, fifth indent. No unaudited interim profit (initially reported under the item 0200) is taken into account for the determination of prudential own funds (through the item 0190) as regards the positive portion not subject to prudential filters.

Note: The calculation rules with respect to interim profit/loss reporting in the table B 1.4 and B 6.4 ensure that the unaudited interim profits (initially reported under 0200) may not be taken into account for the purposes of determining prudential own funds.

- The item 0160 (portion of the audited interim profit, not subject to prudential filters) is equivalent to the sum of the items 0170 (interim profit before eliminating the portion subject to prudential filters) and 0180 (portion of the interim profit subject to prudential filters); this amount, whether positive or negative, is part of the prudential own funds. Any audited interim profit, (initially reported under the item 0170) is thus taken into account for the determination of prudential own funds (through the item 0160) as regards the portion not subject to prudential filters pursuant to the provisions of Circular 06/273, Part IV, point 16(e).
- The item 0220 (portion of the unaudited interim loss not subject to prudential filters) is equivalent to the sum of the items 0230 (interim loss before eliminating the portion subject to prudential filters) and 0240 (portion of the interim loss subject to prudential filters); this amount, whether positive or negative, is part of the prudential own funds. Any audited interim loss (initially reported under the item 0230) is thus taken into account for the determination of prudential own funds (through the item 0220) as regards the portion not subject to prudential filters pursuant to the provisions of Circular CSSF 06/273, Part IV, point 17, fifth indent.

It should be borne in mind that the calculation rules presented in this point already form an integral part of the technical document relating to the transmission of the tables B 1.4 and B 6.4 ("Schedule of Conditions").

Note: In case where the interim dividends are withdrawn from the interim profit, the credit institution applies the processing of Section 2 below.

2. Processing of foreseeable interim dividends, to be withdrawn from the interim profit and paid interim dividends withdrawn from the interim profit

At accounting level, the paid interim dividends, withdrawn from the interim profit are included in the item 3.7 "Profit or loss of the financial year" of the table B 1.1/6.1; they are deducted from the own funds of the item 3.8 "Interim dividends" of the table B 1.1/6.1.

2.1 Possible situations

As the processing is prudential, the table B 1.4 CA-SRO (or B 6.4 CA-SRO) does not provide separate items for the reporting of foreseeable interim dividends to be withdrawn from the interim profit and paid interim dividends withdrawn from the interim profit; they are included in the items prescribed for the interim profit reporting. This leads to the fact that processing shall be carried out, where applicable, for the determination of prudential own funds.

The following table reiterates the items applicable in this matter for the table B 1.4 CA-SRO (or B 6.4 CA-SRO) according to different situations which may occur. The following sections specify the methods as regards the reporting of these items.

Interim profit: Interim dividends (foreseeable or paid) (table B 1.1/6.1: items 3.7/3.8)	Applicable items of the table B 1.4/6.4 CA-SRO
Audited interim profit	0160, 0170, 0500
Unaudited interim profit	0190, 0200

2.2 Recognition for the purposes of determining regulatory own funds

The interim profit may only be included in the prudential own funds insofar as it is audited; foreseeable interim dividends to be withdrawn from the audited interim profit and the paid interim dividends withdrawn from the audited interim profit are deducted from prudential own funds (Circular CSSF 06/273, Part IV, point 16(e)).

Note: Any decision on interim dividends to be paid to shareholders during the year must be first reported to the CSSF (Circular CSSF 08/340, page 14).

2.3 Reporting in the table B 1.4 CA-SRO (or B 6.4 CA-SRO)

The reporting varies depending on whether the interim profit is audited or unaudited:

1. **Foreseeable interim dividends to be withdrawn from the audited interim profit / paid interim dividends withdrawn from the audited interim profit**

The foreseeable interim dividends to be withdrawn from the audited interim profit and the paid interim dividends withdrawn from the audited interim profit (item 3.8 of the table B 1.1/6.1) are included in the interim profit indicated under the items 0160 (portion of the audited interim profit not subject to prudential filters) and 0170 (audited interim profit included in the portion subject to prudential filters).

The foreseeable interim dividends to be withdrawn from the audited interim profit and the paid interim dividends withdrawn from the audited interim profit (included in the item 0160) which must be excluded from prudential own funds shall be deducted from prudential own funds under the item 0500 insofar as any amount filled in under the item 0160 (portion of the audited interim profit not subject to prudential filters) is included in the determination of prudential own funds.

2. **Foreseeable interim dividends to be withdrawn from the unaudited interim profit**

The foreseeable interim dividends to be withdrawn from the unaudited interim profit are included in the interim profit indicated under the items 0190 (portion of the unaudited interim profit not subject to prudential filters) and 0200 (unaudited interim profit including the portion subject to prudential filters).

Insofar as the unaudited interim profit is not ranked as prudential own funds (the item 0090 not greater than 0) no additional specific deduction needs to be applied.

Note: The approaches described above allow conforming to the rule (set out in point 1.3.2 above) which provides that the reported amount of the item 0170, 0200 or 0230 (interim net profit or loss, audited or not, before eliminating the portion subject to prudential filters) of the table B 1.4/6.4 CA-SRO is equivalent to that reported under the item 3.7 "Profit or loss of the financial year" of the table B 1.1/6.1.

3. **Processing the net profit or loss of the most recent financial year (previous financial year) where pending appropriation**

As regards accounting, the net profit or loss of the most recent financial year where pending appropriation is not included in a separate item of the table B 1.1/6.1; it is included in the item 3.5 "Reserves (including the net profit or loss brought forward)" of the table B 1.1/6.1.

3.1 Possible situations

As the processing is prudential, the table B 1.4 CO-SRO (or B 6.4 CA-SRO) does not provide separate items for the reporting of the net profit or loss of the most recent financial year where pending appropriation; the latter is included in the items prescribed for the reporting of reserves. This leads to the fact that processing shall be carried out, where applicable, for the determination of prudential own funds.

The following table reiterates the items applicable in this matter, for the table B 1.4 CA-SRO (or B 6.4 CA-SRO), according to different situations which may occur. The following sections specify the methods for the reporting of these items.

Net profit or loss of the most recent financial year where pending appropriation (table B 1.1/6.1: item 3.5 (partially))	Applicable items of the table B 1.4/6.4 CA-SRO
Unaudited profit of the previous financial year	0090, 0100, 0110, 0500
Unaudited loss of the previous financial year	0090, 0100, 0110
Audited profit of the previous financial year	0090, 0100, 0110
Audited loss of the previous financial year	0090, 0100, 0110

3.2 Recognition for the purposes of determining regulatory own funds

Any loss of the most recent financial year where pending appropriation, whether audited or not, reduces the prudential own funds, whereas the profit of the most recent financial year where pending appropriation may only be included in prudential own funds insofar as it is audited (Circular CSSF 06/273, Part IV, points 16(d) and 17, third indent).

3.3 Reporting in the table B 1.4 CA-SRO (or B 6.4 CA-SRO)

The credit institution uses the item categories indicated in the table included under point 3.1 above, according to the nature of the net profit or loss of the most recent financial year where pending appropriation. Thus:

1. The profit/loss of the most recent financial year where pending appropriation (including the portion subject to prudential filters), whether audited or not, is included under the item 0100 (reserves and revaluation reserves, including the portion subject to prudential filters).

It should be borne in mind that the most recent financial year where pending appropriation, which is part of the item 0100, includes possible paid interim dividends, withdrawn from the profit of the most recent financial year where pending appropriation (item 3.8 of the table B 1.1/6.1) or foreseeable dividends to be withdrawn from the profit of the most recent financial year where pending appropriation.

Note: This approach allows conforming to the rule (set out in sub-section 3.2 of the technical document relating to the transmission of the table B 1.4/6.4) which provides that the amount reported under the item 0100 (reserves and revaluation reserves before eliminating the portion subject to prudential filters) of the table B 1.4/6.4 CA-SRO is equivalent to the sum of the amounts reported under the items 3.4 "Revaluation reserves" and 3.5 "Reserves (including net profit or loss brought forward)" of the table B 1.1/6.1.

2. The portion of the profit/loss of the most recent financial year where pending appropriation, subject to prudential filters, is included in item 0110 (portion of reserves and revaluation reserves subject to prudential filters).
3. The portion of the profit/loss of the most recent financial year where pending appropriation, not subject to prudential filters is included in the item 0090 (portion of reserves and revaluation reserves not subject to prudential filters); it corresponds to the sum of the portion of the net profit or loss of the most recent financial year where pending appropriation which is part of the items 0100 (reserves and revaluation reserves before eliminating the portion subject to prudential filters) and 0110 (portion of reserves and revaluation reserves subject to prudential filters).
4. As long as the profit of the most recent financial year where pending appropriation is not audited, the positive portion (greater than zero) not subject to prudential filters (included under the item 0090) which shall be excluded from prudential own funds, shall be deducted from prudential own funds under the item 0500, insofar as any amount filled in under the item 0090 (portion of reserves and revaluation reserves not subject to prudential filters) is included in the determination of prudential own funds.

Note: In case the dividends or interim dividends are withdrawn from the profit of the most recent financial year where pending appropriation, the credit institution applies the processing set out in Section 4 below.

4. Processing of foreseeable dividends to be withdrawn from the profit of the most recent financial year where pending appropriation and paid interim dividends withdrawn from the profit of the most recent financial year where pending appropriation

As regards accounting, the paid interim dividends withdrawn from the profit of the most recent financial year where pending appropriation are included in the item 3.5 "Reserves (including the net profit or loss brought forward)" of the table B 1.1/6.1; they are deducted from the equity under the item 3.8 "Interim dividends" of the table B 1.1/6.1.

4.1 Possible situations

As the processing is prudential, the table B 1.4 CA-SRO (or B 6.4 CA-SRO) does not provide separate items for the reporting of foreseeable dividends to be withdrawn from the profit of the most recent financial year where pending appropriation and the paid interim dividends withdrawn from the profit of the most recent financial year where pending appropriation; the

latter are included in the items for the reporting of reserves. This leads to the fact that processing shall be carried out, where applicable, for the purposes of determining prudential own funds.

The following table reiterates the items applicable in this matter in the table B 1.4 CA-SRO (or B 6.4 CA-SRO) according to the different situations which may occur. The following sections specify the methods for the reporting of these items.

Profit of the last financial year: foreseeable dividends/interim dividends (table B 1.1/6.1: item 3.5 (partially)/3.8)	Applicable items of the table B 1.4/6.4 CA- SRO
Audited profit of the previous financial year	0090, 0100, 0500
Unaudited profit of the previous financial year	0090, 0100, 0500

4.2 Recognition for the purposes of determining regulatory own funds

The profit of the most recent financial year where pending appropriation may only be included in the prudential own funds insofar as it is audited; the foreseeable dividends to be withdrawn from the audited profit of the most recent financial year where pending appropriation and the paid interim dividends withdrawn from the audited profit of the most recent financial year where pending appropriation are deducted from prudential own funds (Circular CSSF 06/273, Part IV, point 16(d)).

4.3 Reporting in the table B 1.4 CA-SRO (or B 6.4 CA-SRO)

The reporting varies depending on whether the profit of the most recent financial year where pending appropriation is audited or unaudited.

- 1. Foreseeable dividends to be withdrawn from the audited profit of the most recent financial year where pending appropriation/paid interim dividends withdrawn from the audited profit of the most recent financial year where pending appropriation**

The foreseeable dividends to be withdrawn from the profit of the most recent financial year where pending appropriation and the paid interim dividends withdrawn from the profit of the most recent financial year where pending appropriation (item 3.8 of the table B 1.1/6.1) are included in the profit of the most recent financial year where pending appropriation forming part of the items 0090 (portion of the reserves and revaluation reserves not subject to prudential filters) and 0100 (reserves and revaluation reserves including the portion subject to prudential filters).

Foreseeable dividends to be withdrawn from the audited profit of the most recent financial year where pending appropriation and paid interim dividends withdrawn

from the audited profit of the most recent financial year where pending appropriation (included in the item 0090), which shall be excluded from prudential own funds, shall be deducted from prudential own funds under the item 0500 insofar as the amount under the item 0090 (portion of the reserves and revaluation reserves not subject to prudential filters) is included in the determination of prudential own funds.

2. Foreseeable dividends to be withdrawn from the unaudited profit of the most recent financial year where pending appropriation

Foreseeable dividends to be withdrawn from the unaudited profit of the most recent financial year where pending appropriation are included in the profit of the most recent financial year where pending appropriation which is part of the items 0090 (portion of reserves and revaluation reserves not subject to prudential filters) and 0100 (reserves and revaluation reserves including the portion subject to prudential filters).

Insofar as the unaudited profit of the most recent financial year where pending appropriation is not assimilated to prudential own funds and the positive portion (greater than zero) not subject to prudential filters (included in the item 0090) must be deducted from prudential own funds under the item 0500 (pursuant to point 3.3.4 above), no additional specific deduction shall be applied.

Note: The approaches described above allow conforming to the rule (set out under sub-section 3.2 of the technical document relating to the transmission of the table B 1.4/6.4) which indicates that the amount reported under the item 0100 (reserves and revaluation reserves before eliminating the portion subject to prudential filters) of the table B 1.4/6.4 CA-SRO is equivalent to the sum of the amounts reported under the items 3.4 "Revaluation reserves" and 3.5 "Reserves (including the net profit or loss brought forward)" of the table B 1.1/6.1.

5. Verification rules applicable for the purposes of interim profits/losses

In addition to the verification rules set out in the technical document relating to the transmission of the tables B 1.4 and B 6.4 (version of December 2009), the following verification rules shall be observed during the transmission of the tables B 1.4 CA-SRO and B 6.4 CA-SRO:

- *items 0170, 0200 and 0230 of the table B 1.4 CA-SRO (or B 6.4 CA-SRO) are not simultaneously empty;*
- *the sum of the items 0170+0200+0230 of the table B 1.4 CA-SRO (or B 6.4 CA-SRO) shall be equal to the amount reported under the item 3.7 of the table B 1.1 (or B 6.1);*
- *the absolute value of the item 0500 of the table B 1.4 CA-SRO (or B 6.4 CA-SRO) shall be greater or equal to the absolute value of the item 3.8 of the table B 1.1 (or B 6.1).*

6. Digital examples

For further details in this matter, please refer to the digital examples available for download at the following addresses:

1. CEBS implementation question No 16/2006²:

<http://www.c-ebs.org/Publications/Q-As/Implementation-Questions/Implementation-Questions---detail.aspx?ID=147&cf=common>

2. Illustrative examples drawn up by the CSSF:

[Digital example 1](#)

[Digital example 2](#)

² www.c-ebs.org > Publications > Q&As > Implementation questions > COREP