STATUTORY INSTRUMENTS

2021 No. 1046

FINANCIAL SERVICES

The Financial Services and Markets Act 2000 (Prudential Regulation of FCA Investment Firms) (Definitions for the purposes of Part 9C) Regulations 2021

Made - - - -	*14th September 2021*
Laid before Parliament	*15th September 2021*
Coming into force - -	*6th October 2021*

The Treasury, in exercise of the powers conferred by section 143B(2) of the Financial Services and Markets Act 2000(**a**), makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Financial Services and Markets Act 2000 (Prudential Regulation of FCA Investment Firms) (Definitions for the purposes of Part 9C) Regulations 2021 and come into force 21 days after the day on which these Regulations are laid before Parliament.

Interpretation

2. In these Regulations—

"the Act" means the Financial Services and Markets Act 2000(**b**);

"Annex 1 activities" has the meaning given in Article 4(1)(26A) of the Capital Requirements Regulation(**c**);

"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 has effect on the day on which these Regulations are made(**d**);

"connected undertakings" are undertakings where—

(a) the administrative, management or supervisory bodies of those undertakings consist, for the major part, of the same persons in office;

(b) one of the undertakings exercises significant influence over the other undertaking;

(c) the undertakings have been placed under single management, other than under a contract, clauses in their memoranda of association or their articles of association;

(**a**) 2000 c. 8: Section 143B was inserted by Financial Services Act 2021, Schedule 2, paragraph 1.
(**b**) 2000 c. 8.
(**c**) EUR 2013/575: Article 4(1)(26A) was inserted by S.I. 2018/1401 and amended by S.I. 2020/1301.
(**d**) EUR 2013/575, amended, or prospectively amended by, sections 1 and 7 of, and Schedules 1 and 4 to, the Financial Services Act 2021 (c. 22) and S.I. 2018/1401, 2019/264, 660, 710 and 1232, 2020/1301, 1385 and 1470 and 2021/558.

(d) one of the undertakings has direct or indirect ownership of 20% or more of the voting rights in, or capital of, the other undertaking; or

(e) one of the undertakings has rights in the capital of the other which create a durable link with the other undertaking, which is intended to contribute to its activities;

"credit institution" has the meaning given in Article 4(1)(1) of the Capital Requirements Regulation;

"FCA Handbook" means the FCA Handbook made by the Financial Conduct Authority under the Act;

"group" has the meaning given in regulation 4;

"IFPR ancillary services undertaking" means an undertaking the principal activity of which consists of—

(a) owning or managing property;

(b) managing data processing services; or

(c) any other similar activity, and

that activity of the undertaking is ancillary to the principal activity of one or more credit institutions or investment firms which are members of the same group as the IFPR ancillary services undertaking;

"IFPR asset management company" has the meaning given to "asset management company" by the Glossary of the FCA Handbook;

"IFPR authorised payment institution" has the meaning given to "authorised payment institution" by the Glossary of the FCA Handbook;

"IFPR AIFM" has the meaning given to "AIFM" by the Glossary of the FCA Handbook;

"IFPR financial holding company" has the meaning given to "financial holding company" in article 4(1)(20) of the Capital Requirements Regulation;

"IFPR financial institution" means an undertaking which—

(a) is an IFPR financial holding company, an IFPR mixed financial holding company, an IFPR investment holding company, an IFPR authorised payment institution, an IFPR asset management company, an IFPR AIFM, or any other undertaking the principal activity of which is to acquire holdings or to pursue one or more of the activities listed in points 2 to 12, point 15 and the final paragraph of the Annex 1 activities; and

(b) which is not a UK IFPR credit institution, an FCA investment firm, a pure industrial holding company, an IFPR insurance holding company, nor an IFPR mixed activity insurance holding company;

"IFPR investment holding company" means an undertaking which has subsidiaries and where—

(a) those subsidiaries are exclusively or mainly investment firms or IFPR financial institutions;

(b) at least one of those subsidiaries is an FCA investment firm; and

(c) none of those subsidiaries is a UK IFPR credit institution;

"IFPR insurance holding company" has the meaning given to "insurance holding company" by the Glossary of the PRA Rulebook;

"IFPR mixed activity insurance holding company" has the meaning given to "mixed activity insurance holding company" by the definitions in the Group Supervision Part of the PRA Rulebook;

"IFPR mixed financial holding company" has the meaning given to "mixed financial holding company" by the Glossary of the FCA Handbook;

"IFPR tied agent" has the meaning given to "tied agent" by the Glossary of the FCA Handbook;

"parent undertaking" has the meaning given in regulation 3;

"PRA Rulebook" means the PRA Rulebook made by the Prudential Regulation Authority under the Act;

"relevant financial undertaking" means—

(a) an investment firm;

(b) a credit institution;

(c) an IFPR financial institution;

(d) an IFPR ancillary services undertaking; or

(e) an IFPR tied agent;

"subsidiary undertaking" has the same meaning as in section 1162 of, and Schedule 7 to, the Companies Act 2006(**a**);

"UK IFPR credit institution" means a credit institution which is also a "CRR firm" as defined in Article 4(1)(2A) of the Capital Requirements Regulation(**b**).

Meaning of "Parent Undertaking" for the purposes of Part 9C Financial Services and Markets Act 2000

3. For the purposes of Part 9C of the Act, a "parent undertaking" is an undertaking that satisfies each of the following conditions—

(a) it is—

(i) a parent undertaking as defined in section 1162 of, and Schedule 7 to, the Companies Act 2006; or

(ii) a connected undertaking that is not a subsidiary undertaking or a connected undertaking of a relevant financial undertaking;

(b) except for the purposes of section 143J of the Act, it is incorporated in the United Kingdom or has its principal place of business in the United Kingdom; and

(c) it is—

(i) an FCA investment firm;

(ii) an IFPR investment holding company;

(iii) an IFPR mixed financial holding company; or

(iv) a relevant financial undertaking which is a subsidiary undertaking or connected undertaking of an undertaking in sub-paragraphs (i) to (iii) above.

Meaning of "Group" for the purposes of Part 9C of the Financial Services and Markets Act 2000

4.—(1) A group for the purposes of Part 9C of the Act comprises a parent undertaking ("undertaking A") together with any relevant financial undertaking that—

(a) is a subsidiary undertaking of undertaking A;

(b) is a connected undertaking of undertaking A or any of undertaking A's subsidiary undertakings; or

(c) is a subsidiary undertaking of an undertaking that is a connected undertaking of undertaking A by virtue of one of the relationships listed in (a) or (c) of the definition of "connected undertakings".

(2) References in this regulation to a relevant financial undertaking include an undertaking established outside the United Kingdom that would be a relevant financial undertaking if it was established in the United Kingdom.

(**a**) 2006 c. 46.
(**b**) EUR 2013/575: Article 4(1)(2A) was inserted by S.I. 2018/1401.

James Morrison
Alan Mak

14th September 2021 — Two of the Lords Commissioners of Her Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

This instrument is made under section 143B(2) of the Financial Services and Markets Act 2000 (c. 8) and provides definitions of the terms "parent undertaking" and "group" for the purposes of Part 9C of that Act. Part 9C, which includes section 143B(2), was introduced into FSMA by the Financial Services and Markets Act 2021 (c. 22).

A full impact assessment has not been produced for this instrument, as no, or no significant, impact on the private, voluntary or public sector is foreseen. A de minimis impact assessment is available from HM Treasury, 1 Horse Guards Road, London, SW1A 2HQ and is published with the Explanatory Memorandum alongside this instrument on www.legislation.gov.uk.

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£4.90

http://www.legislation.gov.uk/id/uksi/2021/1046

ISBN 978-0-34-822752-9

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