Draft Regulations laid before Parliament under paragraph 2(2) of Schedule 2 to the European Communities Act 1972 and paragraph 1 of Schedule 7 to the European Union (Withdrawal) Act 2018, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2018 No. 0000

EXITING THE EUROPEAN UNION

FINANCIAL SERVICES AND MARKETS

The Capital Requirements (Amendment) (EU Exit) Regulations 2018

Made - - - - ***

Coming into force in accordance with regulation 1

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The Treasury are a government department(**a**) designated for the purpose of section 2(2) of the European Communities Act 1972(**b**) in relation to financial services.

The Treasury, in exercise of the powers conferred by section 2(2) of the European Communities Act 1972, and section 8(1) of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018(**c**), make the following Regulations.

A draft of these Regulations has been approved by a resolution of each House of Parliament in accordance with paragraph 2(2) of Schedule 2 to the European Communities Act 1972 and paragraph 1(1) of Schedule 7 to the European Union (Withdrawal) Act 2018.

PART 1

Introduction

Citation and commencement

1.—(1) These Regulations may be cited as the Capital Requirements (Amendment) (EU Exit) Regulations 2018.

(2) This regulation, and regulations 3, 4, 5 and 6 come into force on the day after the day on which these Regulations are made.

(3) The other provisions in these Regulations come into force on exit day.

Interpretation

2. In these Regulations—

"the 2008 Regulations" means the Regulated Covered Bonds Regulations 2008(**d**);

"the 2013 Regulations" means the Capital Requirements Regulations 2013(**e**);

"the 2013 Reporting Regulations" means the Capital Requirements (Country-by-Country Reporting) Regulations 2013(**f**);

"the 2014 Regulations" means the Capital Requirements (Capital Buffers and Macro-prudential Measures) Regulations 2014(**g**);

"the Capital Requirements Regulation" means Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26th June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012;

"the Liquidity Commission Delegated Regulation" means Commission Delegated Regulation (EU) 2015/61 of 10th October 2014 to supplement Regulation (EU) No 575/2013 of the European Parliament and Council with regard to liquidity coverage requirement for Credit Institutions;

(**a**) S.I. 2012/1759.

(**b**) 1972 c.68. Section 2(2) was amended by section 27 of the Legislative and Regulatory Reform Act 2006 (c.51) and by section 3 of, and the Schedule to, the European Union (Amendment) Act 2008 c.7. By virtue of the amendment of section 1(2) by section 1 of the European Economic Area Act 1993 (c.51), regulations may be made under section 2(2) of the European Communities Act 1972 to implement obligations of the United Kingdom created or arising by or under the Agreement on the European Economic Area signed at Oporto on 2nd May 1993 (Cm 2073) and the Protocol adjusting the Agreement signed in Brussels on 17th March 1993 (Cm 2183). Paragraph 1A was inserted into Schedule 2 by section 28 of the Legislative and Regulatory Reform Act 2006 (c.51). The European Communities Act 1972 is repealed with effect from exit day by section 1 of the European Union (Withdrawal) Act 2018.

(**c**) 2018 c. 16.

(**d**) S.I. 2008/346.

(**e**) S.I. 2013/3115.

(**f**) S.I. 2013/3118.

(**g**) S.I. 2014/894.

"the G-SII Commission Delegated Regulation" means Commission Delegated Regulation (EU) 1222/2014 of 8th October 2014 supplementing Directive 2013/36/EU(**a**) of the European Parliament and the Council with regard to regulatory technical standards for the specification of the methodology for the identification of global systemically important institutions and for the definition of subcategories of global systemically important institutions.

PART 2

Amendment of secondary legislation: European Communities Act 1972

2008 Regulations

3. In regulation 1 of the 2008 Regulations (citation, commencement and interpretation), after paragraph (3), insert—

"(4) Any reference in these Regulations to any EU regulation, EU decision or EU tertiary legislation (within the meaning of section 20 of the European Union (Withdrawal) Act 2018) is, unless the contrary intention appears, to be treated as a reference to that EU regulation, EU decision or EU tertiary legislation as it has effect on the day on which the Capital Requirements (Amendment) (EU Exit) Regulations 2018 were made.".

2013 Regulations

4. In regulation 2 of the 2013 Regulations (interpretation), after paragraph (2), insert—

"(3) Any reference in these Regulations to any EU regulation, EU decision or EU tertiary legislation (within the meaning of section 20 of the European Union (Withdrawal) Act 2018) is, unless the contrary intention appears, to be treated as a reference to that EU regulation, EU decision or EU tertiary legislation as it has effect on the day on which the Capital Requirements (Amendment) (EU Exit) Regulations 2018 were made.".

2013 Reporting Regulations

5. In regulation 1 of the 2013 Reporting Regulations (citation, commencement and interpretation), after paragraph (2), insert—

"(3) Any reference in these Regulations to any EU regulation, EU decision or EU tertiary legislation (within the meaning of section 20 of the European Union (Withdrawal) Act 2018) is, unless the contrary intention appears, to be treated as a reference to that EU regulation, EU decision or EU tertiary legislation as it has effect on the day on which the Capital Requirements (Amendment) (EU Exit) Regulations 2018 were made.".

2014 Regulations

6. In regulation 2 of the 2014 Regulations (interpretation), after paragraph (2), insert—

"(2A) Any reference in these Regulations to any EU regulation, EU decision or EU tertiary legislation (within the meaning of section 20 of the European Union (Withdrawal) Act 2018) is, unless the contrary intention appears, to be treated as a reference to that EU regulation, EU decision or EU tertiary legislation as it has effect on the day on which the Capital Requirements (Amendment) (EU Exit) Regulations 2018 were made.".

(**a**) Directive 2013/36/EU of the European Parliament and of the Council of 26th June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC; OJ No. L. 176, 27.6.2013, p.338-436.

PART 3

Amendment of secondary legislation: European Union (Withdrawal) Act 2018

CHAPTER 1

Amendment of 2008 Regulations

Amendments to the Regulated Covered Bonds Regulations 2008

7. The 2008 Regulations are amended in accordance with this Chapter.

Regulation 2 (eligible property)

8. In regulation 2 (eligible property)—

(a) omit paragraph (1B)(b) and the "and" preceding it;

(b) in paragraph (2), after "an EEA state," insert "the United Kingdom,".

Regulation 41 (notification of the Commission)

9. Omit regulation 41 (notification of the Commission).

CHAPTER 2

Amendment of 2013 Regulations

Amendments to the Capital Requirements Regulations 2013

10. The 2013 Regulations are amended in accordance with this Chapter.

Regulation 2 (interpretation)

11.—(1) Regulation 2 (interpretation) is amended as follows.

(2) In paragraph (1)—

(a) omit the following definitions—

"Bank";

"EBA Regulation";

"EEA consolidating supervisor";

"EEA parent institution";

"EIOPA";

"EIOPA Regulation";

"ESRB";

"ESRB Regulation";

"home EEA State";

"host EEA State";

"national consolidating supervisor";

"parent institution in an EEA State";

"parent financial holding company in an EEA State";

"parent mixed financial holding company in an EEA State";

"relevant competent authority".

(b) at the end, insert—

""Specified EU Regulations under the Capital Requirements Regulation" means the EU regulations or parts of EU regulations which form part of retained EU law and which are specified in paragraphs 78 to 83 and 126 to 168, in Schedule 1 to the Financial Regulators' Powers (Technical Standards) (Amendment etc.) (EU Exit) Regulations.".

(3) In paragraph (2)(a), omit "or Article 3 (definitions) of the capital requirements directive".

Regulation 2A (insertion of new paragraph)

12. After regulation 2 (interpretation) insert—

"**Interpretation: regulators' rules**

2A.—(1) In these Regulations—

(a) a reference to the PRA rulebook is to the rulebook published by the PRA containing rules made by that Authority under FSMA as the rulebook has effect on exit day;

(b) any reference to a sourcebook is to a sourcebook in the Handbook of Rules and Guidance published by the FCA containing rules made by that Authority under FSMA as the sourcebook has effect on exit day.

(c) "Directive 2013/36/EU UK law" means the law of the United Kingdom which was relied on by the United Kingdom immediately before exit day to implement the capital requirements directive and its implementing measures—

(i) as they have effect on exit day, in the case of rules made by the FCA or by the PRA under FSMA; and

(ii) as amended from time to time, in all other cases.

(2) By way of an exception to paragraph 1(c), for the purposes of regulations 21, 34, 34A, 35 and 35B, and the references to the capital requirements directive therein, "Directive 2013/36/EU UK law" shall mean the law of the United Kingdom or any part of it, which was relied on by the United Kingdom immediately before exit day to implement Directive 2013/36/EU and its implementing measures as amended from time to time.".

Regulation 4 (main provisions)

13. In regulation 4 (main provisions)—

(a) for the heading substitute "Main provisions of the capital requirements regulation and Directive 2013/36/EU UK law";

(b) for the words "every provision of the capital requirements directive and" substitute "every provision of Directive 2013/36/EU UK law and the".

Regulation 5 (capital buffers and Article 458 of the capital requirements regulation)

14. Omit regulation 5 (capital buffers and Article 458 of the capital requirements regulation).

Regulations 6 (co-operation within the European System of Financial Supervision) to 17 (Duties to notify EBA and EIOPA)

15. Omit Part 4 (PRA and FCA: cooperation and co-ordination).

Regulations 18 (general disclosures required of PRA and FCA) to 19 (specific disclosures required of the PRA and FCA)

16. Omit Part 5 (publication of information by the PRA and FCA).

Regulation 20 (determination of the consolidating supervisor)

17. Omit regulation 20 (determination of the consolidating supervisor).

Regulation 21 (assessment of equivalent of consolidated supervision by supervisory authorities in non-EEA states)

18. In regulation 21 (assessment of equivalence of consolidated supervision by supervisory authorities in non-EEA states)—

(a) in the heading, for "non-EEA States" substitute "third countries";

(b) in paragraphs (1)(b) and (5), for "an EEA State" substitute "the United Kingdom";

(c) in paragraph (1)(c), for the words from "in accordance with" to the end substitute "by the FCA or PRA";

(d) in paragraphs (1)(e)(i) and (2), for "EEA" substitute "United Kingdom";

(e) in paragraphs (2) and (4)(a), for "the capital requirements directive" substitute "Directive 2013/36/EU UK law";

(f) omit paragraph (3);

(g) in paragraph (4)(b), omit the words "in accordance with" to the end;

(h) omit paragraph (6).

Regulations 22 (co-ordination and co-operation arrangements) to 33 (colleges of supervisors)

19. Omit regulations 22 to 33.

Regulation 34 (supervisory powers: own funds)

20. In regulation 34 (supervisory powers: own funds)—

(a) in paragraph (1)(a), after "requirements of" insert "Directive 2013/36/EU UK law which implemented";

(b) in paragraphs (2)(a) and (2)(b), after "set out in" insert "Directive 2013/36/EU UK law which implemented";

(c) in paragraph (2)(d)—

(i) for the words from "the review referred" to "capital requirements directive" substitute "either a SREP or an internal model review";

(ii) for "application of the respective approach" insert "applicable internal approaches";

(d) in paragraph (2)(e), for the words from "the capital requirements directive" to the end, substitute "Directive 2013/36/EU UK law or the capital requirements regulation";

(e) in paragraph (3), for the words from "the review and evaluation" to "capital requirements directive" substitute "a SREP";

(f) in paragraphs (3)(a) and (3)(b), after "referred to in" insert "Directive 2013/36/EU UK law which implemented";

(g) in paragraph (3)(c), for the words from "the review and evaluation" to "capital requirements directive" substitute "the SREP or internal model review";

(h) after paragraph 3 insert—

"(4) In this Part—

"internal model review" means a review carried out under regulation 34B;

"SREP" means the supervisory review and evaluation process detailed in regulation 34A.".

Regulations 34A and 34B (insertion of new paragraphs)

21. After regulation 34 (supervisory powers: own funds) insert—

"Supervisory review and evaluation process

34A.—(1) The competent authority must review the arrangements, strategies, processes and mechanisms implemented by an institution to comply with Directive 2013/36/EU UK law and the capital requirements regulation and evaluate—

(a) risks to which that institution is or might be exposed;

(b) risks that institution poses to the UK financial system; and

(c) risks revealed by stress testing taking into account the nature, scale and complexity of that institution's activities.

(2) On the basis of the review and evaluation referred to in paragraph (1), the competent authority must determine whether the arrangements, strategies, processes and mechanisms implemented by an institution and the own funds and liquidity held by it ensures a sound management and coverage of its risks.

(3) The competent authority must establish the frequency and intensity of the review and evaluation referred to in paragraph (1) having regard to the size, systemic importance, nature, scale and complexity of the activities of the institution concerned.

Ongoing review of the permission to use internal approaches

34B.—(1) The competent authority must review on a regular basis, and at least every 3 years, an institution's compliance with the requirements regarding internal approaches that require permission by the competent authorities before using such internal approaches for the calculation of own funds requirements in accordance with Part 3 of the capital requirements regulation.

(2) In its review the competent authority must have particular regard to changes in an institution's business and to the implementation of those approaches to new products.

(3) Where material deficiencies are identified in risk capture by an institution's internal approaches, the competent authority must ensure these are rectified, or take appropriate steps to mitigate their consequences, including by imposing higher multiplication factors, or imposing capital add-ons, or taking other appropriate and effective measures.

(4) The competent authority must in particular review and assess whether the institution uses well developed and up-to-date techniques and practices for its internal approaches.

(5) If for an internal market risk model numerous overshootings referred to in Article 366 of the capital requirements regulation indicate that the model is not or is no longer sufficiently accurate, the competent authority must revoke the permission for using the internal model or impose appropriate measures to ensure that the model is improved promptly.

(6) If an institution has received permission to apply an approach that requires permission by the competent authority before using such an approach for the calculation of own funds requirements in accordance with Part 3 of the capital requirements regulation but no longer meets the requirements imposed as part of the grant of permission for applying that internal approach, the competent authority must require the institution either to satisfy the competent authority that the effect of non-compliance is immaterial where applicable in accordance with the capital requirements regulation or to present a plan for the timely restoration of compliance with the requirements and set a deadline for its implementation.

(7) The competent authority must require improvements to that plan if it is unlikely to result in full compliance or if the deadline is inappropriate.

(8) If the institution is unlikely to be able to restore compliance within an appropriate deadline and, where applicable, has not satisfactorily demonstrated that the effect of non-compliance is immaterial, the permission to use the internal approach must be revoked or

limited to compliant areas or those where compliance can be achieved within an appropriate deadline."(**a**).

Regulation 35 (specific liquidity requirements)

22. In regulation 35 (specific liquidity requirements)—

(a) In the paragraph at the beginning, for the words from "the review and evaluation" to "capital requirements directive" substitute "a SREP";

(b) in paragraph (b), after "referred to in" insert "Directive 2013/36/EU UK law which implemented";

(c) in paragraph (c), for the words from "the review and evaluation" to "capital requirements directive" substitute "the SREP".

Regulation 35A (insertion of new paragraphs)

23. After regulation 35 (specific liquidity requirements) insert—

"**Application of supervisory measures to institutions with similar risk profiles**

35A. Where the competent authority determines that institutions with similar risk profiles such as similar business models or geographical location of exposures, are or might be exposed to similar risks or pose similar risks to the UK financial system, it may apply a SREP to those institutions in a similar or identical manner.

Supervisory powers

35B. For the purposes of a SREP, an internal model review, and in order to address a situation where an institution does not meet the requirements of the Capital Requirements Regulation or Directive 2013/36/EU UK law, or where the competent authority has evidence that an institution is likely to breach such requirements within the following twelve months, the competent authorities may at least—

(a) require the reinforcement of the arrangements, processes, mechanisms and strategies implemented in accordance with Directive 2013/36/EU UK law which implemented Articles 73 and 74;

(b) require institutions to present a plan to restore compliance with supervisory requirements and set a deadline for its implementation, including improvements to that plan regarding scope and deadline;

(c) require institutions to apply a specific provisioning policy or treatment of assets in terms of own funds requirements;

(d) to restrict or limit the business, operations or network of institutions or to request the divestment of activities that pose excessive risks to the soundness of an institution;

(e) require the reduction of the risk inherent in the activities, products and systems of institutions;

(f) require institutions to limit variable remuneration as a percentage of net revenues where it is inconsistent with the maintenance of a sound capital base;

(g) require institutions to use net profits to strengthen own funds;

(**a**) The powers in regulation 34A(1) are restated from Article 97(1) of Directive 2013/36/EU, the powers in regulation 34A(2) are restated from Article 97(3) of Directive 2013/36/EU, the powers in regulation 34A(3) are restated from Article 97(4) of Directive 2013/36/EU, the powers in regulation 34B(1) to (3) are restated from Article 101(1) of Directive 2013/36/EU, the powers in regulation 34B(4) are restated from Article 101(2) of Directive 2013/36/EU, the powers in regulation 34B(5) are restated from Article 101(3) of Directive 2013/36/EU, and the powers in regulation 34B(6) to (8) are restated from Article 101(4) of Directive 2013/36/EU.

(h) restrict or prohibit distributions or interest payments by an institution to shareholders, members or holders of Additional Tier 1 instruments (which meets the requirements of Article 52 of the capital requirements regulation) where the prohibition does not constitute an event of default of the institution;

(i) impose additional or more frequent reporting requirements, including reporting on capital and liquidity positions;

(j) impose specific liquidity requirements, including restrictions on maturity mismatches between assets and liabilities;

(k) require additional disclosures.

Specific publication requirements

35C.—(1) The competent authorities may require institutions to—

(a) publish information referred to in Part 8 of the capital requirements regulation more than once per year, and to set deadlines for publication

(b) use specific media and locations for publications other than the financial statements and

(2) The competent authorities may require parent undertakings to publish annually, either in full or by way of references to equivalent information, a description of their legal structure and governance and organisational structure of the group of institutions."(**a**).

Regulation 36 (employee remuneration)

24. In regulation 36 (employee remuneration)—

(a) the existing wording becomes paragraph (1) of the regulation;

(b) for sub-paragraph (b) substitute—

"(b) collect information on the number of employees in each institution that are remunerated 1 million euros or more per financial year, in pay brackets of 1 million euros, including their job responsibilities, the business area involved and the main elements of salary, bonus, long-term award and pension contribution;";

(c) in sub-paragraph (c), for "Article 94(1)(g)(ii) of the capital requirements directive" substitute "applicable remuneration rules";

(d) omit sub-paragraph (d) and the "and" preceding it;

(e) after paragraph (1) insert—

"(2) In paragraph (1)(c) "applicable remuneration rules" means—

(a) in the case of PRA-authorised persons, rule 15.10 of the Remuneration Part of the PRA's Rulebook and rule 19D.3.49 of the FCA's Senior management arrangements, Systems and Controls sourcebook;

(b) in the case of FCA-authorised persons, rule 19A.3.44A of the FCA's Senior management arrangements, Systems and Controls sourcebook.".

Regulation 37 (diversity practices)

25. In regulation 37 (diversity practices), omit paragraph (b) and the "and" preceding it.

Regulation 38 (consultation with the EBA)

26. Omit regulation 38 (consultation with the EBA).

(**a**) The powers in regulation 35A are restated from Article 103(1) of Directive 2013/36/EU, the powers in regulation 35B are restated from Article 104(1) of Directive 2013/36/EU, the powers in regulation 35C are restated from Article 106 of Directive 2013/36/EU.

Regulation 39 (meaning of "permission" and "protected item" in this part)

27. In regulation 39 (meaning of "permission" and "protected item" in this part)—

(a) in paragraph (a), omit "or";

(b) for paragraph (b) substitute—

"(b) any of the Specified EU Regulations under the Capital Requirements Regulation, as amended from time to time; or";

(c) after paragraph (b) insert—

"(c) a technical standard made by the PRA or FCA under the functions conferred on them by the Capital Requirements Regulation as amended by Part 4, Chapter 3 of the Capital Requirements (Amendment) (EU Exit) Regulations 2018.".

Regulation 45 (misleading the PRA or FCA)

28. In regulation 45 (misleading the PRA or FCA)—

(a) for paragraph (b) substitute—

"(b) any of the Specified EU Regulations under the Capital Requirements Regulation, as amended from time to time;";

(b) after paragraph (b) insert—

"(ba) a technical standard made by the PRA or FCA under the functions conferred on them by the Capital Requirements Regulation as amended by Part 4, Chapter 3 of the Capital Requirements (Amendment) (EU Exit) Regulations 2018; or".

CHAPTER 3

Amendment of the 2013 Reporting Regulations

Amendments to the Capital Requirements (Country-by-Country Reporting) Regulations 2013

29. The 2013 Reporting Regulations are amended in accordance with this Chapter.

Regulation 1 (citation, commencement and interpretation)

30.—(1) Regulation 1 (citation, commencement and interpretation) is amended as follows.

(2) In paragraph (2)—

(a) omit the definition of "capital requirements directive";

(b) omit the definition of "Directive 2006/43/EC".

Regulation 2 (ongoing reporting obligation)

31. In regulation 2(7) (ongoing reporting obligation), for the words "standards required by" to the end substitute "International Standards on Auditing (United Kingdom and Ireland) issued by the Financial Reporting Council Limited or a predecessor body".

Regulation 3 (interim reporting obligation)

32. In regulation 3(2) (interim reporting obligation) omit "to the European Commission and".

Regulation 5 (prior disclosure: prevention of duplication)

33. In regulation 5, omit paragraphs (1) and (2).

CHAPTER 4

Amendment of the 2014 Regulations

Amendments to the Capital Requirements (Capital Buffers and Macro-prudential Measures) Regulations 2014

34. The 2014 Regulations are amended in accordance with this Chapter.

Regulation 2 (interpretation)

35.—(1) Regulation 2 (interpretation) is amended as follows.

(2) In paragraph (1)—

(a) for the definition of "capital conservation buffer" substitute—

""capital conservation buffer" means—

(a) in relation to a PRA-authorised person, the capital conservation buffer that the person must calculate in accordance with Chapter 2 of the Capital Buffers Part of the PRA rulebook;

(b) in relation to a person to whom chapter 10 of the FCA's Prudential sourcebook for Investment Firms applies, the capital conservation buffer that the person must calculate in accordance with section 10.2 of the sourcebook;";

(b) after the definition of "capital conservation buffer" insert—

""the capital requirements regulation" means Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012, as it forms part of domestic law by virtue of section 3 of the European Union (Withdrawal) Act 2018, and as amended from time to time thereafter;"

(c) for the definition of "combined buffer requirement" substitute—

""combined buffer requirement" means the total Common Equity Tier 1 capital required to meet the requirements for the capital conservation buffer extended by the following, as applicable—

(a) an institution-specific countercyclical capital buffer;

(b) a G-SII buffer;

(c) a systemic risk buffer;";

(d) for the definition of "G-SII buffer" substitute—

""G-SII buffer" means the own funds that a G-SII is required to maintain in accordance with Part 4 of these Regulations, corresponding to the sub-category to which the G-SII is allocated and consisting of and supplementary to the Common Equity Tier 1 capital;" ;

(e) for the definition of "institution-specific countercyclical capital buffer" substitute—

""institution-specific countercyclical capital buffer" means—

(a) in relation to a PRA-authorised person, the countercyclical capital buffer that the person must calculate in accordance with Chapter 3 of the Capital Buffers Part of the PRA rulebook;

(b) in relation to a person to whom chapter 10 of the FCA's Prudential sourcebook for Investment Firms applies, the countercyclical capital buffer that the person must calculate in accordance with section 10.3 of the sourcebook;";

(f) for the definition of "systemic risk buffer" substitute—

""systemic risk buffer" has the meaning set out in regulation 34A(1) of these Regulations;";

(g) omit the following definitions—

"EEA parent financial holding company";

"EEA parent institution";

"EEA parent mixed financial holding company";

"ESRB";

"O-SII buffer".

(3) After paragraph (2) insert—

"(2A) In these Regulations—

(a) a reference to the PRA rulebook is to the rulebook published by the Prudential Regulation Authority containing rules made by that Authority under FSMA as the rulebook has effect on exit day;

(b) any reference to a sourcebook is to a sourcebook in the Handbook of Rules and Guidance published by the Financial Conduct Authority containing rules made by that Authority under FSMA as the sourcebook has effect on exit day.".

(4) Omit paragraph (3).

(5) Omit paragraph (4).

Regulation 6 (exemption for small and medium-sized investment firms)

36. In regulation 6 (exemption for small and medium-sized investment firms)—

(a) in paragraph (1) for the words "small or medium-sized investment firm, or small or medium-sized investment firms of a specified description," substitute "SME";

(b) in paragraph (2)(a) for "small or medium-sized investment firms" substitute "SMEs";

(c) omit paragraph (3).

Chapter 1, Part 3 (designated authority and interpretation)

37. For the heading of Chapter 1, Part 3 (designated authority and interpretation) substitute "Overview and interpretation".

Regulation 7 (designated authority)

38. For regulation 7 (designated authority) substitute—

"**Overview**

7.—(1) This Part makes provision for how the Bank—

(a) must assess and set a countercyclical capital buffer rate for the United Kingdom (which relates to exposures located in the United Kingdom), and;

(b) may recognise or set buffer rates for exposures which are located in countries other than the United Kingdom and held by UK institutions.

(2) The buffer rates mentioned in paragraph (1) must be used in the determination of institution-specific countercyclical capital buffers.".

Regulation 8 (meaning of "UK institution")

39. In regulation 8 (meaning of "UK institution"), omit the definition of "EEA authority".

Regulation 9 (the buffer guide)

40. In regulation 9 (the buffer guide), omit paragraph (3)(b) and the "and" preceding it.

Regulation 10 (countercyclical buffer rate)

41. In regulation 10 (countercyclical buffer rate), in paragraph (3), omit sub-paragraphs (b) and (c).

Regulation 12 (announcement of changes to the buffer rate)

42. In regulation 12 (announcement of changes to the buffer rate), omit paragraphs (4) and (5).

Regulation 12A (insertion of new paragraph)

43. After regulation 12 (announcement of changes to the buffer rate) insert—

"**Buffer rate rules**

12A.—(1) Nothing in paragraph 17(9)(b) of Schedule 6A to the Bank of England Act 1998 or paragraph 8 of Part 1 of Schedule 1ZA to FSMA prohibits the making of a rule by the PRA or the FCA that references a countercyclical capital buffer rate set by the FPC under this Part."(**a**).

Regulation 14 (buffer rates for EEA exposures)

44. For regulation 14 (buffer rates for EEA exposures: on or after 1st January 2016) substitute—

"**Buffer rates for EEA exposures: savings provision**

14.—(1) Where, on or before exit day—

(a) an EEA authority set a buffer rate ("the EEA buffer rate") for that EEA state for the purpose of enabling institutions in that EEA State to calculate their institution-specific countercyclical capital buffer,

(b) the EEA buffer rate exceeded 2.5%, and

(c) the EEA buffer rate was recognised by the FPC, so that UK institutions with exposures located in that EEA State could be required by the PRA and FCA to apply it in their calculation of their institution-specific countercyclical capital buffers,

the FPC's decision to recognise the EEA buffer rate must be treated after exit day as though it were a decision made under regulation 15 of these Regulations.".

Regulation 15 (buffer rates for exposures outside the EEA)

45. In regulation 15 (buffer rates for exposures outside the EEA)—

(a) in the heading, for "EEA" substitute "UK";

(b) in paragraph (1)(b), for "outside of the EEA" substitute "other than the United Kingdom".

Regulation 17 (date of application of buffer rates)

46. In regulation 17 (date of application of buffer rates), in paragraph (1)(a), for "regulations 13, 14 or 15" substitute "regulation 15".

Regulation 18 (announcement of changes to buffer rates)

47. In regulation 18 (announcement of changes to buffer rates)—

(**a**) 1998 c.11, paragraph 17(9)(b) inserted by paragraph 1 of Schedule 1 of the Bank of England and Financial Services Act 2016 c.14; 2000 c.8, Schedule 1ZA substituted by Schedule 3 of the Financial Services Act 2012 c.21.

(a) in paragraph (1), for "regulations 13, 14 or 15" substitute "regulation 15";

(b) in paragraph (2)(c), omit "EEA State or".

Regulation 20 (exemption for small and medium-sized investment firms)

48. In regulation 20 (exemption for small and medium-sized investment firms)—

(a) in paragraph (1), for "small or medium-sized investment firm, or small or medium-sized investment firms of a specified description," substitute "SME";

(b) in paragraph (2)(a), for "small and medium-sized investment firms" substitute "SMEs";

(c) omit paragraph (3).

Regulation 21 (designated authority)

49. For regulation 21 (designated authority) substitute—

"Duty of PRA to identify G-SIIs

21. The PRA must identify G-SIIs in accordance with the provisions of this Part.".

Regulation 22 (G-SIIs: location and nature)

50. In regulation 22 (G-SIIs: location and nature), for paragraph (2) substitute—

"(2) A G-SII must also be—

(a) a UK parent institution;

(b) a UK parent financial holding company;

(c) a UK parent mixed financial holding company; or

(d) an institution authorised in the United Kingdom which is not a subsidiary of a body mentioned in sub-paragraphs (a) to (c).".

Regulation 23 (identification methodology)

51. In regulation 23 (identification methodology)—

(a) for paragraph (2) substitute—

"(2) Where the relevant body is a UK parent institution, a UK parent financial holding company or a UK parent mixed financial holding company, the identification methodology must be applied in accordance with Commission Delegated Regulation (EU) No 1222/2014 or any technical standards made by the PRA under the functions conferred on it by Article 464B(3) of the capital requirements regulation.";

(b) in paragraph (3)(e) omit the words from ", including" to the end.

Regulation 24 (sub-categories of G-SII and corresponding buffer rates)

52. In regulation 24(1) (sub-categories of G-SII and corresponding buffer rates), for the words "any directly applicable regulation" to the end substitute "Commission Delegated Regulation (EU) 1222/2014 or any technical standards made by the PRA under the functions conferred on it by Article 464B(3) of the capital requirements regulation.".

Regulation 26 (notification, publication and review)

53. In regulation 26 (notification, publication and review)—

(a) omit paragraphs (1) to (3);

(b) in paragraph (5), omit ", the Commission, the ESRB and EBA".

Regulation 28 (transitional provision: 1st January 2016 to 31st December 2019)

54. Omit regulation 28 (transitional provision: 1st January 2016 to 31st December 2019).

Regulation 29 (designated authority)

55. For regulation 29 (designated authority) substitute—

"Duty of PRA to identify O-SIIs

29. The PRA must identify O-SIIs in accordance with the provisions of this Part.".

Regulation 30 (O-SIIs: location and nature)

56. In regulation 30 (O-SIIs: location and nature), in paragraph (2), for sub-paragraphs (a) to (c) substitute—

"(a) a UK parent institution;

(b) a UK parent financial holding company;

(c) a UK parent mixed financial holding company; or".

Regulation 31 (identification of O-SIIs)

57. In regulation 31 (identification of O-SIIs), in paragraph (2)(b), omit "or the European Union".

Regulation 32 (notification, publication and review)

58. In regulation 32 (notification, publication and review)—

(a) for the heading substitute "Publication and review";

(b) omit paragraph (1);

(c) in paragraph (3), omit ", the Commission, the ESRB and EBA".

Regulation 34 (no requirement to maintain an O-SII buffer)

59. For regulation 34 (no requirement to maintain an O-SII buffer) substitute—

"No requirement to maintain an O-SII buffer

34.—(1) No requirement may be imposed by the FCA or PRA on an O-SII to maintain a capital buffer solely because of its identification as an O-SII under this Part.

(2) In paragraph (1) a "capital buffer" means a requirement to maintain additional Common Equity Tier 1 capital expressed as a percentage of the O-SII's total risk exposure amount calculated in accordance with Article 92(3) of the capital requirements regulation.".

Part 5A (Systemic Risk Buffer)

60. For Part 5A (systemic risk buffer) substitute—

"PART 5A

Systemic Risk Buffer

CHAPTER 1

Imposition of systemic risk buffer and interpretation

Duty on relevant regulator to require a systemic risk buffer to be maintained

34A.—(1) The relevant regulator must require an institution that falls within one of the classes set out in regulation 34B to maintain Common Equity Tier 1 capital, to be known as a "systemic risk buffer".

(2) Regulation 34K makes provision about when an institution must apply a buffer rate in the calculation of its systemic risk buffer.

(3) The amount of the systemic risk buffer an institution must be required to maintain is to be calculated in accordance with Chapter 4.

(4) Neither the PRA nor the FCA may require an institution that does not fall within the classes set out in regulation 34B to maintain a systemic risk buffer without the consent of the Treasury.

Institutions required to maintain a systemic risk buffer

34B.—(1) An institution must be required to maintain a systemic risk buffer if it falls within one of the following classes—

(a) an institution falls within Class A if—

(i) it is an SRB institution,

(ii) the PRA has set a buffer rate for it under regulation 34H (which relates to UK buffer rates), and

(iii) it does not fall within Class B;

(b) an institution falls within Class B if—

(i) it is an SRB institution,

(ii) the PRA has set a buffer rate for it under regulation 34H, and

(iii) the PRA has decided that it must also apply a third country buffer rate under regulation 34J(2) (which relates to buffer rates set in countries other than the United Kingdom);

(c) an institution falls within Class C if—

(i) it is an SRB institution,

(ii) the PRA has not set a buffer rate for it under regulation 34H, and

(iii) the PRA has decided that it must apply a third country buffer rate under regulation 34J(2);

(d) an institution falls within Class D if—

(i) it is a PRA-authorised person other than an SRB institution, and

(ii) the PRA has decided that it must apply a third country buffer rate under regulation 34J(2);

(e) an institution falls within Class E if—

(i) it is an authorised person other than a PRA-authorised person, and

(ii) the FCA has decided that it must apply a third country buffer rate under regulation 34J(3).

Interpretation: SRB institutions

34C.—(1) In this Part, an "SRB institution" means—

(a) a ring-fenced body within the meaning of section 142A of FSMA, or

(b) a large building society.

(2) In paragraph (1)(b) "large building society" means a building society where the sum total of the following two values exceeds £25 billion—

(a) the value of shares issued by the building society that are not deferred shares, and

(b) the value of deposits held in accounts with the building society where one or more of the account holders is a small business.

(3) In paragraph (2)—

(a) "building society", "deferred shares", "deposit" and "share" have the meaning given by section 119 (interpretation) of the Building Societies Act 1986;

(b) a person is a small business only if the person is a small business for the purposes of section 7(10) (the funding limit) of the Building Societies Act 1986.

Interpretation: relevant regulator

34D.—(1) In this Part, "relevant regulator" means—

(a) in relation to a Class A, Class B, Class C or Class D institution, the PRA;

(b) in relation to a Class E institution, the FCA.

Interpretation: general

34E.—(1) In this Part—

"FPC framework" has the meaning set out in regulation 34G;

"systemic risk buffer" has the meaning given in regulation 34A(1);

"third country" means a country other than the United Kingdom;

"third country buffer rate" has the meaning given in regulation 34I(1).

(2) In this Part, a reference to an institution of a particular Class is to be construed in accordance with regulation 34B.

Overview

34F.—(1) In the remainder of this Part—

(a) Chapter 2 makes provision for United Kingdom buffer rates, including as to when buffer rates may be set for individual SRB institutions;

(b) Chapter 3 makes provision for the recognition of buffer rates in third countries, including as to when individual institutions must apply such buffer rates;

(c) Chapter 4 makes provision for the date from which the systemic risk buffer will apply to individual institutions and how such institutions are to be required to calculate the amount of their systemic risk buffer;

(d) Chapter 5 makes procedural provision relating to notifications, publication, reviews and appeals;

(e) Chapter 6 makes saving provisions for matters done before exit day.

CHAPTER 2

United Kingdom buffer rates for SRB institutions

The FPC framework

34G.—(1) The FPC must have a framework for systemic risk buffer rates in the United Kingdom established in accordance with this regulation ("the FPC framework").

(2) The FPC framework must contain the following elements—

(a) a set of criteria for assessing the extent to which the failure or distress of a SRB institution might pose a long term non-cyclical systemic or macro-prudential risk not covered by the capital requirements regulation;

(b) a methodology for measuring the criteria and giving a SRB institution a single score in relation to the criteria; and

(c) in relation to each score that a SRB institution may receive, a buffer rate that corresponds to the score.

(3) In paragraph (2)(a)—

(a) a SRB institution is in distress only if it experiences a significant deterioration in its financial situation;

(b) a long term non-cyclical systemic or macro-prudential risk means a risk of disruption to the financial system with the potential to have serious negative consequences for the financial system and the real economy in the United Kingdom.

(4) In paragraph (2)(a) the criteria to be specified must each be—

(a) measurable; and

(b) capable of being applied to SRB institutions on an individual basis, a sub-consolidated basis and a consolidated basis.

(5) In paragraph (2)(c) the only buffer rates that the FPC may specify are 0%, 1%, 1.5%, 2%, 2.5% and 3%.

(6) The way in which buffer rates correspond to scores in the FPC framework—

(a) must be clear, precise and unambiguous,

(b) must ensure that a score corresponds to one buffer rate only,

(c) may not be expressed in terms of a discretion conferred on a person or body (including the FPC), and

(d) may be expressed by way of a formula, an algorithm, a graph or a table.

Determination by PRA of buffer rates for individual SRB institutions

34H.—(1) The PRA must, in relation to each SRB institution, determine—

(a) whether or not to set a buffer rate for the institution; and

(b) where it does set a buffer rate, the level of the rate,

by applying the steps set out in paragraph (2).

(2) The steps set out in this paragraph are—

Step 1 – determining level of consolidation

The PRA must choose one of the following bases on which to apply the criteria specified in the FPC framework to the SRB institution—

(a) an individual basis;

(b) a sub-consolidated basis; or

(c) a consolidated basis.

Step 2 – deriving a framework buffer rate from the FPC framework

The PRA must derive a buffer rate from the FPC framework for the SRB institution ("a framework buffer rate") by—

(a) applying the methodology of the FPC framework to obtain a score for the SRB institution; and

(b) ascertaining to what buffer rate the score corresponds under the FPC framework.

Step 3 – setting a buffer rate for SRB institution based on supervisory judgment

The PRA may, if it makes a sound supervisory judgment that it is appropriate to do so—

(a) set a buffer rate for an SRB institution, even if it has derived a framework buffer rate for the institution of 0% under Step 2;

(b) set a buffer rate for an SRB institution which is different to the framework buffer rate derived for the institution under Step 2; or

(c) set no buffer rate for an SRB institution, even if it has derived a framework buffer rate for the institution of other than 0% under Step 2.

Where the PRA sets a buffer rate under sub-paragraph (a) or (b) of this Step the rate must be 1%, 1.5%, 2%, 2.5% or 3%.

Step 4 – setting a buffer rate for SRB institutions based on framework buffer rate

Unless the PRA exercises the discretion in Step 3—

(a) where the PRA derives a framework buffer rate under Step 2 of 0% for the SRB institution, the PRA may not set a buffer rate for the institution; and

(b) where the PRA derives a framework buffer rate under Step 2 other than 0% for the SRB institution, the PRA must set the rate so derived as the buffer rate for the institution.

CHAPTER 3

Third country buffer rates

Third country buffer rates: recognition

34I.—(1) In this Part, a "third country buffer rate" means—

(a) in relation to an EEA state, a buffer rate set in accordance with Article 133 of the capital requirements directive as it has effect in EU law as amended from time to time, or if revoked, by its successor; or

(b) in relation to a country other than the United Kingdom which is not an EEA state, a buffer rate set by the relevant authority of that country, that the PRA considers serves a similar purpose to the buffer rates that may be set in accordance with Article 133 of the capital requirements directive as it has effect in EU law as amended from time to time, or if revoked, by its successor.

(2) The PRA may decide to recognise a third country buffer rate ("a recognition decision").

(3) A recognition decision may relate to all institutions or institutions of a specified description.

(4) The PRA may revoke a recognition decision.

Third country buffer rates: application to institutions

34J.—(1) This regulation applies when a recognition decision (within the meaning of regulation 34I(2)) has effect in relation to a third country.

(2) The PRA may require an institution which is a PRA-authorised person and which satisfies the condition in paragraph (4) to apply the third country buffer rate.

(3) The FCA may require an institution which is not a PRA-authorised person and which satisfies the condition in paragraph (4) to apply the third country buffer rate.

(4) The condition in this paragraph is that the institution has exposures located in the third country.

(5) The powers in paragraphs (2) and (3), in relation to a recognition decision which is limited to institutions of a specified description (in accordance with regulation 34I(3)), apply only to institutions falling within the description.

(6) Where an institution is required to apply a third country buffer rate under paragraph (2) or (3), the PRA or the FCA (as the case may be) must specify, to the relevant institution,

the basis to be applied in valuing exposures in accordance with Chapter 4 from one of the following bases—

(a) an individual basis,

(b) a sub-consolidated basis, or

(c) a consolidated basis.

(7) Paragraph (6) does not apply to a Class B institution.

(8) The PRA may not require an SRB institution to apply a third country buffer rate under paragraph (2) if—

(a) the PRA has set a buffer rate for the SRB institution under regulation 34H, and

(b) the buffer rate set under regulation 34H is greater than the third country buffer rate.

(9) The FCA or the PRA may revoke a requirement imposed under paragraph (2) or (3).

CHAPTER 4

Date of application and calculation of systemic risk buffer

Date of application

34K.—(1) Where the PRA sets a buffer rate for an SRB institution under regulation 34H, the PRA must decide the date from which the SRB institution must apply that rate in the calculation of its systemic risk buffer.

(2) Where the PRA has set a buffer rate for an SRB institution under regulation 34H and determines that a buffer rate is no longer to be set for the institution under the regulation, the PRA must decide the date from which this takes effect.

(3) Where the relevant regulator decides that an institution must apply a third country buffer rate under regulation 34J, the relevant regulator must decide the date from which the institution must apply the buffer rate in the calculation of its systemic risk buffer.

(4) Where the relevant regulator revokes a requirement that an institution apply a third country buffer rate under regulation 34J, the relevant regulator must decide the date from which the institution must cease to apply the buffer rate in the calculation of its systemic risk buffer.

Calculation: Class A institutions

34L.—(1) The PRA must require a Class A institution to calculate its systemic risk buffer by applying the buffer rate set for it under regulation 34H to all its exposures.

(2) The PRA must require the institution, for the purposes of the calculation required under paragraph (1), to—

(a) determine the value of its exposures by applying the level of consolidation selected by the PRA under Step 1 of regulation 34H(2), and

(b) apply the buffer rate equally to all exposures, regardless of where they are located.

Calculation: Class B institutions

34M.—(1) The PRA must require a Class B institution to calculate its systemic risk buffer by—

(a) applying the third country buffer rate to its exposures located within the third country, and

(b) applying the buffer rate set for it under regulation 34H to all its other exposures.

(2) The PRA must require the institution, for the purposes of the calculation required under paragraph (1), to—

(a) determine the value of its exposures by applying the level of consolidation selected by the PRA under Step 1 of regulation 34H(2), and

(b) apply the buffer rate set for it under regulation 34H equally to all exposures other than exposures located within the third country, regardless of where they are located.

Calculation: Class C, Class D and Class E institutions

34N.—(1) The relevant regulator must require a Class C, Class D or Class E institution to calculate its systemic risk buffer by applying the third country buffer rate to the value of its exposures located within the third country.

(2) The relevant regulator must require the institution, for the purposes of the calculation required under paragraph (1), to determine the value of its exposures by applying the level of consolidation selected by the relevant regulator under regulation 34J(6).

CHAPTER 5

Notifications, Publication, Review and Appeals

Notification: recognition of third country buffer rate

34O. Where the PRA gives or revokes a recognition decision under regulation 34I, it must notify—

(a) the FCA,

(b) the authorities of the third country which are responsible for supervision of undertakings, and

(c) if different, the authorities of the third country responsible for setting the buffer rate.

Publication: FPC framework

34P. The Bank must publish each element of the FPC framework set out in regulation 34G(2), together with the FPC's justification for each element.

Publication: UK buffer rates

34Q.—(1) Where the PRA sets a buffer rate for an SRB institution under regulation 34H, the PRA must publish the following information—

(a) the SRB institution to which the buffer rate applies,

(b) the buffer rate,

(c) the justification for setting the buffer rate,

(d) the date from which the SRB institution must apply the buffer rate,

(e) the level of consolidation to be used in the calculation of the systemic risk buffer (as determined under Step 1 of regulation 34H(2)), and

(f) the fact that the systemic risk buffer applies to exposures located anywhere in the world (unless a third country buffer rate is applied to the SRB institution under regulation 34J).

(2) Where the PRA determines that a buffer rate is no longer to be set for an SRB institution under regulation 34H, the PRA must publish the following information—

(a) the fact that the buffer rate is no longer set,

(b) if applicable, the fact that the SRB institution is no longer required to maintain a systemic risk buffer,

(c) the justification for ceasing to set the buffer rate, and

(d) the date from which the SRB institution may cease to apply the buffer rate.

(3) A reference to the PRA's justification in paragraphs (1)(c) and (2)(c) includes the PRA's justification for doing anything under Step 3 of regulation 34H(2).

(4) The PRA must not publish information under paragraph (1)(c) or (2)(c) if publication might jeopardise the stability of the financial system.

Publication: third country buffer rates

34R.—(1) Where the PRA recognises a third country buffer rate under regulation 34I, it must publish—

(a) the buffer rate, and

(b) the justification for recognising the buffer rate.

(2) Where the relevant regulator requires an institution to apply a third country buffer rate under regulation 34J, it must publish—

(a) the date from which the institution must apply the third country buffer rate,

(b) the location of the exposures to which the third country buffer rate relates,

(c) the level of consolidation which applies in the calculation of the systemic risk buffer, and

(d) the justification for its decision under regulation 34J(2) or (3) (as the case may be).

(3) The PRA or the FCA (as the case may be) must not publish information under paragraph (1)(b) or (2)(d) if publication might jeopardise the stability of the financial system.

(4) Where the relevant regulator revokes a requirement that an institution apply a third country buffer rate under regulation 34J, it must publish—

(a) the fact that the requirement has been revoked,

(b) the justification for its decision to revoke the requirement, and

(c) the date from which the institution may cease to apply the third country buffer rate.

Review

34S.—(1) The authority specified in the first column of the Table must review the matters set out in the second column at least every second year.

Table

Authority to conduct review	*Matter to be reviewed*
FPC	The elements of the FPC framework.
PRA	A buffer rate set under regulation 34H.
	A decision not to set a buffer rate under regulation 34H.
	A decision to recognise a third country buffer rate under regulation 34I.
	A decision that an institution must apply a third country buffer rate under regulation 34J.
	A decision as to the level of consolidation to apply in relation to the application of a third country buffer rate under regulation 34J(6).
FCA	A decision that an institution must apply a third country buffer rate under regulation 34J.
	A decision as to the level of consolidation to apply in

relation to the application of a third country buffer rate under regulation 34J(6).

Appeals

34T.—(1) A person who is aggrieved by a decision of the PRA under regulation 34H may refer the matter to the Tribunal.

(2) The scope of such an appeal is limited to—

(a) the application of Step 2 of regulation 34H(2), and

(b) the exercise of the PRA's discretion in Step 3 of regulation 34H(2).

CHAPTER 6

Savings

Savings provision

34U.—(1) Paragraph (2) and (3) apply in respect of provisions which were contained in Part 5A of these Regulations as they stood immediately before exit day, and for which there is a provision having equivalent effect in Part 5A of these Regulations after exit day.

(2) Anything done—

(a) in accordance with Part 5A of these Regulations, as they stood immediately before exit day; and

(b) which was in force or effective immediately before exit day;

continues to remain in force or effective on or after exit day, as though it had been done under the regulation having equivalent effect in Part 5A after exit day.

(3) Anything which was—

(a) in accordance with Part 5A of these Regulations, as they stood immediately before exit day; and

(b) in the process of being done immediately before exit day;

continues to be in the process of being done on or after exit day, as though it was proceeding under the regulation having equivalent effect in Part 5A after exit day."(**a**).

PART 4

Amendment of retained direct EU legislation

CHAPTER 1

Amendment of the Capital Requirements Regulation

Amendments to the Capital Requirements Regulation

61. The Capital Requirements Regulation is amended in accordance with this Chapter and Chapters 2 and 3.

Article 1 (scope)

62. In Article 1 (scope)—

(**a**) In regulation 34C, Building Societies Act 1986 c.53. In regulation 34I, Directive 2013/36/EU, OJ No. L. 176, 27.6.2013, p338-436.

(a) for "institutions supervised under Directive 2013/36/EU" substitute "CRR firms";

(b) in the closing paragraph, omit the words from "This Regulation" to the end.

Article 2 (supervisory powers)

63. For Article 2 (supervisory powers) substitute—

"For the purposes of ensuring compliance with this Regulation the competent authorities shall have the powers and shall follow the procedures set out in Directive 2013/36/EU UK law."(**a**).

Article 4(1) (definitions)

64.—(1) Article 4(1) (definitions) is amended as follows.

(2) In point (2) (definition of 'investment firm')—

(a) for the words from "point (1) of" to "that Directive" substitute "paragraph 1A of Article 2 of Regulation 600/2014/EU, as that Article has effect subject to the requirements imposed by the United Kingdom legislation that implemented Directive 2014/65/EU, as amended from time to time"(**b**);

(b) in paragraph (c)—

(i) for "point (1) of Section B of Annex I to Directive 2004/39/EC" substitute "paragraph 1 of Part 3A of Schedule 2 to the Regulated Activities Order";

(ii) for "points 1, 2, 4 and 5 of Section A of Annex I to that Directive" substitute "paragraphs 1, 2, 4 and 5 of Part 3 of Schedule 2 to the Regulated Activities Order".

(3) After point (2), insert—

"(2A) 'CRR firm' means a person that satisfies the following conditions—

(a) it is an authorised person within the meaning of section 31(1)(a) of FSMA that—

(i) is a credit institution which has permission under Part 4A of FSMA to carry on the regulated activity of accepting deposits; or

(ii) is an investment firm;

(b) its registered office, or if it has no registered office, its head office, is in the United Kingdom; and

(c) it is not a credit union within the meaning of the Credit Unions Act 1979 or the Credit Unions (Northern Ireland) Order 1985, or a friendly society within the meaning of section 417(1) of FSMA;

and for the purposes of this definition, 'regulated activity' has the meaning in section 22 of FSMA, and 'accepting deposits' has the meaning in Regulation 5 of the Regulated Activities Order;

(2B) 'Solvency II excluded operations' has the meaning given in the PRA rulebook;"(**c**).

(4) In point (5), (definition of 'insurance undertaking') for the words "point (1) of Article 13 of" to the end, substitute "section 417 of FSMA".

(5) In point (6), (definition of 'reinsurance undertaking') for the words "point (4) of Article 13 of Directive 2009/138/EC" substitute "section 417 of FSMA".

(6) After point (6), insert—

"(6A) 'pure reinsurer' has the meaning given in the PRA rulebook;".

(7) In point (7) (definition of 'collective investment undertaking')—

(**a**) "Directive 2013/36/EU UK law" is defined in Article 4A(2).
(**b**) OJ No. L. 173, 12.6.2014, p.349 - 496.
(**c**) Credit Unions Act 1979 c.34, Credit Unions (Northern Ireland) Order 1985 SI 2013/1773.

(a) for the words from "Article 1(2) of Directive 2009/65/EC" to "transferrable securities (UCITS)" substitute "section 236A of FSMA";

(b) omit "to Union law or";

(c) for "the Union," to the end substitute "the United Kingdom, a UK AIF, EEA AIF or a third country AIF within the meaning of regulation 2(1) of the Alternative Investment Fund Managers Regulations 2013"(**a**).

(8) For point (9) (definition of 'management body') substitute—

"(9) 'management body' means an institution's body, which is appointed in accordance with national law, which is empowered to set the institution's strategy, objectives and overall direction, and which oversees and monitors management decision-making, and includes the persons who effectively direct the business of the institution;".

(9) After point (9), insert—

"(9A) 'management body in its supervisory function' means the management body acting in its role of overseeing and monitoring management decision-making;".

(10) For point (10) (definition of 'senior management') substitute—

"(10) 'senior management' means those natural persons who exercise executive functions within an institution and who are responsible, and accountable to the management body, for the day-to-day management of the institution;".

(11) For point (11) (definition of 'systemic risk') substitute—

"(11) 'systemic risk' means a risk of disruption in the financial system of the United Kingdom with the potential to have serious negative consequences for the financial system and the real economy of the United Kingdom;".

(12) For point (12) (definition of 'model risk') substitute—

"(12) 'model risk' means the potential loss an institution may incur as a consequence of decisions that could be principally based on the output of internal models due to errors in the development, implementation or use of such models;".

(13) For point (15) (definition of 'parent undertaking') substitute—

"(15) 'parent undertaking' means—

(a) a parent undertaking within the meaning of section 1162 of the Companies Act 2006; or

(b) for the purposes of Directive 2013/36/EU UK law which implemented Section II of Chapters 3 and 4 of Title 7 and Title 8, and for the purposes of Part 5 of this Regulation—

(i) a parent undertaking within the meaning of section 1162 of the Companies Act 2006, apart from the meaning given in subsection (4), or

(ii) an undertaking which effectively exercises a dominant influence over another undertaking;

where section 1162(5) of the Companies Act 2006 applies to parent undertakings falling within point (b)(ii) as it applies to parent undertakings falling within section 1162;"(**b**).

(14) For point (16) (definition of 'subsidiary') substitute—

"(16) 'subsidiary' means—

(a) a subsidiary undertaking within the meaning of section 1162 of the Companies Act 2006; or

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(**a**) S.I. 2013/1773.
(**b**) 2006 c. 46.

(b) for the purposes of Directive 2013/36/EU UK law which implemented Section II of Chapters 3 and 4 of Title 7 and Title 8, and for the purposes of Part 5 of this Regulation—

(i) a subsidiary undertaking within the meaning of section 1162 of the Companies Act 2006, apart from the meaning given in subsection (4), or

(ii) an undertaking over which another undertaking effectively exercises a dominant influence;

where section 1162(5) of the Companies Act 2006 applies to subsidiaries falling within point (b)(ii) as it applies to subsidiaries falling within section 1162;".

(15) For point (19) (definition of 'asset management company') substitute—

"(19) 'asset management company' means—

(a) a person who has permission under Part 4A of FSMA to carry on the regulated activity of managing a UK UCITS (as specified in article 51ZA of the Regulated Activities Order), or would require that permission if its registered office were located in the United Kingdom;

(b) a person who has permission under Part 4A of FSMA to carry on the regulated activity of managing an AIF (as specified in article 51ZC of the Regulated Activities Order), or would require that permission if its registered office were located in the United Kingdom; or

(c) a person who is registered as a small AIFM within the meaning of regulation 9 of the Alternative Investment Fund Managers Regulations 2013 under Part 3 of those Regulations, or would require that permission if its registered office were located in the United Kingdom;

including, unless otherwise provided, a third-country entity that carries out similar activities and that is subject to the laws of a third country which applies supervisory and regulatory requirements at least equivalent to those applied in the United Kingdom;"(**a**).

(16) In point (23) (definition of 'third-county insurance undertaking'), for "point (3) of Article 13 of Directive 2009/138/EC" substitute "the Solvency 2 Regulations 2015"(**b**).

(17) In point (24) (definition of 'third-country reinsurance undertaking'), for "point (6) of Article 13 of Directive 2009/138/EC" substitute "the Solvency 2 Regulations 2015".

(18) In point (25) (definition of 'recognised third-country investment firm')—

(a) omit "recognised" from the defined term;

(b) in point (a), for "Union" substitute "United Kingdom";

(c) in point (c) for "Directive 2013/36/EU" substitute "Directive 2013/36/EU UK law".

(19) After point (25) insert—

"(25A) 'third country' means a country or territory outside the United Kingdom";

(20) In point (26) (definition of 'financial institution')—

(a) after "one or more of the" insert "Annex 1";

(b) omit "of Annex I to Directive 2013/36/EU";

(c) for the words from "a payment institution within" to "internal market" substitute "an authorised payment institution within the meaning of regulation 2 of the Payment Services Regulations 2017"(**c**);

(d) for ", respectively, in points (f) and (g) of Article 212(1) of Directive 2009/138/EC" substitute "in the PRA rulebook".

(**a**) Financial Services and Markets Act 2000 (Regulated Activities) Order 2001, S.I. 2001/544; articles 51ZA and 51ZC substituted by Schedule 2(1) Alternative Investment Fund Managers Regulations 2013, S.I. 2013/1773.
(**b**) S.I. 2015/575.
(**c**) S.I. 2017/752.

(21) After point (26) insert—

"(26A) 'Annex 1 activities' means the list of activities set out in Annex 1 to Directive 2013/36/EU as it had effect immediately before exit day, with the following amendments—

(a) omit the heading;

(b) in point 4 for the words "Article 4(3) of Directive 2007/64/EC" substitute "regulation 2 of the Payment Services Regulations 2017";

(c) after point 15—

(i) for "Sections A and B of Annex I to Directive 2004/39/EC" substitute "Parts 3 and 3A of Schedule 2 to the Regulated Activities Order";

(ii) for "Section C of Annex I of that Directive" substitute "Part 1 of Schedule 2 to the Regulated Activities Order";

(iii) omit the words from ", are subject to" to the end.".

(22) In point (27) (definition of 'financial sector entity')—

(a) in point (h), for "point (f) of Article 212(1) of Directive 2009/138/EC" substitute "the Solvency 2 Regulations 2015";

(b) for point (k) substitute—

"(k) a non-directive firm as defined in the PRA Rulebook unless that non-directive firm is only a non-directive firm because either—

(i) the firm's Part 4A permission includes a requirement that it may only carry on Solvency II excluded operations; or

(ii) the firm is a pure reinsurer which ceased to conduct new reinsurance contracts before 10 December 2007;".

(23) In point (28) (definition of 'parent institution in a Member State')—

(a) for "parent institution in a Member State" substitute "UK parent institution";

(b) for "a Member State which" substitute "the United Kingdom which";

(c) for "same Member State", in both places it occurs, substitute "United Kingdom".

(24) Omit point (29) (definition of 'EU parent institution').

(25) In point (30) (definition of 'parent financial holding company in a Member State')—

(a) for "parent financial holding company in a Member State" substitute "UK parent financial holding company";

(b) for "same Member State", in both places it occurs, substitute "United Kingdom".

(26) Omit point (31) (definition of 'EU parent financial holding company').

(27) In point (32) (definition of 'parent mixed financial holding company in a Member State')—

(a) for "parent mixed financial holding company in a Member State" substitute "UK parent mixed financial holding company";

(b) for "the same Member State" substitute "the United Kingdom";

(c) for "that same Member State" substitute "the United Kingdom".

(28) Omit point (33) (definition of 'EU parent mixed financial holding company').

(29) For point (35) (definition of 'participation') substitute—

"(35) 'participation' means rights in the capital of other undertakings, whether or not represented by certificates, which, by creating a durable link with those undertakings, are intended to contribute to the activities of the undertaking which holds those rights, or the ownership, direct or indirect, of 20% or more of the voting rights or capital of an undertaking;".

(30) After point (38), insert—

"(38A) 'common management relationship' means a relationship between an undertaking ("U1") and one or more other undertakings ("U2") which satisfies the following conditions—

(a) U1 and U2 are not connected in the manner described in section 1162 of the Companies Act 2006; and

(b) either—

(i) U1 and U2 are managed on a unified basis pursuant to a contract with U1, or provisions in U2's memorandum or articles of association; or

(ii) the administrative, management or supervisory bodies of U2 consist, for the major part, of the same persons in office as U1, during the financial year of U1 for which it is being decided whether such a relationship exists;"(**a**).

(31) In point (40) ('definition of 'competent authority'), for "Member State concerned" substitute "United Kingdom (or, where the context requires, a third country)".

(32) For point (41) (definition of 'consolidating supervisor') substitute—

"(41) 'consolidating supervisor' means the competent authority responsible for the exercise of supervision on a consolidated basis of—

(a) a UK parent institution, or

(b) an institution controlled by a UK parent financial holding company or UK parent mixed financial holding company;

determined in accordance with Article 4B."

(33) Omit point (43) (definition of 'home Member State').

(34) Omit point (44) (definition of 'host Member State').

(35) Omit point (45) (definition of 'ESCB central banks').

(36) For point (46) (definition of 'central banks') substitute—

"(46) 'central banks' means the Bank, the European Central Bank and the central banks of third countries;".

(37) In point (50)(b) (definition of 'financial instrument') for "Section C of Annex I to Directive 2004/39/EC" substitute "Part 1 of Schedule 2 to the Regulated Activities Order".

(38) For point (51) (definition of 'initial capital') substitute—

"(51) 'initial capital' means the amount and types of own funds specified—

(a) for credit institutions in rule 12.1 of the Definition of Capital Part of the PRA rulebook; and

(b) for investment firms—

(i) where it applies, in rule 12.1 of the Definition of Capital Part of the PRA rulebook; or

(ii) otherwise, as the case may be, in—

(aa) rules 3.1.6, 3.1.8 and 3.1.9 of the FCA's Prudential sourcebook for Investment Firms; or

(bb) rules 9.2.4, 9.2.5 and 9.2.8 of the FCA's Interim Prudential sourcebook for Investment Businesses;".

(39) In point (75) (definition of 'residential property') omit ", including the right to inhabit an apartment in housing cooperatives located in Sweden".

(40) In point (77) (definition of 'applicable accounting framework') for "Directive 86/635/EEC" substitute "Directive 86/635/EEC UK law".

(41) For point (87) (definition of 'multilateral trading facility') substitute—

(**a**) 2006 c.46.

"(87) 'multilateral trading facility' has the meaning given in Article 2(1)(14) of Regulation 600/2014/EU;".

(42) For point (92) (definition of 'regulated market') substitute—

"(92) 'regulated market' has the meaning given in Article 2(1)(13A) of Regulation 600/2014/EU;".

(43) For point (101) (definition of 'basic own funds') substitute—

"(101) 'basic own funds' has the meaning given in the PRA rulebook;".

(44) For point (102) (definition of 'Tier 1 own-fund insurance items') substitute—

"(102) 'Tier 1 own-fund insurance items' means basic own-fund items of insurance undertakings and reinsurance undertakings where those items are classified in Tier 1 in accordance with rule 3.1 of the Own Funds Part of the PRA rulebook;".

(45) In point (103) (definition of 'additional Tier 1 own-fund insurance items')—

(a) for "undertakings subject to the requirements of Directive 2009/138/EC" substitute "insurance undertakings and reinsurance undertakings";

(b) omit "within the meaning of Directive 2009/138/EC";

(c) for "Article 94(1) of that Directive" substitute "rule 3.1 of the Own Funds Part of the PRA rulebook":

(d) for the words from "the delegated acts" to the end substitute "Article 82(3) of the Commission Delegated Regulation (EU) 2015/35 of 10th October 2014 supplementing Directive 2009/138/EC of the European Parliament and of the Council on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) Text".

(46) For point (104) (definition of 'Tier 2 own-fund insurance items') substitute—

"(104) 'Tier 2 own-fund insurance items' means basic own-fund items of insurance undertakings and reinsurance undertakings where those items are classified in Tier 2 in accordance with rule 3.2 of the Own Funds Part of the PRA rulebook;".

(47) In point (105) (definition of 'Tier 3 own-fund insurance items')—

(a) for "undertakings subject to the requirements of Directive 2009/138/EC" substitute "insurance undertakings and reinsurance undertakings";

(b) for the words from "within the meaning of" to the end substitute "in accordance with rule 3.3 of the Own Funds Part of the PRA rulebook".

(48) Omit point (111) (definition of 'financial undertaking').

(49) For point (112) (definition of 'funds for general banking risk') substitute—

"(112) 'funds for general banking risk' means those amounts which a credit institution decides to put aside to cover the particular risks associated with banking where this is permitted under the applicable accounting framework;".

(50) Omit point (127) (definition of 'cross-guarantee scheme').

(51) In point (128) (definition of 'distributable item) for "accounts." substitute "accounts;".

(52) After point (128), insert—

"(128A) 'CRR covered bonds' means bonds issued by a credit institution which—

(a) has its registered office in the UK; and

(b) is subject by law to special public supervision designed to protect bondholders and in particular protection under which—

(i) sums deriving from the issue of the bond must be invested in conformity with the law in assets;

(ii) during the whole period of validity of the bond, those sums are capable of covering claims attaching to the bond; and

(iii) in the event of failure of the issuer, those sums would be used on a priority basis for the reimbursement of the principal and payment of the accrued interest;

(128B) 'Directive 86/635/EEC UK law' means the law of the United Kingdom or any part of it which immediately before exit day implemented Directive 86/635/EEC, and its implementing measures—

(i) as they have effect on exit day, in the case of rules made by the FCA or the PRA under the Financial Services and Markets Act 2000; and

(ii) as amended from time to time, in all other cases.

(128C) 'internal approaches' means—

(a) the internal ratings-based approach referred to in Article 143(1);

(b) the internal models approach referred to in Article 221;

(c) the own estimates approach referred to in Article 225;

(d) the advanced measurement approaches referred to in Article 312(2);

(e) the internal model method referred to in Article 283 and 363; and

(f) the internal assessment approach referred to in Article 259(3) of this Regulation;

(128D) 'SME' means a micro, small and medium-sized enterprise as defined in Articles 1 to 6 of the Annex to Commission Recommendation 2003/361/EC of 6th May 2003 with the following amendments—

(a) in article 3 (types of enterprise taken into consideration in calculating staff numbers and financial amounts), in paragraph (5) for "by national or Community rules" substitute "under the law of the United Kingdom (or any part of it)";

(b) in article 5 (staff headcount), in paragraph (b) for "national law" substitute "the law of the United Kingdom (or any part of it)";

(128E) 'systemically important institution' means a UK parent institution, a UK parent financial holding company, a UK parent mixed financial holding company or an institution the failure or malfunction of which could lead to systemic risk;

(128F) 'UK deposit guarantee scheme' means a deposit protection scheme established by the PRA and managed by the Financial Services Compensation Scheme Limited."(**a**).

(53) After paragraph 1, insert—

"(1A) In this Regulation—

"Bank" means the Bank of England;

"FCA" means the Financial Conduct Authority;

"Financial Policy Committee" means the Financial Policy Committee of the Bank;

"FSMA" means the Financial Services and Markets Act 2000;

"Part 4A permission" means a permission given by the FCA or PRA under Part 4A of FSMA or having effect as if so given;

"PRA" means the Prudential Regulation Authority;

"Regulated Activities Order" means the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001."(**b**).

Article 4(2) (definitions)

65. In Article 4 (definitions), omit paragraph 2.

(**a**) In point 128B, Directive 86/635/EEC of 8th December 1986 on the annual accounts and consolidated accounts of banks and other financial institutions, OJ L. 372, 31.12.1986, p1 - 17.

(**b**) The Financial Services and Markets Act 2000 c.8; Part 4A inserted by Financial Services Act 2012 c.21; The Financial Services and Markets Act 2000 (Regulated Activities) Order 2001, S.I. 2001/544.

Article 4A and 4B (insertion of new paragraphs)

66. After Article 4, insert—

"Article 4A

Definitions: Regulators' rules

1. In these Regulations—

(a) a reference to the PRA rulebook is to the rulebook published by the PRA containing rules made by that Authority under FSMA as the rulebook has effect on exit day;

(b) any reference to a sourcebook is to a sourcebook in the Handbook of Rules and Guidance published by the FCA containing rules made by that Authority under FSMA as the sourcebook has effect on exit day;

(c) "Directive 2013/36/EU UK law" means the law of the United Kingdom or any part of it, which was relied on by the United Kingdom immediately before exit day to implement Directive 2013/36/EU and its implementing measures—

(i) as they have effect on exit day, in the case of rules made by the FCA or the PRA under FSMA; and

(ii) as amended from time to time, in all other cases.

2. By way of an exception to paragraph 1(c), for the purposes of Articles 4(1)(25), 11(5), 81(1)(ii), 82(a)(ii) and 336(4)(c), and the references to the Directive 2013/36/EU therein, "Directive 2013/36/EU UK law" shall mean the law of the United Kingdom or any part of it, which was relied on by the United Kingdom immediately before exit day to implement Directive 2013/36/EU and its implementing measures as amended from time to time. (**a**).

Article 4B

Determination of the consolidating supervisor

1. The identity of the consolidating supervisor is to be determined in accordance with paragraph (3) and, where applicable, paragraph (4).

2. In this Article—

"Case 1" means circumstances where a PRA-authorised person is the UK parent institution required by Chapter 2 of Title 2 of Part 1 of the capital requirements regulation to comply with requirements of the regulation on a consolidated basis, other than circumstances falling within Case 3;

"Case 2" means circumstances where an FCA-authorised person is the UK parent institution required by Chapter 2 of Title 2 of Part 1 of the capital requirements regulation to comply with requirements of the regulation on a consolidated basis, other than circumstances falling within Case 3;

"Case 3" means circumstances where a UK parent financial holding company or UK parent mixed financial holding company has a subsidiary institution which is a PRA-authorised person;

"Case 4" means circumstances where none of the institutions controlled by a UK parent financial holding company or UK parent mixed financial holding company which are required by Chapter 2 of Title 2 of Part 1 of the capital requirements regulation to comply with requirements of the regulation on a consolidated basis, is a subsidiary institution which is a PRA-authorised person.

3. The consolidating supervisor is—

(a) in Case 1, the PRA;

(**a**) OJ No. L. 176, 27.6.2013, p338 – 436.

(b) in Case 2, the FCA;

(c) in Case 3, the PRA; and

(d) in Case 4, the FCA.

4. The FCA and PRA may by agreement vary the determination of the consolidating supervisor provided for in paragraph (3) in its application to particular circumstances.

5 The FCA and PRA may exercise the power in paragraph (4) where they consider that the outcome of paragraph (3) would be inappropriate in the circumstances, having regard to the importance of the activities of the PRA-authorised persons and the FCA-authorised persons concerned.

6. An agreement under paragraph (4) must be in or confirmed in writing.".

Article 6 (general principles)

67.—(1) Article 6 (general principles) is amended as follows.

(2) In paragraph 2, for "in the Member State where it is authorised and supervised" substitute "authorised and supervised in the United Kingdom".

(3) In paragraph 4—

(a) for "points (3) and (6) of Section A of Annex I to Directive 2004/39/EC" substitute "paragraphs 3 and 6 of Part 3 of Schedule 2 to the Regulated Activities Order";

(b) for "Pending the report from the Commission in accordance with Article 508(3), competent authorities" substitute "The competent authority".

Article 7 (derogation from the application of prudential requirements on an individual basis)

68. In Article 7 (derogation from the application of prudential requirements on an individual basis)—

(a) in paragraph 1, for "by the Member State concerned" substitute "in the United Kingdom";

(b) in paragraph 2, for the words from "where the" to "the institution", substitute "where the parent undertaking of the subsidiary is a UK financial holding company or a UK mixed financial holding company";

(c) in paragraph 3—

(i) for "parent institution in a Member State where that institution is subject to authorisation and supervision by the Member State concerned, and" substitute "UK parent institution, where";

(ii) omit the words from "The competent authority which makes" to the end.

Article 8 (derogation from the application of liquidity requirements on an individual basis)

69. In Article 8 (derogation from the application of liquidity requirements on an individual basis)—

(a) in paragraph 1—

(i) for "Union" substitute "United Kingdom";

(ii) omit the words from "By 1 January" to the end;

(b) omit paragraphs 2, 3 and 4;

(c) in paragraph 5—

(i) omit "or paragraph 2";

(ii) for "Article 86 of Directive 2013/36/EU, or parts thereof," both time it occurs, substitute "the relevant regulatory rules";

(iii) at the end insert—

"In this paragraph, "relevant regulatory rules" means—

(a) where the competent authority is the FCA, rules 12.3.4, 12.3.5, 12.3.7A, 12.3.8, 12.3.22A, 12.3.22B, 12.3.27, 12.4.-2, 12.4.-1, 12.4.5A, 12.4.10, 12.4.11 and 12.4.11A of the FCA's Prudential sourcebook for Banks, Building Societies and Investment Firms;

(b) where the competent authority is the PRA, rules 3.1, 3.2, 3.3, 4.1(3), 7.2, 8.1(1), 9.2, 11.1, 11.1, 11.4, 12.1, 12.3 and 12.4 of the Internal Liquidity Adequacy Assessment Part of the PRA rulebook.".

Article 9 (individual consolidation method)

70. In Article 9 (individual consolidation method)—

(a) in paragraph 1—

(i) for "paragraphs 2 and 3" substitute "paragraph 2";

(ii) omit "and to Article 144(3) of Directive 2013/36/EU";

(b) omit paragraph 3.

Article 10 (waiver for credit institutions permanently affiliated to a central body)

71. Omit Article 10 (waiver for credit institutions permanently affiliated to a central body).

Article 11 (general treatment)

72.—(1) Article 11 (general treatment) is amended as follows.

(2) In paragraph 1, for "Parent institutions in a Member State" substitute "UK parent institutions".

(3) In paragraph 2—

(a) in the first sub-paragraph, for "a parent financial holding company or a parent mixed financial holding company in a Member State" substitute "a UK parent financial holding company or a UK parent mixed financial holding company";

(b) omit the second sub-paragraph.

(4) In paragraph 3—

(a) for "EU parent institutions, institutions controlled by an EU parent financial holding company and institutions controlled by an EU parent mixed financial holding company" substitute "UK parent institutions, institutions controlled by a UK parent financial holding company and institutions controlled by a UK parent mixed financial holding company";

(b) for "points (3) and (6) of Section A of Annex I to Directive 2004/39/EC" substitute "paragraphs 3 and 6 of Part 3 of Schedule 2 to the Regulated Activities Order";

(c) for the words from "Pending the report" to "competent authorities" substitute "If the group comprises only investment firms, the competent authority".

(5) Omit paragraph 4.

(6) In paragraph 5—

(a) for the first sub-paragraph substitute—

"In addition to the requirements of paragraphs 1 to 3, the competent authority may require an institution to comply with the obligations mentioned in the third sub-paragraph on a sub-consolidated basis when—

(a) it is justified for supervisory purposes by the specificities of the risk or the capital structure of the institution, or

(b) the institution is a ring-fenced body within the meaning of section 142A(1) of FSMA." ;

(b) in the second sub-paragraph, omit the words "and shall neither entail" to the end;

(c) after the second sub-paragraph insert—

"The obligations mentioned in this sub-paragraph are those provided for in—

(a) Parts 2, 3, 4, 6, 7 and 8 of this Regulation;

(b) Directive 2013/36/EU UK law which implemented Title 7, Chapter 4 of Directive 2013/36/EU.".

Article 13 (application of disclosure requirements on a consolidated basis)

73. In Article 13 (application of disclosure requirements on a consolidated basis)—

(a) in paragraphs 1 and 3, for "EU parent institutions", in each place it occurs, substitute "UK parent institutions";

(b) in paragraphs 2 and 3, for "an EU parent financial holding company or EU parent mixed financial holding company", in each place it occurs, substitute "a UK parent financial holding company or UK parent mixed financial holding company";

(c) in paragraph 2, in the second sub-paragraph, for "EU parent financial holding companies or EU parent mixed holding companies" substitute "UK parent financial holding companies or UK parent mixed financial holding companies";

(d) omit paragraph 4.

Article 14 (application of requirements of Part Five on a consolidated basis)

74. In Article 14 (application of requirements of Part Five on a consolidated basis), in paragraph 3, for "the EU parent institution or institutions controlled by an EU parent financial holding company or EU parent mixed financial holding company" substitute "the UK parent institution or institutions controlled by a UK parent financial holding company or a UK parent mixed financial holding company".

Article 15 (derogation from the application of own funds requirements on a consolidated basis for groups of investment firms)

75. In Article 15 (derogation from the application of own funds requirements on a consolidated basis for groups of investment firms)—

(a) in paragraph 1, after "this Regulation and" insert "Directive 2013/36/EU UK law which implemented";

(b) in paragraph 1, for "EU investment firm", in each place it occurs, substitute "investment firm authorised in the United Kingdom";

(c) in paragraph 1, in point (d), for "parent financial holding company in a Member State" substitute "UK parent financial holding company".

Article 17 (supervision of investment firms waived from the application of own funds requirements on a consolidated basis)

76. In Article 17 (supervision of investment firms waived from the application of own funds requirements on a consolidated basis)—

(a) in paragraphs 2 and 3, for "the competent authorities responsible for the prudential supervision of the investment firm waive" substitute "the competent authority waives";

(b) in paragraph 2, for "a Member State" substitute "the United Kingdom".

Article 18 (methods for prudential consolidation)

77. Article 18 (methods for prudential consolidation) is amended as follows—

(a) in paragraph 3, for "relationship within the meaning of Article 12(1) of Directive 83/349/EEC," substitute "common management relationship";

(b) in paragraph 6 for "the method provided for in Article 12 of Directive 83/349/EEC" substitute "the method which would have been available under Article 22(7) to (9) of Directive 2013/34/EEC, as it had effect immediately before exit day, if the United Kingdom were still a member of the European Union.";

(c) in paragraph 8, for "pursuant to Article 111 of Directive 2013/36/EU" substitute "under this Regulation".

Article 19 (entities excluded from the scope of prudential consolidation)

78. In Article 19 (entities excluded from the scope of prudential consolidation)—

(a) in paragraph 2, from the beginning to "Directive 2013/36/EU" substitute "The consolidating supervisor";

(b) in paragraph 2(c), for "the competent authorities responsible for exercising supervision on a consolidated basis" substitute "the consolidating supervisor".

Article 20 (joint decisions on prudential requirements)

79. In Article 20 (joint decisions on prudential requirements)—

(a) omit paragraphs 1 to 5;

(b) in paragraph 6, for "an EU parent institution and its subsidiaries, the subsidiaries of an EU parent financial holding company or an EU parent mixed financial holding company" substitute "a UK parent institution and its subsidiaries, the subsidiaries of a UK parent financial holding company or a UK parent mixed financial holding company";

(c) omit paragraphs 7 and 8.

Article 21 (joint decisions on the level of application of liquidity requirements)

80. Omit Article 21 (joint decisions on the level of application of liquidity requirements).

Article 23 (undertakings in third countries)

81. In Article 23 (undertakings in third countries) for "Union" substitute "United Kingdom".

Article 26 (Common Equity Tier 1 items)

82. In Article 26 (Common Equity Tier 1 items) in paragraph 3—

(a) in the first sub-paragraph, for "the competent authorities, which may consult EBA" substitute "the competent authority";

(b) omit the second sub-paragraph;

(c) for the third sub-paragraph substitute—

"Each competent authority must establish, maintain and publish a list of all the forms of capital instruments that qualify as Common Equity Tier 1 instruments in the United Kingdom.";

(d) omit the fourth sub-paragraph.

Article 27 (capital instruments of mutual, cooperative societies, savings institutions or similar institutions in Common Equity Tier 1 items)

83. In Article 27 (capital instruments of mutual, cooperative societies, savings institutions or similar institutions in Common Equity Tier 1 items)—

(a) in paragraph 1(a), for "applicable national law" substitute "the applicable law of the United Kingdom, or any part of it,";

(b) in paragraph 1, in the words after point (b), for "applicable national law" substitute "the applicable law of the United Kingdom, or any part of it,";

(c) in paragraph 2, in the first sub-paragraph, for the words from "the conditions according" to "qualifies" substitute "the types of undertaking that qualify".

Article 28 (Common Equity Tier 1 instruments)

84. In Article 28(1) (Common Equity Tier 1 instruments)—

(a) in points (a) and (g), after "applicable national law" insert "of the United Kingdom, or any part of it, or of a third country";

(b) in point (c)—

(i) for point (i) substitute—

"(i) they qualify as capital, which for these purposes comprises all amounts, regardless of their actual designations, which, in accordance with the legal structure of the institution concerned, are regarded under the applicable law of the United Kingdom, or any part of it, or of a third country, as equity capital subscribed by the shareholders or other proprietors;";

(ii) in point (iii) after "national insolvency law" insert "of the United Kingdom, or any part of it, or of a third country".

Article 29 (capital instruments issued by mutuals, cooperative societies, savings institutions and similar institutions)

85. In Article 29 (capital instruments issued by mutuals, cooperative societies, savings institutions and similar institutions) in paragraphs 2(a), 2(b), 3 and 6, after "applicable national law" insert "of the United Kingdom, or any part of it, or of a third country".

Article 31 (capital instruments subscribed by public authorities in emergency situations)

86. In Article 31 (capital instruments subscribed by public authorities in emergency situations)—

(a) in paragraph 1(b), for "considered State aid by the Commission" substitute "State aid as defined in the law of the United Kingdom after exit day";

(b) in paragraph 1(c), after "State aid-rules existing" insert "in the United Kingdom, or any part of it, or in a third country,";

(c) omit paragraph 2.

Article 33 (cash flow hedges and changes in the value of own liabilities)

87. In Article 33 (cash flow hedges and changes in the value of own liabilities), in paragraph 3(a), for "in the form of bonds as referred to in Article 52(4) of Directive 2009/65/EC" substitute "CRR covered bonds".

Article 36 (deductions from Common Equity Tier 1 items)

88. In Article 36 (deductions from Common Equity Tier 1 items), in paragraph 3, in the first sub-paragraph—

(a) omit the words from "and, in consultation with" to "24 November 2010,";

(b) for the words from "undertakings excluded from" to "of that Directive" substitute "undertakings within Article 4(1)(27)(k) of this Regulation".

Article 38 (deduction of deferred tax assets that rely on future profitability)

89. In Article 38 (deduction of deferred tax assets that rely on future profitability), in paragraph 3(a), after "applicable national law" insert "of the United Kingdom, or any part of it, or of a third country".

Article 39 (tax overpayments, tax loss carry backs and deferred tax assets that do not rely on future profitability)

90. In Article 39 (tax overpayments, tax loss carry backs and deferred tax assets that do not rely on future profitability), in paragraph 2—

(a) in point (b), after "applicable national tax law" insert "of the United Kingdom, or any part of it, or of a third country";

(b) in point (c), for "the central government of the Member State in which the institution is incorporated" substitute "the government of the United Kingdom".

Article 49 (requirement for deduction where consolidation, supplementary supervision or institutional protection schemes are applied)

91.—(1) Article 49 (requirement for deduction where consolidation, supplementary supervision or institutional protection schemes are applied) is amended as follows.

(2) In the heading, for ", supplementary supervision or institutional protection schemes are" substitute "or supplementary supervision is".

(3) Omit the second sub-paragraph of paragraph 2.

(4) Omit paragraph 3.

(5) In paragraph 4 for ", 2 or 3" substitute "or 2".

Article 52 (additional Tier 1 instruments)

92. In Article 52 (additional Tier 1 instruments) in paragraph 1 in point (m) after "applicable national law" insert "of the United Kingdom, or any part of it, or of a third country".

Article 77 (conditions for reducing own funds)

93. In Article 77 (conditions for reducing own funds) in point (a) after "applicable national law" insert "of the United Kingdom, or any part of it, or of a third country".

Article 78 (supervisory permission for reducing own funds)

94.—(1) Article 78 (supervisory permission for reducing own funds) is amended as follows.

(2) In paragraph 1(b)—

(a) for "point (6) of Article 128 of Directive 2013/36/EU" substitute "regulation 2 of the Capital Requirements (Capital Buffers and Macro-prudential Measures) Regulations 2014"(**a**);

(b) for "Article 104(3) of Directive 2013/36/EU" substitute "regulation 34(1) of the Capital Requirements Regulations 2013"(**b**).

(**a**) S.I. 2014/894.
(**b**) S.I. 2013/3115.

(3) In paragraph 3, after "applicable national law" insert "of the United Kingdom, or any part of it, or of a third country".

Article 80 (continuing review of quality of own funds)

95. Omit Article 80 (continuing review of quality of own funds).

Article 81 (minority interests that qualify for inclusion in consolidated Common Equity Tier 1 capital)

96. In Article 81 (minority interests that qualify for inclusion in consolidated Common Equity Tier 1 capital), in paragraph 1, for point (a)(ii) substitute—

"(ii) an undertaking which is subject, by virtue of the applicable national law of the United Kingdom, or any part of it, or of a third country, to the requirements of this Regulation and Directive 2013/36/EU UK law;".

Article 82 (qualifying Additional Tier 1, Tier 1, Tier 2 capital and qualifying own funds)

97. In Article 82 (qualifying Additional Tier 1, Tier 1, Tier 2 capital and qualifying own funds), for point (a)(ii) substitute—

"(ii) an undertaking which is subject, by virtue of the applicable national law of the United Kingdom, or any part of it, or of a third country, to the requirements of this Regulation and Directive 2013/36/EU UK law;".

Article 84 (minority interests included in consolidated Common Equity Tier 1 capital)

98.—(1) Article 84 (minority interests included in consolidated Common Equity Tier 1 capital) is amended as follows.

(2) In paragraph 1(a), in points (i) and (ii)—

(a) for "Article 104 of Directive 2013/36/EU" in both places it occurs substitute "regulation 34 of the Capital Requirements Regulations 2013";

(b) for "point (6) of Article 128 of Directive 2013/36/EU" in both places it occurs substitute "regulation 2 of the Capital Requirements (Capital Buffers and Macro-prudential Measures) Regulations 2014".

(3) In paragraph 5, in point (c), for "by virtue of the control relationship defined in Article 1 of Directive 83/349/EEC" substitute "and which is a subsidiary because of section 1162 of the Companies Act 2006"(**a**).

(4) Omit paragraph 6.

Article 85 (qualifying Tier 1 instruments included in consolidated Tier 1 capital)

99. In Article 85 (qualifying Tier 1 instruments included in consolidated Tier 1 capital), in paragraph 1, in points (a)(i) and (a)(ii)—

(a) for "Article 104 of Directive 2013/36/EU" in both places it occurs substitute "regulation 34 of the Capital Requirements Regulations 2013";

(b) for "point (6) of Article 128 of Directive 2013/36/EU" in both places it occurs substitute "regulation 2 of the Capital Requirements (Capital Buffers and Macro-prudential Measures) Regulations 2014".

(**a**) 2006 c.46.

Article 87 (qualifying own funds included in consolidated own funds)

100. In Article 87 (qualifying own funds included in consolidated own funds), in paragraph 1, in points (a)(i) and (a)(ii)—

(a) for "Article 104 of Directive 2013/36/EU" in both places it occurs substitute "regulation 34 of the Capital Requirements Regulations 2013";

(b) for "point (6) of Article 128 of Directive 2013/36/EU" in both places it occurs substitute "regulation 2 of the Capital Requirements (Capital Buffers and Macro-prudential Measures) Regulations 2014".

Article 89 (risk weighting and prohibition of qualifying holdings outside the financial sector)

101. In Article 89 (risk weighting and prohibition of qualifying holdings outside the financial sector), omit paragraph 4.

Article 91 (exceptions)

102. In Article 91 (exceptions), in paragraph 2, for "financial fixed assets as referred to in Article 35(2) of Directive 86/635/EEC" substitute "participating interests, shares in affiliated undertakings or securities intended for use on a continuing basis in the normal course of an undertaking's activities".

Article 95 (own funds requirements for investment first with limited authorisation to provide investment services)

103.—(1) Article 95 (own funds requirements for investment firms with limited authorisation to provide investment services) is amended as follows.

(2) In paragraph 1, for "points (3) and (6) of Section A of Annex I to Directive 2004/39/EC" substitute "paragraphs 3 and 6 of Part 3 of Schedule 2 to the Regulated Activities Order".

(3) In paragraph 2, for "points (2) and (4) of Section A of Annex I to Directive 2004/39/EC", in each place it occurs, substitute "paragraphs 2 and 4 of Part 3 of Schedule 2 to the Regulated Activities Order".

(4) In paragraph 3, for "laid down in" to the end substitute "provided in rules 2.2.32 and 2.2.33 of the FCA's Prudential sourcebook for Investment Firms".

Article 96 (own funds requirements for investment firms which hold initial capital)

104. In Article 96 (own funds requirements for investment firms which hold initial capital)—

(a) for the heading substitute "Own funds requirements for IFPRU 730K firms";

(b) in paragraph 1—

(i) the existing wording becomes the first sub-paragraph of paragraph 1;

(ii) in the first sub-paragraph for "the following categories of investment firm which hold initial capital in accordance with Article 28(2) of Directive 2013/36/EU" substitute "the following categories of IFPRU 730K firms";

(iii) after the first sub-paragraph insert a second sub-paragraph—

"In the first sub-paragraph "IFPRU 730K firm" has the meaning given in rule 1.1.11 of the FCA's Prudential sourcebook for Investment Firms.";

(c) In paragraph 3, for the words from "laid down in" to the end substitute "provided in rules 2.2.32 and 2.2.33 of the FCA's Prudential sourcebook for Investment Firms".

Article 97 (own funds based on fixed overheads)

105. In Article 97 (own funds based on fixed overheads), in paragraph 1, for "points (2) and (4) of Section A of Annex I to Directive 2004/39/EC" substitute "paragraphs 2 and 4 of Part 3 of Schedule 2 to the Regulated Activities Order".

Article 98 (own funds for investment firms on a consolidated basis)

106. In Article 98 (own funds for investment firms on a consolidated basis)—

(a) in paragraphs 1 and 2, in both places it occurs, for "parent investment firm in a Member State" substitute "UK parent investment firm";

(b) after paragraph 2, insert—

"3. In this Article "UK parent investment firm" means an investment firm in the United Kingdom which has an institution or financial institution as a subsidiary or which holds a participation in such an institution or financial institution, and which is not itself a subsidiary of another institution authorised in the United Kingdom, or of a financial holding company or mixed financial holding company set up in the United Kingdom.".

Article 99 (reporting on own funds requirements and financial information)

107.—(1) Article 99 (reporting on own funds requirements and financial information) is amended as follows.

(2) In paragraph 4, omit "in accordance with Regulation (EU) No 1093/2010".

(3) In paragraph 5, in the first sub-paragraph for "Union" substitute "United Kingdom".

(4) In paragraph 6—

(a) in the first sub-paragraph, for "Directive 86/635/EEC" substitute "Directive 86/635/EEC UK law";

(b) in the first sub-paragraph, for "shall consult EBA on the extension of" substitute "may extend".

(5) Omit paragraph 7.

Article 100 (additional reporting requirements)

108. In Article 100 (additional reporting requirements), in the second sub-paragraph—

(a) for "EBA shall" substitute "The FCA or the PRA (as the case may be) may";

(b) omit "implementing".

Article 101 (specific reporting requirements)

109. In Article 101 (specific reporting requirements)—

(a) in paragraph 2, omit the words from "of the home Member State" to "host Member State";

(b) omit paragraph 3.

Article 107 (approaches to credit risk)

110. In Article 107(3) (approaches to credit risk), for "Union" substitute "United Kingdom".

Article 113 (calculation of risk weighted exposure amounts)

111.—(1) Article 113 (calculation of risk weighted exposure amounts) is amended as follows.

(2) In paragraph 6—

(a) in the first sub-paragraph, for "relationship within the meaning of Article 12(1) of Directive 83/349/EEC" substitute "common management relationship";

(b) for "same Member State as the institution" substitute "United Kingdom".

(3) Omit paragraph 7.

Article 114 (exposures to central governments or central banks)

112.—(1) Article 114 (exposures to central governments or central banks) is amended as follows.

(2) In paragraph 4, for "Member States' central governments, and central banks denominated and funded in the domestic currency of that central government and central bank" substitute "the central government of the United Kingdom and the Bank denominated and funded in sterling".

(3) In paragraph 7, in the first sub-paragraph, for "Union" substitute "United Kingdom".

Article 115 (exposures to regional governments or local authorities)

113.—(1) Article 115 (exposures to regional governments or local authorities) is amended as follows.

(2) In paragraph 2, for the second sub-paragraph substitute—

"The PRA and FCA must maintain a publicly available database of all regional governments and local authorities within the United Kingdom which the competent authority treats as exposures to the central government of the United Kingdom.".

(3) In paragraph 4, in the first sub-paragraph, for "Union" substitute "United Kingdom".

(4) In paragraph 5—

(a) for "Member States" substitute "United Kingdom";

(b) for "the domestic currency of that regional government and local authority" substitute "pounds sterling".

Article 116 (exposures to public sector entities)

114. In Article 116 (exposures to public sector entities)—

(a) in paragraph 4—

(i) for "in whose jurisdiction they are established" substitute "of the United Kingdom";

(ii) for "of this jurisdiction" substitute "of the United Kingdom";

(b) in paragraph 5, in the first sub-paragraph, for "Union" substitute "United Kingdom".

Article 117 (exposures to multilateral development banks)

115. In Article 117 (exposures to multilateral development banks), omit paragraph 3.

Article 118 (exposures to international organisations)

116. In Article 118 (exposures to international organisations), omit point (f).

Article 119 (exposures to institutions)

117. In Article 119 (exposures to institutions), in paragraph 4—

(a) in the first sub-paragraph—

(i) for "the ECB or by the central bank of a Member State" substitute "the Bank";

(ii) for "the central bank of the Member State in question" substitute "the Bank";

(b) for point (a) substitute—

"(a) the reserves are held in accordance with national requirements which are, in all material respects, equivalent to those in Regulation (EC) No 1745/2003 of the European Central Bank of 12 September 2003;"(**a**).

Article 123 (retain exposures)

118. In Article 123 (retail exposures), in the first sub-paragraph, in point (a), for "small or medium-sized enterprise (SME)" substitute "SME".

Article 124 (exposures secured by mortgages on immovable property)

119.—(1) Article 124 (exposures secured by mortgages on immovable property) is amended as follows.

(2) In paragraph 1, in the second sub-paragraph, for the words from "in those Member States" to "or regulatory provisions" substitute ", if rigorous criteria are in force at the time in the United Kingdom for the assessment of the mortgage lending value".

(3) In paragraph 2, in the final sub-paragraph—

(a) omit the first sentence;

(b) in the second sentence, for "EBA shall publish the risk weights and criteria that the competent authorities" substitute "The PRA and FCA shall each publish the risk weights and criteria that they".

(4) Omit paragraph 5.

Article 125 (exposures fully and completely secured by mortgages on residential property)

120.—(1) Article 125 (exposures fully and completely secured by mortgages on residential property) is amended as follows.

(2) In paragraph 2(d), for the words "in those Member States" to the end substitute "if rigorous criteria are in force at the time in the United Kingdom for the assessment of the mortgage lending value".

(3) In paragraph 3—

(a) for "a Member State" substitute "the United Kingdom";

(b) for the words from "of that Member State" to "loss rates which" substitute "has determined that loss rates".

Article 126 (exposures fully and completely secured by mortgages on commercial immovable property)

121.—(1) Article 126 (exposures fully and completely secured by mortgages on commercial immovable property) is amended as follows.

(2) In paragraph 2(d), for the words "in those Member States" to the end substitute "if rigorous criteria are in force at the time in the United Kingdom for the assessment of the mortgage lending value".

(3) In paragraph 3—

(a) for "a Member State" substitute "the United Kingdom";

(b) for the words from "of that Member State" to "loss rates which" substitute "has determined that loss rates".

(**a**) Regulation (EC) No 1745/2003 of the European Central Bank of 12 September 2003 on the application of minimum reserves.

Article 128 (items associated with particular high risk)

122.—(1) Article 128 (items associated with particular high risk) is amended as follows.

(2) In paragraph 2(b)—

(a) for "AIFs as defined in Article 4(1)(a) of Directive 2011/61/EU" substitute "UK AIFs, EEA AIFs or third-country AIFs within the meaning of regulation 2(1) of the Alternative Investment Fund Managers Regulations 2013(**a**)";

(b) for "required under" substitute "specified in";

(3) Omit the second and third sub-paragraphs of paragraph 3.

Article 129 (exposures in the form of covered bonds)

123.—(1) Article 129 (exposures in the form of covered bonds) is amended as follows.

(2) In paragraph 1—

(a) in the opening words, for "bonds as referred to in Article 52(4) of Directive 2009/65/EC (covered bonds)" substitute "CRR covered bonds";

(b) for point (a) substitute—

"(a) exposures to or guaranteed by—

(i) the central government of the United Kingdom;

(ii) the Bank;

(iii) a regional government of the United Kingdom; or

(iv) a public sector entity or local authority in the United Kingdom;";

(c) in point (c) for "Union" substitute "United Kingdom";

(d) omit point (d)(ii) and the "or" preceding it;

(e) omit point (e);

(f) omit point (f)(ii) and the "or" preceding it (but not the words from "Loans secured by commercial immovable property are eligible" and ending with "claims on the collateral");

(g) in the second sub-paragraph for "points (c), (d)(ii) and (f)(ii)" substitute "point (c)";

(h) in the third sub-paragraph—

(i) omit ", after consulting EBA,";

(ii) for "Member States concerned" substitute "United Kingdom".

(3) In paragraphs 3 to 7, for "covered bonds" substitute "CRR covered bonds".

(4) In paragraph 5 for "covered bond", each time it occurs, substitute "CRR covered bonds".

Article 132 (exposures in the form of units or shares in CIUs)

124. In Article 132 (exposures in the form of units or shares in CIUs), in the first sub-paragraph of paragraph 3—

(a) in point (a), for "a Member State" substitute "the United Kingdom";

(b) in point (a)(i), for "Union law" substitute "the law of the United Kingdom".

Article 134 (other items)

125. In Article 134 (other items), in paragraph 2, for "Directive 86/635/EEC" substitute "Directive 86/635/EEC UK law".

(**a**) S.I. 2013/1773.

Article 135 (use of credit assessments by ECAIs)

126. In Article 135 (use of credit assessments by ECAIs), in paragraph 2—

(a) for "EBA shall publish the list" substitute "The competent authorities must each publish a list";

(b) omit the words "in accordance with Article 2(4) and Article 18(3) of Regulation (EC) No 1060/2009".

Article 138 (general requirements)

127. In Article 138 (general requirements)—

(a) for "if EBA has" substitute "if the competent authority has";

(b) for "EBA shall" substitute "The competent authority must".

Article 142 (definitions)

128.—(1) Article 142 (definitions) is amended as follows.

(2) In paragraph 1(4), in point (b), for "Union", in both places it occurs, substitute "United Kingdom".

(3) In paragraph 1(5)—

(a) for "of the activities listed in Annex I to Directive 2013/36/EU" substitute "Annex 1 activities";

(b) for "in Annex I to Directive 2004/39/EC" substitute "the activities in Parts 1, 3 and 3A of Schedule 2 to the Regulated Activities Order".

Article 150 (conditions for permanent partial use)

129.—(1) Article 150 (conditions for permanent partial use) is amended as follows.

(2) In paragraph 1—

(a) in point (d)—

(i) for the opening words, substitute—

"(d) exposures to the central government of the United Kingdom, the Bank, a regional government of the United Kingdom, or a public sector entity or local authority in the United Kingdom, provided—";

(ii) in paragraph (i), for "that central government and central bank" substitute "the central government and Bank";

(b) in point (e), for "relationship within the meaning of Article 12(1) of Directive 83/349/EEC" substitute "common management relationship";

(c) omit the sub-paragraph after point (j).

(3) Omit paragraph 4.

Article 154 (risk weighted exposure amounts for retail exposures)

130. In Article 154 (risk weighted exposure amounts for retail exposures), in paragraph 4, in the fourth sub-paragraph, omit the words "and shall share" to the end.

Article 160 (probability of default)

131. In Article 160 (probability of default), in paragraph 4, for "EBA", in both places it occurs, substitute "the competent authority".

Article 162 (maturity)

132. In Article 162(4) (maturity) for "Union" substitute "United Kingdom".

Article 164 (loss given default)

133. In Article 164 (loss given default)—

(a) in paragraph 5, omit the second sub-paragraph;

(b) omit paragraph 7.

Article 178 (default of an obligor)

134. In Article 178 (default of an obligor), omit paragraph 7.

Article 192 (definitions)

135. In Article 192 (definitions)—

(a) the existing wording becomes paragraph 1;

(b) after paragraph 1 insert—

"2. For the purposes of this Chapter, references to "institutions" as issuers or eligible credit providers shall also include undertakings established in third countries which would fall within the definition in Article 4 of this Regulation, if they were established in the United Kingdom.".

Article 197 (eligibility of collateral under all approaches and methods)

136. In Article 197 (eligibility of collateral under all approaches and methods), in paragraphs 1 and 4, for "EBA", in each place it occurs, substitute "the competent authority".

Article 199 (additional eligibility for collateral under the IRB Approach)

137.—(1) Article 199 (additional eligibility for collateral under the IRB Approach) is amended as follows.

(2) In paragraph 3—

(a) for "a Member State" substitute "the United Kingdom";

(b) omit "of that Member State".

(3) In paragraph 4—

(a) for "a Member State" substitute "the United Kingdom";

(b) omit "of that Member State".

(4) In paragraph 8, for "EBA" substitute "The PRA and the FCA".

Article 201 (eligibility of protection providers under all approaches)

138. In Article 201 (eligibility of protection providers under all approaches), in paragraph 2, in the second sub-paragraph, omit the words from ", and share their list" to the end.

Article 202 (eligibility of protection providers under the IRB Approach which qualify for the treatment set out in Article 153(3))

139. In Article 202 (eligibility of protection providers under the IRB Approach which qualify for the treatment set out in Article 153(3)), in the first sub-paragraph, in point (b), for "EBA" substitute "the competent authority".

Article 212 (requirements for other funded credit protection)

140. In Article 212 (requirements for other funded credit protection) in paragraph 2(j)—

(a) for "is subject to Directive 2009/138/EC" insert "is an insurance undertaking or reinsurance undertaking";

(b) for "Union" substitute "United Kingdom".

Article 224 (supervisory volatility adjustment under the Financial Collateral Comprehensive Method)

141. In Article 224 (supervisory volatility adjustment under the Financial Collateral Comprehensive Method), in paragraph 3, in the first sub-paragraph, for "EBA" substitute "the competent authority".

Article 227 (conditions for applying a 0% volatility adjustment under the Financial Collateral Comprehensive Method)

142. In Article 227 (conditions for applying a 0% volatility adjustment under the Financial Collateral Comprehensive Method), in paragraph 3(c), for "within the meaning of points (25)(b) and (d) of Article 13 of Directive 2009/138/EC" substitute "that are an insurance undertaking or reinsurance undertaking, an insurance holding company (as defined in the Solvency 2 Regulations 2015), or a mixed financial holding company".

Article 229 (valuation principles for other eligible collateral under the IRB approach)

143. In Article 229 (valuation principles for other eligible collateral under the IRB approach), in the paragraph 1, in the second sub-paragraph, for the words from "In those Member States" to "regulatory provisions" substitute "If rigorous criteria are in force at the time in the United Kingdom for the assessment of the mortgage lending value".

Article 230 (calculating risk-weighted exposures amounts and expected loss amounts for other eligible collateral under the IRB Approach)

144. In Article 230 (calculating risk-weighted exposures amounts and expected loss amounts for other eligible collateral under the IRB approach), in paragraph 3, for "a Member State" substitute "the United Kingdom".

Article 277 (transactions with a linear risk profile)

145. In Article 277 (transactions with a linear risk profile), in paragraph 3, for "the currency of the home Member State" substitute "pounds sterling".

Article 290 (stress testing)

146. In Article 290(3) (stress testing)—

(a) the existing wording becomes the first sub-paragraph;

(b) in the first sub-paragraph, for "process set out in Article 81 of Directive 2013/36/EU" substitute "relevant regulatory rules";

(c) after the first sub-paragraph insert a second sub-paragraph—

"In the first sub-paragraph, "relevant regulatory rules" means—

(a) where the competent authority is the FCA, rule 2.2.22 of the FCA's Prudential sourcebook for Investment Firms;

(b) where the competent authority is the PRA, rule 6.1 of the Internal Capital Adequacy Part of the PRA rulebook.".

Article 292 (integrity of the modelling process)

147. In Article 292 (integrity of the modelling process), omit paragraph 10.

Article 295 (recognition of contractual netting as risk-reducing)

148. In Article 295 (recognition of contractual netting as risk-reducing), in the first sub-paragraph, in point (c), omit the words "Competent authorities shall report to EBA a list of the contractual cross-product netting agreements approved.".

Article 296 (recognition of contractual netting agreements)

149. In Article 296 (recognition of contractual netting agreements), in paragraph 2, in the second sub-paragraph—

(a) omit "any of";

(b) omit "Competent authorities shall inform each other accordingly.".

Article 299 (items in the trading book)

150. In Article 299 (items in the trading book), in paragraph 1, for "point (8) of Section C of Annex I to Directive 2004/39/EC" substitute "paragraph 8 of Part 1 of Schedule 2 to the Regulated Activities Order".

Article 311 (own funds requirements for exposures to CCPs that cease to meet certain conditions)

151. In Article 311 (own funds requirements for exposures to CCPs that cease to meet certain conditions), in paragraph 2, for "its Member State" in both places where it occurs substitute "the United Kingdom".

Article 312 (permission and notification)

152. In Article 312 (permission and notification), in paragraph 1, in the first sub-paragraph—

(a) after "standards set out in" insert "Directive 2013/36/EU UK law which implemented";

(b) for "of Directive 2013/36/EU" substitute "of that Directive".

Article 315 (own funds requirement)

153. In Article 315 (own funds requirement), in paragraph 3, omit "and shall duly inform EBA thereof".

Article 316 (relevant indicator)

154. In Article 316 (relevant indicator), in both the opening words of paragraph 1 and in paragraph 2, for "Directive 86/635/EEC" substitute "Directive 86/635/EEC UK law".

Article 317 (own funds requirement)

155. In Article 317 (own funds requirement), in paragraph 4, in the second sub-paragraph, omit "and shall duly inform EBA thereof".

Article 323 (impact of insurance and other risk transfer mechanisms)

156. In Article 323 (impact of insurance and other risk transfer mechanisms), in paragraph 2, for "EBA" substitute "the competent authorities".

Article 325 (allowances for consolidated requirements)

157. In Article 325(3)(a) (allowances for consolidated requirements), omit "recognised".

Article 327 (netting)

158. In Article 327(2) (netting), omit the words from "Such approaches or own funds requirements" to the end.

Article 329 (options and warrants)

159. In Article 329 (options and warrants), omit paragraph 4.

Article 336 (own funds requirements for non-securitisation debt instruments)

160.—(1) Article 336 (own funds requirements for non-securitisation debt instruments) is amended as follows.

(2) In paragraph 4, in the first sub-paragraph—

(a) in point (a)(iii)—

(i) for "a Member State" substitute "the United Kingdom";

(ii) for "the relevant Member State" substitute "the United Kingdom";

(b) in point (c), for "Directive 2013/36/EU" substitute "Directive 2013/36/EU UK law".

Article 340 (duration-based calculation of general risk)

161. In Article 340 (duration-based calculation of general risk), in paragraph 3, in the second sub-paragraph, omit the words from "EBA shall" to the end.

Article 344 (stock indices)

162. In Article 344 (stock indices), omit paragraph 2.

Article 349 (general criteria for CIUs)

163. In Article 349 (general criteria for CIUs), in point (f), for "Directive 2009/65/EC" substitute "United Kingdom legislation which implemented Directive 2009/65/EC".

Article 354 (closely correlated currencies)

164. In Article 354 (closely correlated currencies), omit paragraph 4.

Article 365 (VaR and stressed VaR calculation)

165. In Article 365 (VaR and stressed VaR calculation), in paragraph 2, omit the words from "EBA shall" to the end.

Article 372 (requirement to have an internal IRC model)

166. In Article 372 (requirement to have an internal IRC model), omit "EBA shall issue guidelines on the requirements in Articles 373 to 376.".

Article 377 (requirements for an internal model for correlation trading)

167. In Article 377 (requirements for an internal model for correlation trading), in paragraph 5, omit the words from "EBA shall" to the end.

Article 382 (scope)

168.—(1) Article 382 (scope) is amended as follows.

(2) In paragraph 4, in the first sub-paragraph, in point (b), for the words from "unless Member States" to the end substitute ", unless the competent authority requires intragroup transactions between structurally separated institutions to be included in the own funds requirements;".

(3) Omit the first sub-paragraph of paragraph 5.

Article 383 (advanced method)

169. In Article 383 (advanced method), in paragraph 5, in point (c), omit the words "EBA shall" to the end.

Article 391 (definition of an institution for large exposures purposes)

170. In Article 391 (definition of an institution for large exposures purposes), for "Union", in both places it occurs, substitute "United Kingdom".

Article 395 (limits to large exposures)

171.—(1) Article 395 (limits to large exposures) is amended as follows.

(2) In paragraph 1—

(a) in the second sub-paragraph, for "Article 81 of Directive 2013/36/EU" substitute "applicable regulatory rules";

(b) in the third sub-paragraph, omit "and shall inform EBA and the Commission thereof".

(3) After paragraph 1 insert—

"1A. In the second sub-paragraph of paragraph 1 and in Article 400(3) "applicable regulatory rules" means—

(a) where the competent authority is the FCA, rule 2.2.22 of the FCA's Prudential sourcebook for Investment Firms;

(b) where the competent authority is the PRA, rule 6.1 of the Internal Capital Adequacy Part of the PRA rulebook."

(4) Omit paragraph 2.

(5) In paragraph 4, omit "recognised".

(6) In paragraph 6—

(a) for the first sub-paragraph substitute—

"In this paragraph "structural measures" means measures adopted and implemented by the competent authority that require credit institutions authorised in the United Kingdom to reduce their exposures to different legal entities depending on their activities, irrespective of where those activities are located, with a view to protecting depositors and preserving financial stability.";

(b) in the second sub-paragraph for the words from the beginning to "deposit-guarantee schemes" substitute "Despite paragraph 1 and Article 401(1)(f), the competent authority may require the institutions of a banking group subject to structural measures which hold deposits that are covered by the UK deposit guarantee scheme";

(c) in the fourth sub-paragraph, omit the words "and shall not entail" to the end.

(7) Omit paragraphs 7 and 8.

Article 396 (compliance with large exposures requirements)

172. In Article 396 (compliance with large exposures requirements), in paragraph 2, for "parent institutions in a Member State" substitute "UK parent institutions".

Article 400 (exemptions)

173.—(1) Article 400 (exemptions) is amended as follows.

(2) In paragraphs 1(e) and 2(b), for "Member States" substitute "the United Kingdom".

(3) For paragraph 1(k) substitute—

"(k) exposures to the UK deposit guarantee scheme arising from the funding of that scheme.".

(4) In paragraph 3—

(a) in the first sub-paragraph, in point (b), for "Article 81 of Directive 2013/36/EU" substitute "applicable regulatory rules (within the meaning of Article 395(1A))";

(b) omit the second sub-paragraph.

Article 402 (exposures arising from mortgage lending)

174. In Article 402 (exposures arising from mortgage lending)—

(a) in paragraphs 1 and 2, for "in those member States" to "or regulatory provisions" substitute "if rigorous criteria are in force at the time in the United Kingdom for the assessment of the mortgage lending value";

(b) in paragraphs 1(a) and 2(a), omit "of the Member States".

Article 411 (definitions)

175. In Article 411 (definitions), in point (1), for "activities listed in Annex I to Directive 2013/36/EU" substitute "Annex 1 activities".

Article 412 (liquidity coverage requirements)

176. In Article 412 (liquidity coverage requirement), omit paragraph 5.

Article 413 (stable funding)

177. In Article 413 (stable funding), omit paragraph 3.

Article 415 (reporting obligation and reporting format)

178.—(1) Article 415 (reporting obligation and reporting format) is amended as follows.

(2) In paragraph 1—

(a) in the first sub-paragraph—

(i) omit the words from "Until the liquidity" to "set in Title II and Annex III";

(ii) omit "and Annex III" where it next occurs;

(b) in the second sub-paragraph, for "EBA" substitute "the competent authority".

(3) In paragraph 2—

(a) omit "of the home Member State";

(b) omit point (b) and the "; or" preceding it.

(4) Omit paragraphs 4 to 6.

Article 416 (reporting on liquid assets)

179.—(1) Article 416 (reporting on liquid assets) is amended as follows.

(2) In paragraph 1—

(a) in point (c)(i)—

(i) for "a Member State" substitute "the United Kingdom";

(ii) for "that Member State" substitute "the United Kingdom";

(b) in point (c)(iii), omit ", the Commission";

(c) omit the second sub-paragraph.

(3) In paragraph 2—

(a) in point (a)(i), for "as established by" to the end substitute "as set out in Commission Delegated Regulation (EU) 2015/61"(**a**);

(b) in point (a)(ii), for "bonds as referred to in Article 52(4) of Directive 2009/65/EC" substitute "CRR covered bonds";

(c) in point (a)(iii), for "a Member State central or regional government" substitute "the central or a regional government of the United Kingdom";

(d) in point (c)(v), for "activities listed in Annex I to Directive 2013/36/EU" substitute "Annex 1 activities".

(4) In paragraph 3, in point (d), for "a central bank in a Member State" substitute "the Bank".

(5) Omit paragraph 4.

Article 419 (currencies with constraints on the availability of liquid assets)

180.—(1) Article 419 (currencies with constraints on the availability of liquid assets) is amended as follows.

(2) In paragraph 1—

(a) for "EBA" substitute "The competent authority";

(b) for "Union" substitute "United Kingdom".

(3) In paragraph 2(b)—

(a) for "a Member State" substitute "the United Kingdom";

(b) for "the central Bank of that Member State or third country" substitute "the central banks";

(c) for "that Member State" in the last two places it occurs substitute "the United Kingdom".

Article 420 (liquidity outflows)

181. In Article 420 (liquidity outflows)—

(a) omit paragraph 1;

(b) in paragraph 2 omit the third sub-paragraph.

Article 421 (outflows on retail deposits)

182. In Article 421 (outflows on retail deposits)—

(a) in paragraph 1, for "a Deposit Guarantee Scheme in accordance with Directive 94/19/EC" substitute "the UK deposit guarantee scheme";

(b) omit paragraph 3.

(**a**) Commission Delegated Regulation (EU) 2015/61 of 10 October 2014 to supplement Regulation (EU) No 575/2013 of the European Parliament and the Council with regard to liquidity coverage requirement for Credit Institutions.

Article 422 (outflows on other liabilities)

183.—(1) Article 422 (outflows on other liabilities) is amended as follows.

(2) In paragraph 2(d), for "the central government" to "branch, or" substitute "the central government of the United Kingdom, a public sector entity of the United Kingdom or".

(3) In paragraphs 3 and 5, for "a Deposit Guarantee Scheme in accordance with Directive 94/19/EC" substitute "the UK deposit guarantee scheme".

(4) In paragraph 3, omit point (b).

(5) In paragraph 4, omit the second sub-paragraph.

(6) In paragraph 8—

(a) in point (a)(ii), for "relationship within the meaning of Article 12(1) of Directive 83/349/EEC" substitute "common management relationship";

(b) omit point (a)(iii);

(c) in point (d), for "same Member State" substitute "United Kingdom".

(7) Omit paragraph 9.

(8) Omit paragraph 10.

Article 424 (outflows from credit and liquidity facilities)

184. In Article 424 (outflows from credit and liquidity facilities), in paragraph 6—

(a) for "at least one Member State's central or regional government" substitute "the central or a regional government of the United Kingdom";

(b) omit "Union and/or that Member State's".

Article 425 (inflows)

185.—(1) Article 425 (inflows) is amended as follows.

(2) In paragraph 1—

(a) omit "or (7)";

(b) for "bonds as referred to in Article 52(4) of Directive 2009/65/EC" substitute "CRR covered bonds";

(c) for "relationship within the meaning of Article 12(1) of Directive 83/349/EEC" substitute "common management relationship".

(3) In paragraph 4—

(a) in point (b), for "relationship within the meaning of Article 12(1) of Directive 83/349/EEC" substitute "common management relationship";

(b) in point (b), omit the words "or a member of the same institutional protection" to the end;

(c) in point (d), for "same Member State" substitute "United Kingdom".

(4) Omit paragraph 5.

(5) Omit paragraph 6.

Article 427 (items providing stable funding)

186. In Article 427(1) (items providing stable funding)—

(a) in point (b)(iv), for "a deposit guarantee scheme in accordance with Directive 94/19/EC" substitute "the UK deposit guarantee scheme";

(b) omit point (b)(v);

(c) in point (b)(x), for "as referred to in Article 52(4) of Directive 2009/65/EC" substitute "CRR covered bonds".

Article 428 (items requiring stable funding)

187. In Article 428 (items requiring stable funding), in paragraph 1, point (h)(iii), for "bonds as referred to in Article 52(4) of Directive 2009/65/EC" substitute "CRR covered bonds".

Article 429 (calculation of the leverage ratio)

188. In Article 429 (calculation of the leverage ratio), in paragraph 13, for the words from "Where national" to "may be excluded" substitute "Fiduciary assets on balance sheet may be excluded".

Article 430 (reporting requirement)

189. In Article 430(1) (reporting requirement)—

(a) in the first sub-paragraph, for "Article 97 of Directive 2013/36/EU" substitute "regulation 34A of the Capital Requirements Regulations 2013"(**a**).

(b) omit the second and third sub-paragraphs.

Article 432 (non-material, proprietary or confidential information)

190. In Article 432 (non-material, proprietary or confidential information)—

(a) in paragraph 1, omit the third sub-paragraph;

(b) in paragraph 2, omit the fourth sub-paragraph.

Article 433 (frequency of disclosure)

191. In Article 433 (frequency of disclosure), omit the fourth sub-paragraph.

Article 436 (scope of application)

192. In Article 436 (scope of application), omit "in accordance with Directive 2013/36/EU".

Article 438 (capital requirements)

193. In Article 438 (capital requirements)—

(a) in the opening words, for "Article 73 of Directive 2013/36/EU" substitute "rules 3.1(1)(a) and 3.4 of the Internal Capital Adequacy Assessment Part of the PRA rulebook and rules 2.2.7R and 2.2.13R of the FCA Prudential Sourcebook for Investment Firms";

(b) in point (b), for "point (a) of Article 104(1) of Directive 2013/36/EU" substitute "regulation 34(1) of the Capital Requirements Regulations 2013".

Article 440 (capital buffers)

194. In Article 440 (capital buffers), in paragraph 1, for "in Title VII, Chapter 4 of the Directive 2013/36/EU", substitute "in regulation 2 of the Capital Requirements (Capital Buffers and Macro-prudential Measures) Regulation 2014".

Article 441 (indicators of global systemic importance)

195. In Article 441 (indicators of global systemic importance)—

(a) in paragraph 1—

(**a**) S.I. 2013/3115.

(i) for "in accordance with Article 131 of Directive 2013/36/EU" substitute "by virtue of Part 4 of Capital Requirements (Capital Buffers and Macro-prudential Measures) Regulations 2014"(**a**);

(ii) for "that Article" substitute "regulation 23 of those Regulations";

(b) in paragraph 2, in the first sub-paragraph, for "EBA shall take" substitute "the FCA or the PRA (as the case may be) must take".

Article 443 (unencumbered assets)

196. In Article 443 (unencumbered assets)—

(a) omit the first sub-paragraph;

(b) in the second sub-paragraph, omit the words ", taking into account" to the end.

Article 444 (use of ECAIs)

197. In Article 444 (use of ECAIs), in point (d), for "EBA" substitute "the competent authority".

Article 450 (remuneration policy)

198.—(1) Article 450 (remuneration policy) is amended as follows.

(2) In paragraph 1(d), for "Article 94(1)(g) of Directive 2013/36/EU" substitute "rules 15.09 to 15.13 of the Remuneration Part of the PRA rulebook and rules 19A.3.44R to 44DR and 19D.3.48R to 52R of the Senior Management Arrangements, Systems and Controls sourcebook of the FCA Handbook".

(3) In paragraph 1(j), for "the Member State or competent authority," substitute "the PRA or FCA".

(4) In paragraph 2, in the second sub-paragraph, for "Directive 95/46/EC" substitute "the General Data Protection Regulation (EU) 2016/679".

Article 452 (use of the IRB Approach to credit risk)

199. In Article 452 (use of the IRB Approach to credit risk), for the third sub-paragraph substitute—

"For the purposes of point (j), the "relevant geographical location of credit exposures" means—

(a) exposures in the United Kingdom; or

(b) exposures in a third country in which the institution carries out activities through a branch or a subsidiary.".

Heading of Part 9

200. For the heading of Part 9 substitute "Regulations, enhanced prudential measures and technical standards".

Article 458 (macroprudential or systemic risk identified at the level of a Member State)

201. For Article 458 (macroprudential or systemic risk identified at the level of a Member State) substitute—

(**a**) S.I. 2014/894.

"Article 458

Enhanced prudential measures directions & recommendations: Interpretation

1. In this Article and in Articles 458A to 458C—

'enhanced prudential measures direction' means a direction of the Financial Policy Committee under section 9H of the 1998 Act to a competent authority describing stricter measures in relation to a relevant prudential area than are required by this Regulation or any legislation made under it;

'enhanced prudential measures recommendation' means a recommendation of the Financial Policy Committee under section 9Q of the 1998 Act to a competent authority, describing stricter measures in relation to a relevant prudential area than are required by this Regulation or any legislation made under it;

'enhanced prudential implementation action' means action to comply with an enhanced prudential measures direction or enhanced prudential measures recommendation;

'FPC' means the Financial Policy Committee;

'regulated person' has the meaning given in section 9H(2) of the 1998 Act;

'relevant prudential area' means—

(i) the level of own funds provided for in Article 92,

(ii) the requirements for large exposures provided for in Articles 392 and 395 to 403,

(iii) the public disclosure requirements provided for in Articles 431 to 455,

(iv) liquidity requirements provided for in Part 6 or in the Liquidity Commission Delegated Regulation,

(v) risk weights for targeting asset bubbles in the residential and commercial property sector, or

(vi) intra financial sector exposures.

'the 1998 Act' means the Bank of England Act 1998;

'the Liquidity Commission Delegated Regulation' means Commission Delegated Regulation (EU) 2015/61 of 10th October 2014 to supplement Regulation (EU) No 575/2013 of the European Parliament and Council with regard to liquidity coverage requirement for Credit Institutions, as it forms part of domestic law by virtue of section 3 of the European Union (Withdrawal) Act 2018, and as amended from time to time thereafter.

Article 458A

Enhanced prudential measures

1. Where the FPC issues an enhanced prudential measure direction or enhanced prudential measure recommendation, the competent authority may exercise its functions to introduce an enhanced prudential implementation action.

2. An enhanced prudential implementation action shall have effect notwithstanding any provision to the contrary in this Regulation or any legislation made under it.

Article 458B

Enhanced prudential measures: effect of revocation

1. Paragraph 2 applies where—

(a) the FPC revokes an enhanced prudential measures direction in accordance with section 9J of the 1998 Act; or

(b) the FPC withdraws an enhanced prudential measures recommendation and notifies the competent authority of that withdrawal.

2. A competent authority which has introduced an enhanced prudential implementation action must consider whether it is appropriate to cease to implement that action.

Article 458C

Enhanced prudential measures: publication and application

1. Once the Bank has published the relevant information concerning the enhanced prudential measure direction or enhanced prudential measure recommendation in accordance with section 9U and, where relevant, section 9V(3) of the 1998 Act, a competent authority must publish on its website the following information—

(a) the fact that it has introduced an enhanced prudential implementation action;

(b) any requirements of this Regulation or any delegated legislation made under it that the competent authority considered inconsistent with the enhanced prudential implementation action; and

(c) a statement that the relevant enhanced prudential implementation action shall have effect notwithstanding any provision to the contrary in this Regulation or any legislation made under it.

2. Until the Bank has published the relevant information concerning the enhanced prudential measure direction or enhanced prudential measure recommendation in accordance with section 9U and, where relevant, section 9V(3) of the 1998 Act, the competent authority must take reasonable steps to bring the enhanced prudential implementation action to the attention of the regulated persons subject to it.

3. A failure by the competent authority to publish information as required by paragraph 1 does not affect the validity, continuing operation or enforcement of the enhanced prudential implementation action to which the requirement to publish relates."(**a**).

Article 462 (exercise of the delegation)

202. Omit Article 462 (exercise of the delegation).

Article 463 (objections to regulatory technical standards)

203. Omit Article 463 (objections to regulatory technical standards).

Article 464 (European Banking Committee)

204. Omit Article 464 (European Banking Committee).

Article 464A and 464B (insertion of new paragraphs)

205. After Article 464 insert—

"Article 464A

Regulations: general provisions

1. Any power to make regulations conferred on the Treasury by this Regulation, is exercisable by statutory instrument.

2. Such regulations may—

(a) contain incidental, supplemental, consequential and transitional provision, and

(b) may make different provision for different purposes.

3. A statutory instrument containing regulations made under Article 456 of this Regulation may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.

(**a**) Bank of England Act 1998 c.11.

4. A statutory instrument containing regulations made under any other provision of this Regulation is subject to annulment in pursuance of a resolution of either House of Parliament.

Article 464B

Power to make technical standards

1. Where a power to make technical standards is conferred on both the FCA and PRA it is exercisable—

(a) by the PRA, in respect of PRA-authorised persons within the meaning of section 2B(5) of FSMA;

(b) by the FCA in respect of any other person.

2. In addition to the powers to make technical standards set out elsewhere in this Regulation, the PRA and FCA may both make technical standards for the following purposes—

(a) to specify—

(i) the information to be provided to the relevant competent authority in the application for authorisation of a credit institution under Part 4A of FSMA;

(ii) the requirements applicable to shareholders and members with qualifying holdings; and

(iii) obstacles which may prevent effective exercise of the supervisory functions of the competent authority;

(b) to define what is meant by 'exposures to specific risk which are material in absolute terms' and the thresholds for large numbers of material counterparties and positions in debt instruments of different issuers;

(c) to specify—

(i) the procedure for sharing assessments of the quality of institutions' internal approaches for calculating own funds requirements between competent authorities;

(ii) the standards for the assessment of the quality of institutions' internal approaches for calculating own funds requirements by competent authorities;

(d) to specify—

(i) the template, the definitions and the IT-solutions to be applied in the UK for institutions to report the results of the calculations of their internal approaches for their exposures or positions that are included in their benchmark portfolios;

(ii) the benchmark portfolio or portfolios which institutions must report;

(e) to specify the classes of instruments that can be fully converted to Common Equity Tier 1 instruments or written down, and qualitative and appropriate quantitative criteria to identify categories of staff whose professional activities have a material impact on the institution's risk profile;

(f) to specify the method for the identification of the geographical location of an institution's credit exposures for the purposes of calculating institution-specific countercyclical capital buffer rates.

3. In addition to the powers to make technical standards set out elsewhere in this Regulation, the PRA alone may make technical standards to specify—

(a) the methodology in accordance with which the PRA shall identify a UK parent institution or UK parent financial holding company or UK parent mixed financial holding company as a global systemically important institution ('G-SII'); and

(b) the methodology for the definition of the sub-categories and the allocation of G-SIIs in sub-categories based on their systemic significance;

taking into account any international agreed standards."(**a**).

Article 473a (introduction of IFRS 9)

206.—(1) Article 473a (introduction of IFRS 9) is amended as follows.

(2) In paragraph 1(c), for "Directive 86/635/EEC" substitute "Directive 86/635/EEC UK law".

(3) In paragraph 7, for "laid down in this Regulation and in Directive 2013/36/EU" substitute "imposed by or under this Regulation or Directive 2013/36/EU UK law".

(4) Omit paragraph 10.

Article 483 (grandfathering of State aid instruments)

207. In Article 483 (grandfathering of State aid instruments)—

(a) in paragraph 1(b)—

(i) before "State aid rules" insert "European Union";

(ii) after "Member State" insert "or the United Kingdom";

(b) in the wording after paragraph 1(c), after "Member State" each time it occurs, insert "or the United Kingdom";

(c) in paragraph 1(c), before "Commission" insert "European".

Article 484 (eligibility for grandfathering of items)

208. In Article 484(3) (eligibility for grandfathering of items) for "capital within the meaning of Article 22 of Directive 86/635/EEC" substitute "capital, which for these purposes comprises all amounts, regardless of their actual designations, which, in accordance with the legal structure of the institution concerned, are regarded under the applicable law of the United Kingdom, or any part of it, or of a third country, as equity capital subscribed by the shareholders or other proprietors".

Article 485 (eligibility for inclusion in Common Equity Tier 1)

209. In Article 485(2) (eligibility for inclusion in Common Equity Tier 1) for "capital within the meaning of Article 22 of Directive 86/635/EEC" substitute "capital, which for these purposes comprises all amounts, regardless of their actual designations, which, in accordance with the legal structure of the institution concerned, are regarded under the applicable law of the United Kingdom, or any part of it, or of a third country, as equity capital subscribed by the shareholders or other proprietors".

Article 493 (transitional provisions for large exposures)

210.—(1) Article 493 (transitional provisions for large exposures) is amended as follows.

(2) In paragraph 1—

(a) for "points 5, 6, 7, 9 and 10 of Section C of Annex I to Directive 2004/39/EC" substitute "paragraphs 5, 6, 7, 9 and 10 of Part 1 of Schedule 2 to the Regulated Activities Order";

(b) omit from "or the date of entry" until the end.

(**a**) The powers in paragraph 2(a) are transferred from Article 8(2) of Directive 2013/36/EU, the powers in paragraph 2(b) are transferred from Article 77(4) of Directive 2013/36/EU, the powers in paragraph 2(c) are transferred from Article 78(7) of Directive 2013/36/EU, the powers in paragraph 2(d) are transferred from Article 78(8) of Directive 2013/36/EU, the powers in paragraph 2(e) are transferred from Article 94(2) of Directive 2013/36/EU, the powers in paragraph 2(f) are transferred from Article 140(7) of Directive 2013/36/EU, and the powers in paragraph 3 are transferred from Article 131(18) of Directive 2013/36/EU.

(3) In paragraph 3—

(a) for the first sub-paragraph substitute—

"3. By way of derogation from Article 400(2) and (3), the Treasury may, for a transitional period ending on 3 January 2029, make regulations fully or partially exempting the following exposures from the application of Article 395(1)—";

(b) in point (b), for "Member States" substitute "the United Kingdom".

(4) In paragraph 5—

(a) in points (a) to (c), for "central governments, central banks, or public sector entities of Member States" substitute "the central government of the United Kingdom, the Bank, or public sector entities of the United Kingdom";

(b) in points (d) and (e), for "Member States" substitute "the United Kingdom".

Article 497 (own funds requirements for exposures to CCPs)

211.—(1) Article 497 (own funds requirements for exposures to CCPs) is amended as follows.

(2) Omit paragraph 1.

(3) In paragraph 2—

(a) for the words "Until 15 months" to "Regulation (EU) No 648/2012" substitute "Until 15 December 2020";

(b) for "of that Regulation" insert "of Regulation (EU) No 648/2012"(**a**).

(4) In paragraph 4, for "paragraphs 1 and 2" substitute "paragraph 2".

Article 498 (exemption for Commodities dealers)

212. In Article 498 (exemption for Commodities dealers), in paragraph 1, for "points 5, 6, 7, 9 and 10 of Section C of Annex I to Directive 2004/39/EC" substitute "paragraphs 5, 6, 7, 9 and 10 of Part 1 of Schedule 2 to the Regulated Activities Order".

Article 501 (capital requirements deduction for credit risk on exposures to SMEs)

213. In Article 501(2) (capital requirements deduction for credit risk on exposures to SMEs), for point (b), substitute—

"(b) an SME is defined as set out in Article 4(1)(128D) of this Regulation, save that in Article 2 of the Annex to Commission Recommendation 2003/361/EC only the annual turnover shall be taken into account;".

Article 502 to 519 (reports and reviews)

214. Omit Title 2 of Part 10 (reports and reviews), consisting of Articles 502 to 519.

Article 521 (entry into force and date of application)

215. After Article 521 (entry into force and date of application) omit "This Regulation shall be binding in its entirety and directly applicable in all Member States.".

Article 522 (insertion of new paragraph)

216. After Article 521 insert—

(**a**) Regulation (EU) No. 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories.

"Article 522

Savings provisions: pre-exit decisions

1. Where a decision of the type set out in paragraph 2 is made before exit day by a body other than the PRA or FCA—

(a) that decision shall continue to have effect on and after exit day;

(b) the PRA and FCA shall have the same powers in respect of that decision on and after exit day as if it was a decision taken by the PRA in relation to a PRA-authorised person and the FCA in relation to any other person; and

(c) those powers shall include the power to review, vary, modify or revoke the decision.

2. The types of decision are—

(a) in respect of applications for the permissions referred to in Articles 143(1), 143(3), 151(4), 151(9), 283, 312(2) and 363 of Regulation No 575/2013, a decision whether or not to grant the permission sought and to determine the terms and conditions pursuant to which any such permission should be subject, where that decision has been made—

(i) jointly by the competent authorities in accordance with Article 20(1) of Regulation No 575/2013; or

(ii) by the consolidating supervisor in accordance with Article 20(4) of Regulation No 575/2013;

(b) a decision whether the criteria for a specific intragroup treatment referred to in Articles 422(9) and 425(4) of Regulation No 575/2013 are met, where that decision has been made—

(i) jointly by the competent authorities in accordance with Article 20(1) of Regulation No 575/2013; or

(ii) by the competent authority responsible for the supervision of the subsidiary on an individual basis in accordance with Article 20(5) of Regulation No 575/2013;

(c) a decision on whether the conditions in points (a) to (d) of Article 8(1) of Regulation No 575/2013 are met and identifying a single liquidity sub-group for the application of Article 8 of Regulation No 575/2013 (including where that decision also imposes constraints on the locations and ownership of liquid assets and requires minimum amounts of liquid assets to be held by institutions that are exempt from the application of Part 6), where that decision has been made—

(i) jointly by the competent authorities in accordance with Article 21(1) of Regulation No 575/2013; or

(ii) by the competent authority responsible for supervision on an individual basis in accordance with Article 21(2) of Regulation No 575/2013;

(d) a decision on the application of Articles 73 and 97 of Directive 2013/36/EU to determine the adequacy of the consolidated level of own funds held by the group of institutions with respect to its financial situation and risk profile and the required level of own funds for the application of Article 104(1)(a) of Directive 2013/36/EU to each entity within the group of institutions and on a consolidated basis, where that decision has been made—

(i) jointly by the competent authorities in accordance with Article 113(1) of Directive 2013/36/EU; or

(ii) by the consolidating supervisor in accordance with Article 113(3) of Directive 2013/36/EU;

(e) a decision on measures required to address any significant matters and material findings relating to liquidity supervision including relating to the adequacy of the organisation and the treatment of risks as required pursuant to Article 86 of Directive 2013/36/EU and relating to the need for institution-specific liquidity requirements in

accordance with Article 105 of Directive 2013/36/EU, where that decision has been made—

(i) jointly by the competent authorities in accordance with Article 113(1) of Directive 2013/36/EU; or

(ii) by the consolidating supervisor in accordance with Article 113(3) of Directive 2013/36EU;

(f) a decision to update a decision of the type specified in (d) or (e), where that decision has been made—

(i) jointly by the competent authorities in accordance with Article 113(4) of Directive 2013/36/EU;

(ii) by the consolidating supervisor in accordance with Article 113(4) of Directive 2013/36/EU; or

(iii) as a decision of bilateral application made in accordance with Article 105 (4) of Directive 2013/36/EU by the consolidating supervisor and a relevant competent authority where one of those parties was the PRA or FCA;

(g) a decision under the second sub-paragraph of Article 124(2) of Regulation No 575/2013, taken by a competent authority other than the PRA or FCA, to set higher risk weights or apply stricter criteria in respect of exposures secured on residential or commercial immovable property located in its territory;

(h) a decision under the second sentence of Article 164(5) of Regulation No 575/2013, taken by a competent authority other than the PRA or FCA, to set higher minimum values of exposure weighted average LGD for exposures secured by immovable property located in their territory;

(i) a decision determining whether the criteria referred to in Article 29(2) and Article 34(2) of Commission Delegated Regulation (EU) 2015/61 of 10th of October 2014 are met, where that decision has been made—

(i) jointly by the competent authorities in accordance with Article 20(1) of Regulation No 575/2013; or

(ii) by the competent authority responsible for the supervision of the subsidiary on an individual basis in accordance with Article 20(5) of Regulation No 575/2013.

3. For the purposes of paragraph 2, references to specific provisions of Regulation No 575/2013, Directive 2013/36/EU, and Commission Delegated Regulation (EU) 2015/61 are to those instruments as they stood immediately before exit day, and without the modifications made under the European (Withdrawal) Act 2018."(**a**).

Annex I (classification of off-balance sheet items)

217.—(1) Annex I (classification of off-balance sheet items) is amended as follows.

(2) For point 1(j) substitute—

"(j) asset sale and repurchase agreements—

(i) including agreements where the transferee is merely entitled to return the assets at the purchase price or for a different amount agreed in advance on a date specified or to be specified, the transaction in question shall be deemed to be a sale with an option to purchase; and

(**a**) Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012; OJ No. L 176, 27.6.2013, p.1–337. Directive 2013/36/EU of the European Parliament and of the Council of 26th June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC; OJ No. L. 176, 27.6.2013, p.338-436. Commission Delegated Regulation (EU) 2015/61 of 10th October 2014 to supplement Regulation (EU) No 575/2013 of the European Parliament and Council with regard to liquidity coverage requirement for Credit Institutions; OJ No. L 11, 17.1.2015, p.1–36.

(ii) excluding agreements where the transferor is not entitled to show in his balance sheets the assets transferred".

(3) In points 2(b)(iv), 3(b)(ii) and 4(c), for "EBA", in each place it occurs, substitute "the competent authority".

Annex II (types of derivative)

218. In Annex II (types of derivative), in paragraph 3, for "points 4 to 7, 9 and 10 of Section C of Annex I to Directive 2004/39/EC" substitute "paragraphs 4 to 7, 9 and 10 of Part 1 of Schedule 2 to the Regulated Activities Order".

Annex III (items subject to supplementary reporting of liquid assets)

219.—(1) Annex III (items subject to supplementary reporting of liquid assets) is amended as follows.

(2) In point 6(c) for "bonds as referred to in Article 52(4) of Directive 2009/65/EC" substitute "CRR covered bonds".

(3) In point 11 for "the domestic currency of the Member State" substitute "pounds sterling".

CHAPTER 2

Amendment of Capital Requirements Regulation to transfer powers to the Treasury

General transfer of powers to the Treasury

220.—(1) The provisions of the Capital Requirements Regulation specified in paragraph (2) are amended as follows—

(a) for the words from "the Commission may adopt, by way of implementing acts, and subject to the examination procedure referred to in Article 464(2), a decision as to whether" substitute "the Treasury may by regulations determine whether";

(b) for "Union" substitute "United Kingdom";

(c) omit the words "In the absence of such a decision" to the end.

(2) The provisions of the Capital Requirements Regulation specified in this paragraph are—

(a) Article 107, paragraph 4;

(b) Article 114, paragraph 7, second sub-paragraph;

(c) Article 115, paragraph 4, second sub-paragraph;

(d) Article 116, paragraph 5, second sub-paragraph;

(e) Article 132, paragraph 3, second sub-paragraph;

(f) Article 142, paragraph 2.

Specific transfer of powers to the Treasury

221.—(1) Specific amendments are made to transfer powers to the Treasury as follows—

(2) In Article 456 (delegated acts)—

(a) for the heading substitute "Regulations modifying this Regulation";

(b) in paragraph 1, for "The Commission shall be empowered to adopt delegated acts in accordance with Article 462," substitute "The Treasury may make regulations";

(c) in paragraph 1, in points (a) and (g), omit "to ensure uniform application of this Regulation";

(d) in paragraph 2—

(i) in the first sub-paragraph, for the words from "EBA shall" to "shall assess" substitute "The Treasury may by regulations amend Articles 381, 382(1) to (3) and 383 to 386 concerning—";

(ii) omit the second sub-paragraph.

(3) In Article 457 (technical adjustments and corrections)—

(a) for "The Commission shall be empowered to adopt delegated acts in accordance with Article 462, to" substitute "The Treasury may by regulations";

(b) for the words "after the adoption" to "acts of the Union" substitute "after exit day in the law of the United Kingdom, or any part of it,";

(c) in point (i) for "Union legislation" substitute "the law of the United Kingdom, or any part of it,".

(4) In Article 459 (prudential requirements)—

(a) in the first sub-paragraph—

(i) for "The Commission shall be empowered to adopt delegated acts in accordance with Article 462, to impose" substitute "The Treasury may by regulations impose";

(ii) for "in the Union or outside the Union affecting all Member States" substitute "in the United Kingdom or outside the United Kingdom";

(iii) for "Directive 2013/36/EU" substitute "Directive 2013/36/EU UK law";

(iv) omit ", in particular upon the recommendation or opinion of the ESRB or EBA,";

(b) omit the second sub-paragraph.

(5) In Article 460 (liquidity)—

(a) in paragraph 1—

(i) for "The Commission shall" to "Article 462 to" substitute "The Treasury may by regulations";

(ii) for "The delegated act adopted in accordance with this paragraph" substitute "Such regulations";

(b) omit the second and third sub-paragraphs of paragraph 2;

(c) after paragraph 2 insert—

"3. The power to make regulations under this provision includes the power to modify, amend or revoke the Liquidity Commission Delegated Regulation.".

(6) In Article 497 (own funds requirements for exposures to CCPs), in paragraph 3—

(a) for the words from "The Commission may adopt" to "Regulation (EU) No 182/2011 extending" substitute "The Treasury may by regulations extend";

(b) for "paragraphs 1 and 2" substitute "paragraph 2";

(c) for "six months" substitute "twelve months".

CHAPTER 3

Amendment of Capital Requirements Regulation to transfer powers to the FCA and PRA

European Supervisory Authorities' functions in the Capital Requirements Regulation transferred to both the FCA and PRA

222.—(1) The paragraphs of the Articles of the Capital Requirements Regulation specified in the first column of Table 1 are amended as follows—

(a) the amendment specified in paragraph (2) is made to the provision specified in the second column, and

(b) the provisions specified in the third column are omitted (they concern the procedure for the proposal and adoption of technical standards by EU entities).

(2) The amendment specified is, as the context requires—

(a) for "EBA shall develop draft regulatory technical standards" substitute "The FCA and the PRA may each make technical standards", or

(b) for "EBA shall develop draft implementing technical standards" substitute "The FCA and the PRA may each make technical standards".

Table 1

Article & paragraph	*Provision to be amended (to transfer power to make technical standards to the FCA and PRA)*	*Provisions to be omitted*
Article 18(7).	First sub-paragraph.	Second and third sub-paragraphs.
Article 26(4).	First sub-paragraph.	Second and third sub-paragraphs.
Article 28(5).	First sub-paragraph.	Second and third sub-paragraphs.
Article 29(6).	First sub-paragraph.	Second and third sub-paragraphs.
Article 32(2).	First sub-paragraph.	Second and third sub-paragraphs.
Article 33(4).	First sub-paragraph.	Second and third sub-paragraphs.
Article 36(2).	First sub-paragraph.	Second and third sub-paragraphs.
Article 36(3).	First sub-paragraph.	Second and third sub-paragraphs.
Article 41(2).	First sub-paragraph.	Second and third sub-paragraphs.
Article 52(2).	First sub-paragraph.	Second and third sub-paragraphs.
Article 73(7).	First sub-paragraph.	Second and third sub-paragraphs.
Article 76(4).	First sub-paragraph.	Second and third sub-paragraphs.
Article 78(5).	First sub-paragraph.	Second and third sub-paragraphs.
Article 79(2).	First sub-paragraph.	Second and third sub-paragraphs.
Article 83(2).	First sub-paragraph.	Second and third sub-paragraphs.
Article 84(4).	First sub-paragraph.	Second and third sub-paragraphs.
Article 99(5).	First sub-paragraph.	Third and fourth sub-paragraphs.
Article 99(6).	Second sub-paragraph.	Third and fourth sub-paragraphs.
Article 101(4).	First sub-paragraph.	Second and third sub-paragraphs.
Article 105(14).	First sub-paragraph.	Second and third sub-paragraphs.
Article 110(4).	First sub-paragraph.	Second and third sub-paragraphs.
Article 124(4).	First sub-paragraph.	Second and third sub-paragraphs.
Article 143(5).	First sub-paragraph.	Second and third sub-paragraphs.
Article 144(2).	First sub-paragraph.	Second and third sub-paragraphs.
Article 148(6).	First sub-paragraph.	Second and third sub-paragraphs.
Article 150(3).	First sub-paragraph.	Second and third sub-paragraphs.
Article 152(5).	First sub-paragraph.	Second and third sub-paragraphs.
Article 153(9).	First sub-paragraph.	Second and third sub-paragraphs.
Article 164(6).	First sub-paragraph.	Second and third sub-paragraphs.
Article 173(3).	First sub-paragraph.	Second and third sub-paragraphs.
Article 178(6).	First sub-paragraph.	Second and third sub-paragraphs.
Article 180(3).	First sub-paragraph.	Second and third sub-paragraphs.
Article 181(3).	First sub-paragraph.	Second and third sub-paragraphs.
Article 182(4).	First sub-paragraph.	Second and third sub-paragraphs.
Article 183(6).	First sub-paragraph.	Second and third sub-paragraphs.
Article 194(10).	First sub-paragraph.	Second and third sub-paragraphs.
Article 221(9).	First sub-paragraph.	Second and third sub-paragraphs.
Article 270.	First sub-paragraph.	Second and third sub-paragraphs.
Article 304(5).	First sub-paragraph.	Third and Fourth sub-paragraphs.
Article 312(4).	First sub-paragraph.	Second and third sub-paragraphs.
Article 314(5).	First sub-paragraph.	Second and third sub-paragraphs.

Article 316(3).	First sub-paragraph.	Second and third sub-paragraphs.
Article 318(3).	First sub-paragraph.	Second and third sub-paragraphs.
Article 329(3).	First sub-paragraph.	Second and third sub-paragraphs.
Article 341(3).	First sub-paragraph.	Second and third sub-paragraphs.
Article 344(1).	First sub-paragraph.	Second and third sub-paragraphs.
Article 352(6).	First sub-paragraph.	Second to fourth sub-paragraphs.
Article 354(3).	First sub-paragraph.	Second and third sub-paragraphs.
Article 358(4).	First sub-paragraph.	Second to fourth sub-paragraphs.
Article 363(4).	First sub-paragraph.	Second and third sub-paragraphs.
Article 383(7).	First sub-paragraph.	Second and third sub-paragraphs.
Article 390(8).	First sub-paragraph.	Second and third sub-paragraphs.
Article 394(4).	First sub-paragraph.	Second and third sub-paragraphs.
Article 410(2).	First sub-paragraph.	Second and third sub-paragraphs.
Article 410(3).	First sub-paragraph.	Second and third sub-paragraphs.
Article 430(2).	First sub-paragraph.	Second and third sub-paragraphs.
Article 437(2).	First sub-paragraph.	Second and third sub-paragraphs.
Article 440(2).	First sub-paragraph.	Second and third sub-paragraphs.
Article 441(2)	First sub-paragraph.	Second and third sub-paragraphs.
Article 443.	Second sub-paragraph.	Third and fourth sub-paragraphs.
Article 451(2).	First sub-paragraph.	Second and third sub-paragraphs.
Article 487(3).	First sub-paragraph.	Second and third sub-paragraphs.
Article 492(5).	First sub-paragraph.	Second and third sub-paragraphs.

European Supervisory Authorities' functions in the Capital Requirements Regulation transferred to only the PRA

223.—(1) The paragraphs of the Articles of the Capital Requirements Regulation specified in the first column of Table 2 are amended as follows—

(a) the amendment specified in paragraph (2) is made to the provision specified in the second column, and

(b) the provisions specified in the third column are omitted (they concern the procedure for the proposal and adoption of technical standards by EU entities).

(2) The amendment specified is, as the context requires—

(a) for "EBA shall develop draft regulatory technical standards" substitute "The PRA may make technical standards", or

(b) for "EBA shall develop draft implementing technical standards" substitute "The PRA may make technical standards".

Table 2

Article & paragraph	*Provision to be amended (to transfer power to make technical standards to the PRA)*	*Provisions to be omitted*
Article 415(3).	First sub-paragraph.	Second to fourth sub-paragraphs.
Article 416(5).	First sub-paragraph.	Second to fourth sub-paragraphs.
Article 419(4).	First sub-paragraph.	Second and third sub-paragraphs.
Article 419(5).	First sub-paragraph.	Second and third sub-paragraphs.
Article 423(3).	Second sub-paragraph.	Third and fourth sub-paragraphs.

Other functions transferred

224.—(1) The Capital Requirements Regulation is also amended in accordance with the following provisions of this regulation.

(2) In Article 27 (capital instruments of mutuals, cooperative societies, savings institutions or similar institutions in Common Equity Tier 1 items), in paragraph 2—

(a) in the first sub-paragraph—

(i) for "EBA shall develop draft regulatory technical standards" substitute "The FCA and the PRA may each make technical standards";

(ii) for "applicable national law" substitute "the applicable law of the United Kingdom, or any part of it,";

(b) omit the second and third sub-paragraphs.

(3) In Article 49 (requirement for deduction), in paragraph 6—

(a) in the first sub-paragraph for the words "EBA, EIOPA and" to "regulatory technical standards" substitute "The FCA and the PRA may each make technical standards";

(b) omit the second and third sub-paragraphs.

(4) In Article 97 (own funds based on Fixed Overheads), in paragraph 4—

(a) in the first sub-paragraph for "EBA in consultation with ESMA shall develop draft regulatory technical standards" substitute "The FCA and the PRA may each make technical standards";

(b) omit the second and third sub-paragraphs.

(5) Article 136 (mapping of ECAI's credit assessments) is amended as follows.

(a) in paragraph 1—

(i) in the first sub-paragraph, for "EBA, EIOPA and ESMA shall, through the Joint Committee, develop draft implementing technical standards" substitute "The FCA and the PRA may each make technical standards";

(ii) omit the second and third sub-paragraphs;

(b) in paragraph 2, for "EBA, EIOPA and ESMA", in each place it occurs, substitute "the FCA and the PRA";

(c) in paragraph 3—

(i) in the first sub-paragraph, for "EBA, EIOPA and ESMA shall develop draft implementing technical standards" substitute "The FCA and the PRA may each make technical standards";

(ii) omit the second and third sub-paragraphs.

(6) In Article 197 (eligibility of collateral under all approaches and methods), in paragraph 8—

(a) in the first sub-paragraph for "ESMA shall develop draft implementing technical standards" substitute "The FCA and the PRA may each make technical standards";

(b) omit the second and third sub-paragraphs.

(7) In Article 304 (treatment of clearing members' exposures to clients), in paragraph 5, in the second sub-paragraph for "EBA shall" substitute "the FCA or the PRA (as the case may be) must".

(8) In Article 382 (scope), in paragraph 5—

(a) in the second sub-paragraph, for "EBA in cooperation with ESMA shall develop draft regulatory technical standards" substitute "The FCA and the PRA may each make technical standards";

(b) omit the third and fourth sub-paragraphs.

(9) In Article 426 (updating future liquidity requirements)—

(a) in the first sub-paragraph, for the words from the beginning to "technical standards" substitute "The PRA may make technical standards";

(b) omit the second sub-paragraph.

Amendment to use of term "competent authorities"

225.—(1) In the provisions of the Capital Requirements Regulation specified in sub-paragraph (3) for the expression specified in sub-paragraph (2) (which applies in the context) substitute "it".

(2) The expressions specified are "competent authority", "a competent authority", "competent authorities" and "the competent authorities".

(3) The provisions specified are—

(a) Article 41, paragraph 2, first sub-paragraph;

(b) Article 124, paragraph 4, first sub-paragraph, point (b);

(c) Article 148, paragraph 6, first sub-paragraph;

(d) Article 152, paragraph 5, first sub-paragraph;

(e) Article 164, paragraph 6, first sub-paragraph;

(f) Article 178, paragraph 6, first sub-paragraph;

(g) Article 180, paragraph 3, first sub-paragraph, points (a) and (b);

(h) Article 181, paragraph 3, first sub-paragraph, point (b);

(i) Article 182, paragraph 4, first sub-paragraph, point (b);

(j) Article 183, paragraph 6, first sub-paragraph;

(k) Article 314, paragraph 5, first sub-paragraph, points (a) and (b);

(l) Article 415, paragraph 3, first sub-paragraph, point (b).

(4) In Article 173(3), in the first sub-paragraph, for "of the competent authorities" substitute "it may use".

(5) In Article 312(4), in the first sub-paragraph, in point (a), for "the competent authorities permit" substitution "it permits".

(6) In Article 363(4), in the first sub-paragraph, in point (b), for "competent authorities permit" substitute "it permits".

CHAPTER 4

Amendment of Liquidity Commission Delegated Regulation

Amendments to the Liquidity Commission Delegated Regulation

226. The Liquidity Commission Delegated Regulation is amended in accordance with this Chapter.

Article 2 (scope and application)

227.—(1) Article 2 (scope and application) is amended as follows.

(2) In paragraph 1, for the words from "supervised under Directive" to the end, substitute "that are CRR firms".

(3) In paragraph 2, for "Articles 8 and 10" substitute "Article 8".

(4) In paragraph 3—

(a) for "EU parent institution" substitute "UK parent institution";

(b) for "EU parent financial holding company" substitute "UK parent financial holding company";

(c) for "EU parent mixed financial holding company" substitute "UK parent mixed financial holding company";

(d) in sub-paragraph (d) for the words "the national law of" to end, substitute "the Liquidity Coverage Requirement – UK Designated Investment Firms Part of the PRA's rulebook or the applicable liquidity requirements in the FCA's Handbook".

Article 3 (definitions)

228. In Article 3 (definitions)—

(a) in point (1), for the words "the second sub-paragraph" to the end substitute "Article 10 of this Regulation";

(b) in point (2), for the words "as referred to in" to the end substitute "and further subdivided into level 2A and 2B assets in accordance with Articles 11 and 12 of this Regulation";

(c) in point (5), for "a Member State" substitute "the United Kingdom";

(d) omit point (6);

(e) in point (9), for "activities listed in Annex I to Directive 2013/36/EU" substitute "Annex 1 activities";

(f) after point (9) insert—

"(9A) 'UK deposit guarantee scheme' means the depositor protection part of the Financial Services Compensation Scheme established under section 213 of FSMA;"

(g) after point (12) insert—

"(13) A reference to the PRA rulebook is to the rulebook published by the PRA containing rules made by that Authority under FSMA—

(a) as amended from time to time, for the purposes of Article 2(3)(d); or

(b) as the rulebook has effect on exit day, in all other cases.

(14) A reference to a sourcebook is to a sourcebook in the Handbook of Rules and Guidance published by the FCA containing rules made by that Authority under FSMA—

(a) as amended from time to time, for the purposes of Article 2(3)(d); or

(b) as the rulebook has effect on exit day, in all other cases.

(15) 'the Capital Requirements Regulation' means Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012, as it forms part of domestic law by virtue of section 3 of the European Union (Withdrawal) Act 2018, and as amended from time to time thereafter.

(16) Except as provided above, any expression used in this Regulation which is defined in Article 4 (definitions) of the Capital Requirements Regulation has the meaning which it is given in that Article, as it forms part of domestic law by virtue of section 3 of the European Union (Withdrawal) Act 2018, and as amended from time to time thereafter.".

Article 4 (the liquidity coverage ratio)

229. In Article 4 (the liquidity coverage ratio)—

(a) at the end of paragraph 4, insert "or, if revoked, the PRA rulebook";

(b) at the end of paragraph 5, insert "or, if revoked, the PRA rulebook".

Article 7 (general requirements for liquid assets)

230. In Article 7 (general requirements for liquid assets)—

(a) in paragraph 2(a), omit the words from "This shall include" to "institutional protection scheme";

(b) in paragraph 4(g), for "activities listed in Annex I to Directive 2013/36/EU" substitute "Annex 1 activities";

(c) in paragraph 6, for "a Member State" substitute "the United Kingdom";

(d) omit paragraph 7(d).

Article 8 (operational requirements)

231. In Article 8 (operational requirements)—

(a) in paragraph 1(b)—

(i) for "Member State" substitute "United Kingdom";

(ii) for "credit institution's home Member State" substitute "United Kingdom";

(b) in paragraph 4, in the second sub-paragraph, omit from "or to the deposits and" to the end;

(c) in paragraph 6, second sub-paragraph for "Article 105 of Directive 2013/36/EU" substitute "regulation 35 of the Capital Requirements Regulations 2013".

Article 10 (level 1 assets)

232. In Article 10 (level 1 assets), in paragraph 1—

(a) in point (b)(i), for "the European Central Bank (ECB) or a Member State's central bank" substitute "the Bank";

(b) in point (b)(ii)—

(i) after "central banks of third countries" insert "or the European Central Bank";

(ii) after "or its central government" insert "(if applicable)";

(c) in point (b)(iii), omit "the ECB or";

(d) in point (c)(i), for "a Member State" substitute "the United Kingdom";

(e) in point (c)(iii) and point (e)(i)—

(i) for "a Member State" in each place it occurs substitute "the United Kingdom";

(ii) for "the Member State" in both places it occurs substitute "the United Kingdom";

(f) in point (c)(v), for "central government of the Member State" substitute "central government of the United Kingdom";

(g) in point (e)(ii)—

(i) for "the public policy objectives of the Union or of the central or regional government or local authority in a Member State" substitute "the public policy objectives of the central or a regional government of, or a local authority in, the United Kingdom";

(ii) for "central government of the Member State" substitute "government of the United Kingdom";

(h) in point (f)(i), for "bonds as referred to in Article 52(4) of Directive 2009/65/EC" substitute "CRR covered bonds".

Article 11 (level 2A assets)

233. In Article 11 (level 2A assets), in paragraph 1—

(a) in point (a), for "a Member State" substitute "the United Kingdom";

(b) in point (c)(i), for "bonds as referred to in Article 52(4) of Directive 2009/65/EC" substitute "CRR covered bonds";

(c) in point (d)(ii), for "Union" substitute "United Kingdom".

Article 12 (level 2B assets)

234. In Article 12 (level 2B assets), in paragraph 1—

(a) in point (c)(i), for "a Member State" in both places substitute "the United Kingdom";

(b) in point (c)(ii), for "the currency of the credit institution's home Member State" substitute "pounds sterling";

(c) in point (d), for "the central bank of a Member State" substitute "the Bank";

(d) in point (e)(i), for "bonds as referred to in Article 52(4) of Directive 2009/65/EC" substitute "CRR covered bonds";

(e) in point (e)(v), for "points (a), (d)(i) and (e)" substitute "points (a) and (d)(i)".

Article 16 (deposits and other funding in cooperative networks and institutional protection schemes)

235. Omit Article 16 (deposits and other funding in cooperative networks and institutional protection schemes).

Article 19 (alternative liquidity approaches)

236. In Article 19 (alternative liquidity approaches)—

(a) in paragraph 1(b), for "the central bank in a Member State or third country" substitute "the Bank, the European Central Bank or the central banks of third countries";

(b) in paragraph 3, for the words from "by the implementing regulation" to the end substitute "in accordance with Commission Implementing Regulation (EU) 2015/2344, or any subsequent technical standards made by the PRA under Article 419(4) of the Capital Requirements Regulation"(**a**);

(c) in paragraph 4, for the words from "by the delegated act" to the end substitute "in accordance with Commission Delegated Regulation (EU) 2016/709, or any subsequent technical standards made by the PRA under Article 419(5) of the Capital Requirements Regulation"(**b**).

Article 23 (additional liquidity outflows for other products and services)

237. In Article 23 (additional liquidity outflows for other products and services), omit paragraph 3.

Article 24 (outflows from stable retail deposits)

238. In Article 24 (outflows from stable retail deposits)—

(a) in paragraph 1, for the words from "a deposit guarantee scheme in accordance" to "Directive 2014/49/EU" substitute "the UK deposit guarantee scheme";

(b) in paragraph 4, for the words from "a deposit guarantee scheme in accordance" to the end of point (c) substitute "the UK deposit guarantee scheme";

(c) omit paragraph 5.

(**a**) Commission Implementing Regulation (EU) 2015/2344 of 15 December 2015 laying down implementing technical standards with regard to currencies with constraints on the availability of liquid assets in accordance with Regulation (EU) No 575/2013 of the European Parliament and of the Council.

(**b**) Commission Delegated Regulation (EU) 2016/709 of 26 January 2016 supplementing Regulation (EU) No 575/2013 of the European Parliament and of the Council with regard to regulatory technical standards specifying the conditions for the application of the derogations concerning currencies with constraints on the availability of liquid assets.

Article 25 (outflows from other retail deposits)

239. In Article 25 (outflows from other retail deposits), in paragraph 2, in point (e)—

(a) for "Union" substitute "United Kingdom";

(b) for "the euro or the domestic currency of a Member State" substitute "pounds sterling".

Article 26 (outflows with inter-dependent inflows)

240. In Article 26 (outflows with inter-dependent inflows), in point (c)(ii) for "a Member State" substitute "the United Kingdom".

Article 27 (outflows from operational deposits)

241. In Article 27 (outflows from operational deposits)—

(a) omit paragraph 1(b);

(b) in paragraph 2, for the words from "a deposit guarantee scheme" to "Directive 2014/49/EU" substitute "the UK deposit guarantee scheme";

(c) omit paragraph 3.

Article 28 (outflows from other liabilities)

242. In Article 28 (outflows from other liabilities)—

(a) in paragraph 1, in the second sub-paragraph, for the words from "a deposit guarantee scheme" to "Directive 2014/49/EU" substitute "the UK deposit guarantee scheme";

(b) in paragraph 3, in point (d)(ii), for "Member State" substitute "United Kingdom".

Article 29 (outflows within a group or an institutional protection scheme)

243. In Article 29 (outflows within a group or an institutional protection scheme)—

(a) in the heading, omit "or an institutional protection scheme";

(b) in paragraph 1(b), for "relationship within the meaning of Article 12(1) of Directive 83/349/EEC" substitute "common management relationship";

(c) in paragraph 1(b), omit from "or a member of the same" to the end;

(d) in paragraph 1(d), for "same Member State" substitute "United Kingdom";

(e) in paragraph 2, in the second sub-paragraph, omit the words from the beginning to "Regulation (EU) No 575/2013".

Article 30 (additional outflows)

244. In Article 30 (additional outflows), in paragraph 3, for "the delegated act to be adopted by the Commission pursuant to" substitute "technical standards made under".

Article 31 (outflows from credit and liquidity facilities)

245. In Article 31 (outflows from credit and liquidity facilities)—

(a) omit paragraph 7;

(b) in paragraph 9—

(i) in the first sub-paragraph, for "the central or regional government of at least one Member State" substitute "the central or a regional government of the United Kingdom";

(ii) in the third sub-paragraph, for "public policy objectives of the Union or of that Member State's central or regional government" substitute "the public policy objectives of the central or a regional government of the United Kingdom".

Article 32 (inflows)

246. In Article 32 (inflows), in paragraph 3(d), omit ", with the exception of deposits at the central institution referred to in Article 27(3),".

Article 33 (cap on inflows)

247. In Article 33 (cap on inflows)—

(a) in paragraph 2(a), for "relationship within the meaning of Article 12(1) of Directive 83/349/EEC" substitute "common management relationship";

(b) in paragraph 2(b), omit "or (7)";

(c) for paragraph (4)(b), substitute—

"(b) an activity that immediately before exit day would have amounted to consumer credit for the purposes of Directive 2008/48/EC.";

(d) paragraph 5, in the second sub-paragraph—

(i) omit the first sentence;

(ii) for "EBA shall publish" substitute "PRA must publish";

(iii) omit the final sentence.

Article 34 (inflows within a group or an institutional protection scheme)

248. In Article 34 (inflows within a group or an institutional protection scheme)—

(a) in the heading, omit "or an institutional protection scheme";

(b) in paragraph 1(b), for "relationship within the meaning of Article 12(1) of Directive 83/349/EEC" substitute "common management relationship";

(c) in paragraph 1(b), omit from "or a member of the same" to the end;

(d) in paragraph 1(d), for "same Member State" substitute "United Kingdom";

(e) omit paragraphs 2 and 3.

Article 35 (grandfathering of Member State-guaranteed bank assets)

249.—(1) In Article 35 (grandfathering of Member State-guaranteed bank assets)—

(a) for the heading substitute "Transitional provision: United Kingdom-guaranteed bank assets";

(b) in paragraph 1, for "the central government of a Member State" substitute "the central government of the United Kingdom";

(c) in paragraph 2, for "in a Member State" substitute "of the United Kingdom".

Article 36 (transitional provision for Member State-sponsored impaired asset management agencies)

250. Omit Article 36 (transitional provision for Member State-sponsored impaired asset management agencies).

Final provision

251. After Article 39 (entry into force) omit "This Regulation shall be binding in its entirety and directly applicable in all Member States."

CHAPTER 5

Amendment of G-SII Commission Delegated Regulation

Amendments to the G-SII Commission Delegated Regulation

252. The G-SII Commission Delegated Regulation is amended in accordance with this Chapter.

Article 3 (common parameters for the methodology)

253. In Article 3 (common parameters for the methodology)—

(a) in paragraph 1, for "The EBA", both times it occurs, substitute "the Prudential Regulation Authority";

(b) in paragraph 3, for "The EBA" substitute "the Prudential Regulation Authority".

Final provision

254. After Article 8 (entry into force) omit "This Regulation shall be binding in its entirety and directly applicable in all Member States.".

Name
Name
Date — Two of the Lords Commissioners of Her Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

Save for Part 2, these Regulations are made in exercise of the powers in section 8(1) of the European Union (Withdrawal) Act 2018 (c. 16) in order to address failures of retained EU law to operate effectively and other deficiencies arising from the withdrawal of the United Kingdom from the European Union (and in particular, the deficiencies under paragraphs (b), (c), (e), (f) and (g) of section 8(2) of that Act). They amend the Regulated Covered Bonds Regulations 2008 (S.I. 2008/346), the Capital Requirements Regulation 2013 (S.I. 2013/3115), the Capital Requirements (Country-by-Country Reporting) Regulations 2013 (S.I. 2013/3118), and the Capital Requirements (Capital Buffers and Macro-prudential Measures) Regulations 2014 (S.I. 2014/894). They also amend Regulation (EU) No 575/2013 on prudential requirements for credit institutions and investment firms, Commission Delegated Regulation (EU) 2015/61 supplementing Regulation (EU) No 575/2013 of the European Parliament and Council with regard to liquidity coverage requirement for Credit Institutions; and Commission Delegated Regulation (EU) 1222/2014 supplementing Directive 2013/36/EU of the European Parliament and the Council with regard to regulatory technical standards for the specification of the methodology for the identification of global systemically important institutions and for the definition of subcategories of global systemically important institutions.

Part 2 of these Regulations is made in exercise of the powers in section 2(2) of the European Communities Act 1972 (c.68) in order to make minor amendments to the secondary legislation referenced above. These amendments ensure that references to EU instruments in those instruments are up to date at exit day, in accordance with the United Kingdom's EU's obligations prior to exit day.

These Regulations refer to the Rulebook made by the Prudential Regulation Authority under the Financial Services and Markets Act 2000 (c.8), and sourcebooks made by the Financial Conduct Authority under that Act. The Rulebook is available on http://www.prarulebook.co.uk and copies of the rules referred to can be obtained from the Prudential Regulation Authority, 20 Moorgate,

London EC2R 6DA, where it is also available for inspection. Sourcebooks made by the Financial Conduct Authority are available on https://www.handbook.fca.org.uk/handbook and copies of the rules referred to can be obtained from the Financial Conduct Authority, 12 Endeavour Square, London E20 1JN, where it is also available for inspection.

An impact assessment of the effect that this instrument, and other instruments made by HM Treasury under the European Union (Withdrawal) Act 2018 at or about the same time, will have on the costs of business, the voluntary sector and the public sector is available from HM Treasury, 1 Horse Guards Road, London SW1A 2HQ and is published alongside this instrument at www.legislation.gov.uk.

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