EXPLANATORY MEMORANDUM TO

THE FINANCIAL SERVICES AND MARKETS ACT 2023 (CAPITAL BUFFERS AND MACRO-PRUDENTIAL MEASURES) (CONSEQUENTIAL AMENDMENTS) REGULATIONS 2025

2025 No. [XXXX]

1. Introduction

1.1 This explanatory memorandum has been prepared by HM Treasury and is laid before Parliament by Command of His Majesty.

2. Declaration

2.1 Emma Reynolds, Economic Secretary to the Treasury and City Minister confirms that this Explanatory Memorandum meets the required standard.

2.2 James Fairburn, Deputy Director for the Financial Stability Strategy and Analysis team at HM Treasury confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Nandita Padki at HM Treasury (nandita.padki@hmtreasury.gov.uk) can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 This instrument makes technical amendments to legislation following the revocation and restatement of the Capital Requirements (Capital Buffers and Macro-prudential Measures) Regulations 2014 (S.I. 2014/894) ("the 2014 Capital Buffers Regulations"). The purpose of the amendments is to ensure that the amended legislation will continue to operate effectively after the revocation and restatement of the 2014 Capital Buffers Regulations.

Where does the legislation extend to, and apply?

4.2 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is the United Kingdom.

4.3 The territorial application of this instrument (that is, where the instrument produces a practical effect) is the United Kingdom.

5. Policy Context

What is being done and why?

5.1 Capital buffers are capital requirements that banks are required to hold in addition to minimum capital requirements. They ensure that banks have sufficient capacity to absorb losses while continuing to lend to the economy, even in times of stress.

5.2 Following the UK's withdrawal from the European Union, a large body of detailed and technical financial services regulation remains in legislation as assimilated law. This approach does not align well with the UK's regulatory framework, known as the FSMA model, established under the Financial Services and Markets Act 2000. Under this model, detailed regulatory requirements are designed and maintained by expert, independent regulators, within an overall policy framework set by government and Parliament. The Financial Services and Markets Act 2023 facilitates the repeal of assimilated law and implements a Smarter Regulatory Framework (SRF) tailored to the UK's needs.

5.3 The 2014 Capital Buffers Regulations are revoked by virtue of the Financial Services and Markets Act 2023 (Commencement No 9) Regulations 2025 (S.I. 2025/572 (C. 25) and partly restated by the Capital Buffers and Macro-prudential Measures Regulations 2025 (S.I. 2025/653) with technical modifications to improve the effectiveness of the overall capital buffer framework. This approach will remove two capital buffers from legislation (the Capital Conservation Buffer (CCoB) and Globally Systemically Important Institutions (G-SII) buffer) and responsibility for setting these buffers will be transferred to the Prudential Regulation Authority (PRA), providing additional flexibility. Other regulations will be restated, with some technical modifications, where they relate to capital buffers that are set by the Bank of England's Financial Policy Committee (FPC) (the Countercyclical Capital Buffer (CCyB) and the Other Systemically Important Institutions (O-SII) buffer). This is because the FPC does not have broad rulemaking powers like the PRA, and the regulations that underpin the use of its tools must be set out in legislation. The revocation and restatement take effect on 31st July 2025.

5.4 Among other things, this instrument ensures that existing references to the 2014 Capital Buffers Regulations in other legislation, such as the Bank of England Act 1998 and retained EU technical standards, are updated accordingly.

6. Legislative and Legal Context

How has the law changed?

6.1 Section 1 of the Financial Services and Markets Act 2023 (c. 29) revokes the 2014 Capital Buffers Regulations. The revocation comes into force on 31st July 2025 by virtue of the Financial Services and Markets Act 2023 (Commencement No. 9) Regulations 2025. Certain provisions of the 2014 Capital Buffers Regulations are restated by the Capital Buffers and Macro-prudential Measures Regulations 2025, which come into force on 31st July 2025.

6.2 This instrument makes consequential amendments relating to the revocation and restatement of the 2014 Capital Buffers Regulations. In particular, it amends the following legislation:

- The Bank of England Act 1998 (c. 11);
- The Bank of England Act 1998 (Macro-prudential Measures) No. 2 Order 2015 (S.I. 2015/905);
- Regulation (EU) No 648/2012;
- Regulation (EU) No 575/2013;
- Commission Delegated Regulation (EU) 241/2014;
- Commission Delegated Regulation (EU) 342/2014;

- Commission Delegated Regulation (EU) 2015/1555;
- Commission Delegated Regulation (EU) 2016/1450; and
- Commission Delegated Regulation (EU) 2016/2251.

6.3 The amendments made by this instrument include replacing references to the 2014 Capital Buffers Regulations with references to the Capital Buffers and Macro-prudential Measures Regulations 2025. This instrument also revokes references to provisions of the 2014 Capital Buffers Regulations that will no longer be accurate because they are not being restated, such as references to the Global Systemically Important Institutions (G-SII) buffer[1].

Why was this approach taken to change the law?

6.4 The amendments made by this instrument are needed to ensure that the relevant legislation will continue to work effectively following the revocation and restatement of the 2014 Capital Buffers Regulations.

7. Consultation

7.1 HM Treasury has not carried out a consultation, as the changes are consequential amendments to legislation to ensure that the relevant legislation is consistent with the revocation and restatement of the 2014 Capital Buffer Regulations.

8. Applicable Guidance

8.1 HM Treasury does not propose to provide any guidance in relation to this instrument.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 An Impact Assessment has not been prepared for this instrument because the instrument does not directly affect businesses.

Impact on businesses, charities and voluntary bodies

9.2 There is no impact on business, charities or voluntary bodies.

9.3 The legislation does not impact small or micro businesses.

9.4 There is no impact on the public sector.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 HM Treasury will keep the effectiveness of the broader reforms to the capital buffer framework under review. This legislation, although making only technical amendments, will be monitored as part of that.

10.2 The instrument does not include a statutory review clause and, in line with the requirements of the Small Business, Enterprise and Employment Act 2015, the Economic Secretary to the Treasury, Emma Reynolds MP, has made the following statement:

[1] The Prudential Regulation Authority can set G-SIIs buffers under sections 55M and 192C of the Financial Services and Markets Act 2000.

"It is not proportionate to include a statutory review clause in this instrument because it does not introduce new ongoing regulatory burdens on businesses."

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 None.

12. European Convention on Human Rights

12.1 The Economic Secretary to the Treasury, Emma Reynolds MP, has made the following statement regarding Human Rights:

"In my view the provisions of the Financial Services and Markets Act 2023 (Capital Buffers and Macro-prudential Measures) (Consequential Amendments) Regulations 2025 are compatible with the Convention rights."

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023.