Draft Regulations laid before Parliament under section 3(7) of the Financial Services Act 2021 and paragraph 1(1) of Schedule 7 to the European Union (Withdrawal) Act 2018 for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2021 No.

FINANCIAL SERVICES

The Capital Requirements Regulation (Amendment) Regulations 2021

Made - - - -	*****
Coming into force - -	*1st January 2022*

The Treasury, in exercise of the powers conferred by sections 3 and 45 of the Financial Services Act 2021(**a**) and section 8(1) of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018(**b**), make the following Regulations.

The Treasury consider that the provisions revoked by these Regulations which are to be replaced by general rules to be made by the Prudential Regulation Authority will be adequately replaced; that where provisions revoked by these Regulations are not to be replaced by general rules, it is appropriate for those provisions not to be replaced; and that where a provision of the Capital Requirements Regulation connected with provision relating to a matter listed in section 3(2) of the Financial Services Act 2021 is revoked, the revocation is necessary or desirable in order to maintain or improve the coherence of the prudential regime concerned.

A draft of these Regulations has been laid before and approved by a resolution of each House of Parliament, in accordance with section 3(7) of the Financial Services Act 2021 and paragraph 1(1) of Schedule 7 to the European Union (Withdrawal) Act 2018.

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Capital Requirements Regulation (Amendment) Regulations 2021 and come into force on 1st January 2022.

(2) These Regulations extend to England and Wales, Scotland and Northern Ireland.

(**a**) 2021 c. 22.
(**b**) 2018 c. 16; section 8 was amended by section 27 of the European Union (Withdrawal Agreement) Act 2020 (c. 1) and paragraph 21 of Schedule 7 was amended by paragraph 53 of Schedule 5 to that Act.

Amendment of the Capital Requirements Regulation

2. The Capital Requirements Regulation(**a**) is amended as follows.

Title I of Part One: subject matter, scope and definitions

3. In Article 4 (definitions), in paragraph (1A)(**b**), after the definition of "Bank" insert—

""CRR rules" has the meaning given by section 144A of FSMA (CRR rules);".

Title II of Part One: level of application of requirements

4.—(1) Title II of Part One (comprising Articles 6 to 24) (level of application requirements) is amended as follows.

(2) In Article 6(**c**) (application of requirements on an individual basis: general principles)—

(a) in paragraph 1, for "Parts Two to Five and Eight" substitute "Part Two, Part Three, Article 451 and Chapter 2 of Regulation (EU) 2017/2402 of the European Parliament and of the Council of 12 December 2017 laying down a general framework for securitisation and creating a specific framework for simple, transparent and standardised securitisation(**d**) (provisions applicable to all securitisations)";

(b) in paragraph 3, for "Part Eight" substitute "Article 451";

(c) omit paragraph 4.

(3) In Article 7(**e**) (derogation from the application of prudential requirements on an individual basis), in paragraph 3(a) and (b), for "parent institution in a Member State" substitute "UK parent institution".

(4) Omit Article 8(**f**) (derogation from the application of liquidity requirements on an individual basis).

(5) In Article 11(**g**) (application of prudential requirements on a consolidated basis: general treatment)—

(a) in paragraph 1, for "Parts Two, Three, Four, Seven and Seven A on the basis of their consolidated situation, with the exception of point (d) of Article 430(1)" substitute "Parts Two, Three and Seven on the basis of their consolidated situation";

(b) omit paragraph 4;

(c) in paragraph 6, in point (a) of the third subparagraph, for "2, 3, 4, 6, 7, 7A and 8" substitute "Two, Three, and Seven and Article 451".

(6) In Article 13(**h**) (application of disclosure requirements on a consolidated basis)—

(a) in paragraph 1—

(i) in the first subparagraph, for "Part Eight" substitute "Article 451";

(ii) in the second subparagraph, for "Articles 437, 438, 440, 442, 450, 451, 451a and 453" substitute "Article 451";

(b) omit paragraph 2.

(7) In Article 18(1) (methods of prudential consolidation), omit the second sentence.

(**a**) EUR 2013/575, amended, or prospectively amended by, sections 1 and 7 of, and Schedules 1 and 4 to, the Financial Services Act 2021 and S.I. 2018/1401, 2019/264, 660, 710 and 1232, 2020/1301, 1385 and 1470 and 2021/558.
(**b**) Paragraph (1A) was inserted by S.I. 2018/1401 and amended by S.I. 2019/1232.
(**c**) Article 6 was amended by S.I. 2018/1401 and 2019/1232.
(**d**) EUR 2017/2402 as amended by S.I. 2019/660 and 2019/876.
(**e**) Article 7 was amended by S.I. 2018/1401.
(**f**) Article 8 was amended by S.I. 2018/1401.
(**g**) Article 11 was amended by S.I. 2020/1385; there is another amending instrument but it is not relevant.
(**h**) Article 13 was amended by S.I. 2019/1232.

(8) Omit Article 22 (sub-consolidation in cases of entities in third countries).

Chapter 2 of Title I of Part Two (own funds and eligible liabilities): Common Equity Tier 1 capital

5.—(1) Chapter 2 of Title I of Part Two (Common Equity Tier 1 capital) is amended as follows.

(2) Omit Article 36(**a**) (deductions from Common Equity Tier 1 items).

(3) Omit Article 41(2)(**b**) (deduction of defined benefit pension fund assets).

Part Three: capital requirements

6.—(1) Part Three (comprising Articles 92 to 386) (capital requirements) is amended as follows.

(2) In Title I (general requirements, valuation and reporting), omit—

(a) in Chapter 1 (comprising Articles 92 to 94)(**c**) (required level of own funds), Article 94 (derogation from own funds requirements for small trading book business);

(b) Chapter 2 (comprising Articles 99 to 101)(**d**) (calculation and reporting requirements);

(c) Chapter 3 (comprising Articles 102 to 106)(**e**) (trading book).

(3) In Title II (capital requirements for credit risk)—

(a) omit Article 128(**f**) (risk weights: items associated with particular high risk);

(b) omit Article 132(**g**) (exposures in the form of units or shares in collective investment undertakings);

(c) omit Article 132a(**h**) (risk weights: approaches for calculating risk-weighted exposure amounts of collective investment undertakings);

(d) omit Article 152(**i**) (internal ratings-based approach to credit risk: treatment of exposures in the form of units or shares in collective investment undertakings);

(e) omit Article 158 (internal ratings-based approach to credit risk: treatment by exposure type);

(f) in Chapter 6 (comprising Articles 271 to 311) (counterparty credit risk)—

(i) in Article 272 (definitions for the purposes of Chapter 6 of Title II of Part Three and Title VI of Part Three), omit—

(aa) in the heading before point (4), ", hedging sets,";

(bb) point (5) ("risk position");

(cc) point (6) ("hedging set");

(dd) point (8) ("margin threshold");

(ee) point (12) ("Current Market Value");

(ff) point (26) ("payment leg");

(**a**) Article 36 was amended by S.I. 2018/1401 and 2019/1232 and is prospectively amended by paragraph 47 of Schedule 1 to the Financial Services Act 2021.

(**b**) Article 41 was amended by S.I. 2018/1401 and is prospectively amended by paragraph 47 of Schedule 1 to the Financial Services Act 2021.

(**c**) Chapter 1 originally contained Articles 92 to 98, which were amended by S.I. 2018/1401 and 2019/710 and 1232 and are prospectively amended by paragraphs 16 to 20 of Schedule 1 to the Financial Services Act 2021.

(**d**) Articles 99 to 101 were amended by S.I. 2018/1401 and 2019/710 and are prospectively amended by paragraphs 21 and 47 of Schedule 1 to the Financial Services Act 2021.

(**e**) Articles 102 to 106 were amended by S.I. 2018/1401 and are prospectively amended by paragraph 47 of Schedule 1 to the Financial Services Act 2021.

(**f**) Article 128 was amended by S.I. 2018/1401.

(**g**) Article 132 was amended by S.I. 2018/1401.

(**h**) Article 132a was amended by S.I. 2019/1232 and is prospectively amended by paragraph 47 of Schedule 1 to the Financial Services Act 2021.

(**i**) Article 152 was amended by S.I. 2018/1401 and is prospectively amended by paragraph 47 of Schedule 1 to the Financial Services Act 2021.

(ii) omit—

(aa) section 2 (comprising Article 273) (methods for calculating the exposure value);

(bb) section 3 (comprising Article 274) (mark-to-market method);

(cc) section 4 (comprising Article 275) (original exposure method);

(dd) section 5 (comprising Articles 276 to 282)(**a**) (standardised method);

(ee) section 9 (comprising Articles 300 to 311)(**b**) (own funds requirements for exposures to a central counterparty).

(4) In Title III (own funds requirements for operational risk), omit Article 316(**c**) (basic indicator approach to own funds requirements for operational risk: relevant indicator).

(5) In Title VI (own funds requirements for credit valuation adjustment risk), omit Article 385 (alternative to using CVA methods to calculating own funds requirements for credit valuation adjustment risk).

Part Four: large exposures

7. In Part Four (comprising Articles 387 to 403)(**d**) (large exposures)—

(a) omit Articles 387 to 390 and 392 to 403;

(b) in Article 391 (definition of an institution for large exposures purposes)—

(i) omit the first paragraph;

(ii) in the second paragraph, for "the first paragraph" substitute "provision in CRR rules that governs the calculation of large exposures in respect of institutions authorised in third countries which apply prudential supervisory and regulatory requirements at least equivalent to those applied in the United Kingdom";

(iii) after the second paragraph, insert—

"A country or territory listed in Annex I, II or III of Commission Implementing Decision 2014/908/EU of 12 December 2014 on the equivalence of the supervisory and regulatory requirements of certain third countries and territories for the purposes of the treatment of exposures according to Regulation (EU) No 575/2013 of the European Parliament and of the Council is to be treated as equivalent for the purposes of the rules mentioned in the preceding paragraph of this Article until regulations made under that paragraph come into force as respects that country.".

Part Six: liquidity

8. Omit Part Six (comprising Articles 411 to 428)(**e**) (liquidity).

Part Seven A: reporting requirements

9. Omit Articles 430(7) and 430b(**f**) (reporting requirements).

(**a**) Articles 276 to 282 were amended by S.I. 2018/1401 and 2019/1232 and is prospectively amended by paragraph 47 of Schedule 1 to the Financial Services Act 2021.
(**b**) Articles 300 and 311 were amended by S.I. 2018/1401.
(**c**) Article 316 was amended by S.I. 2018/1401.
(**d**) Articles 387 to 403 were amended by S.I. 2018/1401 and 2019/264 and 1232.
(**e**) Articles 411 to 428 were amended by S.I. 2018/1401 and 2019/1232.
(**f**) Articles 430(7) and 430b were amended by S.I. 2019/1232.

Part Eight: disclosure by institutions

10. In Part Eight (comprising Articles 431 to 455)(**a**) (disclosure by institutions), omit Articles 431 to 450 and 452 to 455.

Part Nine: regulations, enhanced prudential measures and technical standards

11.—(1) Part Nine (comprising Articles 456 to 464B) (regulations, enhanced prudential measures and technical standards) is amended as follows.

(2) In Article 456(**b**) (Treasury power to make regulations modifying the Capital Requirements Regulation)—

(a) in paragraph 1—

(i) in point (a), for ", 300, 381 and 411" substitute "and 381";

(ii) in point (b), for ", 300, 381 and 411" substitute "and 381";

(iii) in point (h), omit "Articles 301 to 311 of this Regulation and";

(iv) omit point (i);

(b) in paragraph 2, for "and 383 to 386" substitute ", 383, 384 and 386".

(3) In Article 457(**c**) (Treasury power to make regulations: technical adjustments and corrections)—

(a) in point (a), for "Articles 111 to 134, and in Articles 143 to 191" substitute "Articles 111 to 127, 129 to 131, 133, 134, 143 to 151, 153 to 157 and 159 to 191";

(b) in point (d), for "to 311" substitute "and 283 to 299";

(c) in point (e), for "Articles 315 to 324" substitute "Articles 315 and 317 to 324";

(d) in point (i), omit "and Article 99".

(4) In Article 458(**d**) (enhanced prudential measures directions and recommendations: interpretation), in paragraph 1—

(a) in the definition of "relevant prudential area"—

(i) omit points (ii) and (iv);

(ii) in point (iii), for "Articles 431 to 455" substitute "Article 451";

(b) omit the definition of "the Liquidity Commission Delegated Regulation".

(5) In Article 459(**e**) (Treasury power to make regulations: prudential requirements)—

(a) omit point (b);

(b) in point (c) for "Articles 431 to 455" substitute "Article 451".

(6) Omit Article 460(**f**) (Treasury power to make regulations: liquidity).

(7) Omit Article 461 (review of the phasing-in of the liquidity coverage requirement).

Part Ten: transitional provisions, reports, reviews and amendments

12.—(1) Part Ten (comprising Articles 465 to 520) (transitional provisions, reports, reviews and amendments) is amended as follows.

(2) Omit Article 469 (transitional provisions: deductions from Common Equity Tier 1 items).

(**a**) Part Eight is amended by S.I. 2018/1401 and 2019/1232 and is prospectively amended by paragraphs 40, 41 and 47 of Schedule 1 to the Financial Services Act 2021.
(**b**) Article 456 was amended by S.I. 2018/1401.
(**c**) Article 457 was amended by S.I. 2018/1401 and 2019/710.
(**d**) Article 458 was substituted by S.I. 2018/1401.
(**e**) Article 459 was amended by S.I. 2018/1401.
(**f**) Article 460 was amended by S.I. 2019/1232.

(3) Omit Article 492(**a**) (transitional provisions for disclosure of own funds).

(4) Omit Article 493(**b**) (transitional provisions for large exposures).

(5) In Article 497(**c**) (own funds requirements for exposures to CCPs), in paragraph 3, for "once, by 12 months," substitute "by 12 months on each occasion".

(6) Omit Article 501b(**d**) (derogation from reporting requirements in Article 430).

Revocation and amendment of other retained direct EU legislation

13.—(1) The following instruments are revoked—

(a) 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(**e**);

(b) Commission Implementing Regulation (EU) 2015/233 of 13 February 2015 laying down implementing technical standards with regard to currencies in which there is an extremely narrow definition of central bank eligibility pursuant to Regulation (EU) No 575/2013 of the European Parliament and of the Council(**f**);

(c) 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(**g**);

(d) 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(**h**);

(e) Commission Delegated Regulation (EU) 2017/208 of 31 October 2016 supplementing Regulation (EU) No 575/2013 of the European Parliament and of the Council with regard to regulatory technical standards for additional liquidity outflows corresponding to collateral needs resulting from the impact of an adverse market scenario on an institution's derivatives transactions(**i**).

(2) Part 2 (PRA) of the following instruments(**j**) is revoked—

(a) Commission Implementing Regulation (EU) No 1423/2013 of 20 December 2013 laying down implementing technical standards with regard to disclosure of own funds requirements for institutions according to Regulation (EU) No 575/2013 of the European Parliament and of the Council(**k**);

(b) Commission Implementing Regulation (EU) No 1030/2014 of 29 September 2014 laying down implementing technical standards with regard to the uniform formats and date for the disclosure of the values used to identify global systemically important institutions according to Regulation (EU) No 575/2013 of the European Parliament and of the Council(**l**);

(c) Commission Delegated Regulation (EU) No 1187/2014 of 2 October 2014 supplementing Regulation (EU) No 575/2013 of the European Parliament and of the Council as regards

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(**a**) Article 492 was amended by S.I. 2018/1401 and is prospectively amended by paragraph 47 of Schedule 1 to the Financial Services Act 2021.
(**b**) Article 493 was amended by S.I. 2018/1401, 2019/264 and 2021/558.
(**c**) Article 497(3) was amended by S.I. 2019/1232.
(**d**) Article 501b was amended by S.I. 2019/1232.
(**e**) EUR 2015/61.
(**f**) EUR 2015/233.
(**g**) EUR 2015/2344.
(**h**) EUR 2016/709.
(**i**) EUR 2017/208.
(**j**) Each of these instruments was amended by the Technical Standards (Capital Requirements) (EU Exit) (No.3) Instrument 2019 made by the Prudential Regulation Authority under S.I. 2018/1115 on 9th April 2019.
(**k**) EUR 2013/1423.
(**l**) EUR 2014/1030.

regulatory technical standards for determining the overall exposure to a client or a group of connected clients in respect of transactions with underlying assets(**a**);

(d) Commission Delegated Regulation (EU) 2015/585 of 18 December 2014 supplementing Regulation (EU) No 575/2013 of the European Parliament and of the Council with regard to regulatory technical standards for the specification of margin periods of risk(**b**);

(e) Commission Delegated Regulation (EU) 2015/1555 of 28 May 2015 supplementing Regulation (EU) No 575/2013 of the European Parliament and of the Council with regard to regulatory technical standards for the disclosure of information in relation to the compliance of institutions with the requirement for a countercyclical capital buffer in accordance with Article 440(**c**);

(f) Commission Delegated Regulation (EU) 2016/101 of 26 October 2015 supplementing Regulation (EU) No 575/2013 of the European Parliament and of the Council with regard to regulatory technical standards for prudent valuation under Article 105(14)(**d**);

(g) Commission Delegated Regulation (EU) 2017/2295 of 4 September 2017 supplementing Regulation (EU) No 575/2013 of the European Parliament and of the Council with regard to regulatory technical standards for disclosure of encumbered and unencumbered assets(**e**).

(3) In Part 2 (PRA) of Commission Delegated Regulation (EU) 241/2014 of 7 January 2014 supplementing Regulation (EU) No 575/2013 of the European Parliament and of the Council with regard to regulatory technical standards for Own Funds requirements for institutions(**f**)—

(a) omit Article 1(f) and (g) (subject matter of the Regulation);

(b) omit Articles 13 to 19 (deductions from Common Equity Tier 1 items and deduction of defined benefit pension fund assets).

(4) In Part 2 (PRA) of Commission Implementing Regulation (EU) No 680/2014 of 16 April 2014 laying down implementing technical standards with regard to supervisory reporting of institutions according to Regulation (EU) No 575/2013 of the European Parliament and of the Council(**g**)—

(a) in Article 1 (subject matter and scope), omit points (a) to (c) and (e) to (g);

(b) omit Articles 2 to 13;

(c) omit Articles 15 to 17.

Name
Name

Date — Two of the Lords Commissioners of Her Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations revoke provisions of Regulation (EU) No. 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions

(**a**) EUR 2014/1187.
(**b**) EUR 2015/585.
(**c**) EUR 2015/1555.
(**d**) EUR 2016/101.
(**e**) EUR 2017/2295.
(**f**) EUR 2014/241. This instrument was amended by the Technical Standards (Capital Requirements) (EU Exit) (No.3) Instrument 2019 made by the Prudential Regulation Authority under S.I. 2018/1115 on 9th April 2019.
(**g**) EUR 2014/680. This instrument was amended by the Technical Standards (Capital Requirements) (EU Exit) (No.3) Instrument 2019 made by the Prudential Regulation Authority under S.I. 2018/1115 on 9th April 2019.

and investment firms, as it forms part of domestic law (the "CRR"). The majority of the provisions are to be replaced by rules to be made by the Prudential Regulation Authority ("PRA").

The revoked provisions of the CRR include:

- Article 36 (deductions from Common Equity Tier 1 items);
- Articles 94 and 102 to 106 (own funds requirements relating to trading book);
- Articles 99 to 101 and Part Seven A (reporting requirements);
- Articles 128, 132, 132a and 152 (standardised approach to credit risk);
- Article 158 (internal ratings-based approach: treatment by exposure type);
- Articles 273 to 282 and 300 to 311 (own funds requirements for counterparty credit risk);
- Article 316 (own funds requirements for operational risk);
- Article 385 (own funds requirements for credit valuation adjustment risk);
- Part Four (with the exception of Article 391(2)) (large exposures);
- Part Six (liquidity requirements);
- Part Eight (with the exception of Article 451) (disclosure requirements).

The Regulations also make consequential amendments, including to the level of application requirements in Title II of Part One, and revoke Commission Delegated and Implementing Regulations made in respect of revoked provisions of the CRR.

A draft of the rules proposed to be made by the PRA to replace the revoked provisions of the CRR ("CRR rules") can be found at https://www.bankofengland.co.uk/prudential-regulation and a copy can be obtained from the Prudential Regulation Authority, 20 Moorgate, London EC2R 6DA.

Section 5(3) of the Financial Services Act 2021 makes provision for certain references in the CRR to revoked provisions of the CRR to be read as references to corresponding CRR rules. Under section 5(4) of that Act, the PRA has prepared a document setting out whether and how the proposed CRR rules correspond to the provisions of the CRR revoked by these Regulations. This document will be published at https://www.bankofengland.co.uk/prudential-regulation and a copy can be obtained from the Prudential Regulation Authority, 20 Moorgate, London EC2R 6DA.

These Regulations also amend Articles 6(1), 7(3), 11(1) and (4), 18(1), 391, 461 and 497 of the CRR using the powers in section 8(1) of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018 (c. 16) 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 (in particular, deficiencies under paragraphs (a) and (g) of section 8(2) of that Act).

No impact assessment has been published in respect of these Regulations because no impact, or no significant impact, on the private, voluntary or public sector is foreseen.

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