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*Status: Point in time view as at 31/12/2020.*

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## STATUTORY INSTRUMENTS

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# 2013 No. 3115

## FINANCIAL SERVICES AND MARKETS

### The Capital Requirements Regulations 2013

*Made - - - - 9th December 2013*

*Laid before Parliament 10th December 2013*

*Coming into force in accordance with regulation 1*

The Treasury are designated <sup>M1</sup> for the purposes of section 2(2) of the European Communities Act 1972 <sup>M2</sup> in relation to financial services.

The Treasury, in exercise of the powers conferred by—

- (a) section 2(2) of the European Communities Act 1972; and
  - (b) sections 349(1)(b), 349(2), 349(3) and 428(3) of, and paragraphs 13(1)(b)(iii), 14(1)(b), 17(a), 17(b), 17(c), 18 and 22 of Schedule 3 to, the Financial Services and Markets Act 2000 <sup>M3</sup>;
- make the following Regulations:

#### **Marginal Citations**

**M1** [S.I. 2012/1759](#).

**M2** [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 s2(2) of the European Communities Act 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 1992 (Cm 2073) and the Protocol adjusting the Agreement signed in Brussels on 17th March 1993 (Cm 2183).

**M3** [2000 c. 8](#). Section 349(2) was amended by section 41 of, and paragraphs 19(1) and (2) of Schedule 12 to, the [Financial Services Act 2012 \(c. 21\)](#); [paragraphs 14\(1\)\(b\), 17\(c\), 18 and 22 of Schedule 3](#) were amended by section 12 of, and paragraphs 1, 3, 7, 8 and 14 of Schedule 4 to, the Financial Services Act 2012; [paragraph 14\(1\)\(b\)](#) was also amended by [S.I. 2003/1473](#) and [S.I. 2003/2066](#).

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# PART 1

## Introductory provisions

### Citation, commencement and expiry

1.—(1) These Regulations may be cited as the Capital Requirements Regulations 2013.

(2) Subject to paragraph (3), these Regulations come into force on 1st January 2014.

(3) The Regulations specified in the first column of Schedule 1 (CRD transitional arrangements) come into force on the dates specified in the second column or cease to have effect on the dates specified in the third column.

### Interpretation

2.—(1) In these Regulations—

“appropriate regulator” means the PRA in relation to a PRA-authorised person and the FCA in relation to any other person;

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“capital requirements directive” means [<sup>F2</sup>United Kingdom enactment and rules which implemented] Directive 2013/36/EU of the European Parliament and of the Council of 26 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<sup>M4</sup> [<sup>F3</sup>as that directive is amended by Directive (EU) 2019/878 of the European Parliament and of the Council of 20 May 2019 amending Directive 2013/36/EU as regards exempted entities, financial holding companies, mixed financial holding companies, remuneration, supervisory measures and powers and capital conservation measures];

“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<sup>M5</sup>;

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“FSMA” means the Financial Services and Markets Act 2000;

“group” means a group whose members include one or more institutions;

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[<sup>F4</sup>“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.]

(2) Except as provided by paragraph (1)—

- (a) any expression used in these Regulations which is defined in Article 4 (definitions) of the capital requirements regulation <sup>F5</sup>... has the meaning which it is given in that Article <sup>M6</sup>;
- (b) any other expression used in these Regulations which is defined in section 417 (definitions) of FSMA has the meaning given by that section <sup>M7</sup>.

[<sup>F6</sup>(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 [<sup>F7</sup>forms part of retained EU law]. ]

- F1** Words in [reg. 2\(1\)](#) omitted (31.12.2020) by virtue of [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1401), [regs. 1\(3\), 11\(2\)\(a\)](#) (with savings in [S.I. 2019/680, reg. 11](#)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)
- F2** Words in [reg. 2\(1\)](#) inserted (31.12.2020) by [The Financial Conglomerates and Other Financial Groups \(Amendment etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/264), [regs. 1, 4](#) (with [reg. 6](#)) (with savings in [S.I. 2019/680, reg. 11](#)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)
- F3** Words in [reg. 2](#) inserted (27.11.2020) by [The Financial Holding Companies \(Approval etc.\) and Capital Requirements \(Capital Buffers and Macro-prudential Measures\) \(Amendment\) \(EU Exit\) Regulations 2020](#) (S.I. 2020/1406), [regs. 1\(2\), 4\(2\)](#) (with [reg. 5](#))
- F4** Words in [reg. 2\(1\)](#) inserted (31.12.2020) by [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1401), [regs. 1\(3\), 11\(2\)\(b\)](#) (with savings in [S.I. 2019/680, reg. 11](#)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)
- F5** Words in [reg. 2\(2\)\(a\)](#) omitted (31.12.2020) by virtue of [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1401), [regs. 1\(3\), 11\(3\)](#) (with savings in [S.I. 2019/680, reg. 11](#)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)
- F6** [Reg. 2\(3\)](#) inserted (20.12.2018) by [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1401), [regs. 1\(2\), 4](#)
- F7** Words in [reg. 2\(3\)](#) substituted (31.12.2020 immediately before IP completion day) by [The Securities Financing Transactions, Securitisation and Miscellaneous Amendments \(EU Exit\) Regulations 2020](#) (S.I. 2020/1385), [reg. 1\(4\), Sch. para. 1\(1\), \(2\)\(d\)](#)

#### Marginal Citations

- M4** OJ no L176, 27/6/2013, p. 338. For corrigenda see OJ no L208, 2/8/2013, p.73.
- M5** OJ no L176, 27/6/2013, p.1. For corrigenda see OJ no L208, 2/8/2013 p.68 and OJ no L321, 30/11/2013 p. 6.
- M6** In particular, “branch”, “credit institution”, “institution” and “investment firm” are defined in Article 4(1) of the capital requirements regulation.
- M7** In particular, “EBA”, “ESMA”, “FCA”, “PRA”, “PRA-authorised person” and “the Tribunal” are defined in section 417 of FSMA.

[<sup>F8</sup>**Interpretation: regulators' rules**

**2A.—(1)** In these Regulations—

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- (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 IP completion 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 IP completion 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 IP completion day to implement the capital requirements directive and its implementing measures—
    - (i) as they have effect on IP completion 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 IP completion day to implement Directive 2013/36/EU and its implementing measures as amended from time to time.]

**F8** Reg. 2A inserted (31.12.2020) by [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1401\)](#), regs. 1(3), **12** (with savings in S.I. 2019/680, **reg. 11**) (as amended by S.I. 2020/1301, regs. 1, 3, **Sch. para. 11(a)**); 2020 c. 1, **Sch. 5 para. 1(1)**

## PART 2

### Capital Requirements Regulations 2006: revocation

#### Capital Requirements Regulations 2006: revocation

3. The Capital Requirements Regulations 2006 <sup>M8</sup> are revoked.

#### Marginal Citations

**M8** [S.I. 2006/3221](#); the S.I. has been amended by [S.I. 2010/906](#), [S.I. 2010/2628](#), [S.I. 2011/1435](#), 2012/917 and [S.I. 2013/472](#).

## PART 3

### Designation of competent authorities

#### [<sup>F9</sup>Main provisions of the capital requirements regulation and Directive 2013/36/EU UK law]

4. For the purposes of [<sup>F10</sup>every provision of Directive 2013/36/EU UK law and the] capital requirements regulation—

- [<sup>F11</sup>(a) the PRA is responsible for—
  - (i) all the functions of a competent authority in respect of PRA-authorised persons and financial holding companies and mixed financial holding companies approved or designated by the PRA under—

- (aa) Part 12B of FSMA, or
- (bb) regulation 5 of the Financial Holding Companies (Approval etc.) and Capital Requirements (Capital Buffers and Macro-prudential Measures) (Amendment) (EU Exit) Regulations 2020;
- (ii) the application of Article 124(2) and Article 164(6) of the capital requirements regulation;]
- (b) the FCA is responsible for all the functions of a competent authority in respect of any other person.

- F9** Reg. 4 heading substituted (31.12.2020) by [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1401\)](#), regs. 1(3), **13(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F10** Words in reg. 4 substituted (31.12.2020) by [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1401\)](#), regs. 1(3), **13(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F11** Reg. 4(a) substituted (27.11.2020) by [The Financial Holding Companies \(Approval etc.\) and Capital Requirements \(Capital Buffers and Macro-prudential Measures\) \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1406\)](#), regs. 1(2), **4(3)** (with reg. 5)

### Capital buffers and Article 458 of the capital requirements regulation

<sup>F12</sup>5. ....

- F12** Reg. 5 omitted (31.12.2020) by virtue of [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1401\)](#), regs. 1(3), **14** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

## <sup>F13</sup>PART 4

### PRA and FCA: cooperation and co-ordination

- F13** Pt. 4 omitted (31.12.2020) by virtue of [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1401\)](#), regs. 1(3), **15** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

### Co-operation within the European System of Financial Supervision

6. ....

### Co-operation with EBA

7. ....

### Information gathering, planning and co-ordination duties

8. ....

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**Requirement to consult other competent authorities: major sanctions or exceptional measures**

9. ....

**Emergency situations: notification requirements**

10. ....

**Collaboration concerning supervision of cross-border institutions**

11. ....

**On-the-spot checks and inspections: during CRD transitional period**

12. ....

**On-the-spot checks or inspections: after CRD transitional period**

13. ....

**On-the-spot checks and inspections: powers of EEA competent authorities**

14. ....

**Significant branches: UK is the host EEA State**

15. ....

**Significant branches: UK is the home EEA State or EEA consolidating supervisor**

16. ....

**Duties to notify EBA and EIOPA**

17. ....

**F14 PART 5**

**Publication of information by PRA and FCA**

**F14** Pt. 5 omitted (31.12.2020) by virtue of [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1401\)](#), regs. 1(3), **16** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

**General disclosures required of PRA and FCA**

18. ....

**Specific disclosures required of PRA and FCA**

19. ....

## PART 6

### Consolidated supervision

#### Determination of the consolidating supervisor

<sup>F15</sup>20. ....

**F15** Reg. 20 omitted (31.12.2020) by virtue of [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1401\)](#), regs. 1(3), **17** (with savings in [S.I. 2019/680](#), reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

#### Assessment of equivalence of consolidated supervision by supervisory authorities in [<sup>F16</sup>third countries]

**21.**—(1) In this regulation, a “relevant institution” is an institution which satisfies the following conditions—

- (a) the institution is authorised by the PRA or FCA;
- (b) the parent undertaking of the institution is an institution, financial holding company or mixed financial holding company whose head office is not located in [<sup>F17</sup>the United Kingdom];
- (c) the institution is not subject to supervision on a consolidated basis [<sup>F18</sup>by the FCA or PRA];
- (d) the PRA or FCA would (but for paragraph (4)) be responsible for supervision of the institution on a consolidated basis; and
- (e) either—
  - (i) the parent undertaking of the institution, or any regulated entity established in the [<sup>F19</sup>United Kingdom] which is a member of the same group as the institution, has requested the assessment referred to in paragraph (2) be carried out; or
  - (ii) the PRA or FCA has decided on its own initiative to carry out that assessment.

(2) The appropriate regulator must assess whether a relevant institution is subject to supervision on a consolidated basis by a supervisory authority of a country outside the [<sup>F20</sup>United Kingdom] which is equivalent to the standard of supervision applicable to an institution under [<sup>F21</sup>Directive 2013/36/EU UK law] and Chapter 2 of Title 2 of Part 1 of the capital requirements regulation.

<sup>F22</sup>(3) .....

(4) Where the appropriate regulator concludes that a relevant institution is not subject to equivalent supervision in accordance with paragraph (2), the appropriate regulator may apply—

- (a) the requirements of [<sup>F23</sup>Directive 2013/36/EU UK law] and capital requirements regulation to the institution, amended as necessary; or
- (b) other appropriate supervisory techniques, which must be designed to achieve the objectives of supervision on a consolidated basis <sup>F24</sup>...

(5) The other appropriate supervisory techniques referred to in paragraph (4) may include a requirement on the institution to establish a financial holding company or mixed financial holding company with its head office in [<sup>F25</sup>the United Kingdom], so that supervision on a consolidated basis may be applied in relation to the consolidated situation of that holding company.

<sup>F26</sup>(6) .....

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- F16** Words in reg. 21 heading substituted (31.12.2020) by [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1401), regs. 1(3), **18(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F17** Words in reg. 21(1)(b) substituted (31.12.2020) by [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1401), regs. 1(3), **18(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F18** Words in reg. 21(1)(c) substituted (31.12.2020) by [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1401), regs. 1(3), **18(c)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F19** Words in reg. 21(1)(e)(i) substituted (31.12.2020) by [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1401), regs. 1(3), **18(d)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F20** Words in reg. 21(2) substituted (31.12.2020) by [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1401), regs. 1(3), **18(d)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F21** Words in reg. 21(2) substituted (31.12.2020) by [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1401), regs. 1(3), **18(e)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F22** Reg. 21(3) omitted (31.12.2020) by virtue of [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1401), regs. 1(3), **18(f)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F23** Words in reg. 21(4)(a) substituted (31.12.2020) by [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1401), regs. 1(3), **18(e)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F24** Words in reg. 21(4)(b) omitted (31.12.2020) by virtue of [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1401), regs. 1(3), **18(g)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F25** Words in reg. 21(5) substituted (31.12.2020) by [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1401), regs. 1(3), **18(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F26** Reg. 21(6) omitted (31.12.2020) by virtue of [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1401), regs. 1(3), **18(h)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

## Co-ordination and co-operation arrangements

<sup>F27</sup>**22.** . . . . .

- F27** Regs. 22-33 omitted (31.12.2020) by virtue of [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1401), regs. 1(3), **19** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

## Co-ordination of supervisory activities by the EEA consolidating supervisor

<sup>F27</sup>**23.** . . . . .

- F27** Regs. 22-33 omitted (31.12.2020) by virtue of [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1401), regs. 1(3), **19** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)



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## The Bank's general duties

<sup>F27</sup>24. ....

**F27** Regs. 22-33 omitted (31.12.2020) by virtue of [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1401\)](#), regs. 1(3), **19** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

## Exchange of information

<sup>F27</sup>25. ....

**F27** Regs. 22-33 omitted (31.12.2020) by virtue of [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1401\)](#), regs. 1(3), **19** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

## Obtaining information already disclosed

<sup>F27</sup>26. ....

**F27** Regs. 22-33 omitted (31.12.2020) by virtue of [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1401\)](#), regs. 1(3), **19** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

## Verification of information by a competent authority in another EEA State

<sup>F27</sup>27. ....

**F27** Regs. 22-33 omitted (31.12.2020) by virtue of [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1401\)](#), regs. 1(3), **19** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

## Requirement to establish list of holding companies

<sup>F27</sup>28. ....

**F27** Regs. 22-33 omitted (31.12.2020) by virtue of [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1401\)](#), regs. 1(3), **19** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

## Joint decisions on own funds: PRA or FCA is the EEA consolidating supervisor

<sup>F27</sup>29. ....

**F27** Regs. 22-33 omitted (31.12.2020) by virtue of [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1401\)](#), regs. 1(3), **19** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

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**Joint decisions on own funds: PRA or FCA is not the EEA consolidating supervisor**

<sup>F27</sup>**30.** . . . . .

**F27** Regs. 22-33 omitted (31.12.2020) by virtue of [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1401\)](#), regs. 1(3), **19** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

**Joint decision on liquidity: PRA or FCA is the EEA consolidating supervisor**

<sup>F27</sup>**31.** . . . . .

**F27** Regs. 22-33 omitted (31.12.2020) by virtue of [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1401\)](#), regs. 1(3), **19** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

**Joint decision on liquidity: PRA or FCA is not the EEA consolidating supervisor**

<sup>F27</sup>**32.** . . . . .

**F27** Regs. 22-33 omitted (31.12.2020) by virtue of [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1401\)](#), regs. 1(3), **19** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

**Colleges of supervisors**

<sup>F27</sup>**33.** . . . . .

**F27** Regs. 22-33 omitted (31.12.2020) by virtue of [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1401\)](#), regs. 1(3), **19** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

**PART 7**

Exercise of supervision by the PRA and FCA

**Supervisory powers: own funds**

- 34.—**(1) The PRA and FCA must require an institution to hold own funds in excess of—
- (a) the requirements of [<sup>F28</sup>Directive 2013/36/EU UK law which implemented] Chapter 4 of Title 7 of the capital requirements directive; and
  - (b) the requirements of the capital requirements regulation relating to risks or elements of risks not covered by Article 1 of the capital requirements regulation;

in the circumstances mentioned in paragraph (2).

- (2) The circumstances referred to in paragraph (1) are—

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- (a) an institution does not meet the requirements set out in [F29 Directive 2013/36/EU UK law which implemented] Articles 73 and 74 of the capital requirements directive or in Article 393 of the capital requirements regulation;
- (b) risks or elements of risks are not covered by the own funds requirements set out in [F29 Directive 2013/36/EU UK law which implemented] Chapter 4 of Title 7 of the capital requirements directive or in the capital requirements regulation;
- (c) the sole application of other administrative measures is unlikely to improve the institution's arrangements, processes, mechanisms and strategies sufficiently within an appropriate timeframe;
- (d) [F30 either a SREP or an internal model review] reveals that non-compliance with the requirements for the [F31 applicable internal approaches] will likely lead to inadequate own funds requirements;
- (e) the risks are likely to be underestimated despite compliance with the applicable requirements of [F32 Directive 2013/36/EU UK law or the capital requirements regulation]; or
- (f) an institution reports to the competent authority in accordance with Article 377(5) of the capital requirements regulation that the stress test results referred to in that Article materially exceed its own funds requirement for the correlation trading portfolio.

(3) For the purposes of determining the appropriate level of own funds on the basis of [F33 a SREP], the PRA and FCA must assess whether any imposition of an additional own funds requirement in excess of the own funds requirement is necessary to capture risks to which an institution is or might be exposed, taking into account the following:

- (a) the quantitative and qualitative aspects of the institution's assessment process referred to in [F34 Directive 2013/36/EU UK law which implemented] Article 73 of the capital requirements directive;
- (b) the institution's arrangements, processes and mechanisms referred to in [F34 Directive 2013/36/EU UK law which implemented] Article 74 of the capital requirements directive; [F35 and]
- (c) the outcome of [F36 the SREP or internal model review]; F37 ...
- F38 (d) .....

[F39 (3A) In making the assessment required by paragraph (3), the FCA must also take into account their assessment of systemic risk.]

[F40 (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.]

**F28** Words in reg. 34(1)(a) inserted (31.12.2020) by [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1401\)](#), regs. 1(3), **20(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

**F29** Words in reg. 34(2)(a)(b) inserted (31.12.2020) by [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1401\)](#), regs. 1(3), **20(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

**F30** Words in reg. 34(2)(d) substituted (31.12.2020) by [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1401\)](#), regs. 1(3), **20(c)(i)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

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- F31** Words in reg. 34(2)(d) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **20(c)(ii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F32** Words in reg. 34(2)(e) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **20(d)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F33** Words in reg. 34(3) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **20(e)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F34** Words in reg. 34(3)(a)(b) inserted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **20(f)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F35** Word in reg. 34(3)(b) inserted (29.12.2020) by The Financial Holding Companies (Approval etc.) and Capital Requirements (Capital Buffers and Macro-prudential Measures) (Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1406), regs. 1(4), **7(a)(i)**
- F36** Words in reg. 34(3)(c) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **20(g)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F37** Word in reg. 34(3)(c) omitted (29.12.2020) by virtue of The Financial Holding Companies (Approval etc.) and Capital Requirements (Capital Buffers and Macro-prudential Measures) (Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1406), regs. 1(4), **7(a)(ii)**
- F38** Reg. 34(3)(d) omitted (29.12.2020) by virtue of The Financial Holding Companies (Approval etc.) and Capital Requirements (Capital Buffers and Macro-prudential Measures) (Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1406), regs. 1(4), **7(a)(iii)**
- F39** Reg. 34(3A) inserted (29.12.2020) by The Financial Holding Companies (Approval etc.) and Capital Requirements (Capital Buffers and Macro-prudential Measures) (Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1406), regs. 1(4), **7(b)**
- F40** Reg. 34(4) inserted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **20(h)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

#### [<sup>F41</sup>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) in the case of the PRA—
  - (i) risks to which that institution is or might be exposed, and
  - (ii) risks revealed by stress testing, taking account of the nature, scale and complexity of that institution’s activities;
- (b) in the case of the FCA—
  - (i) the risks referred to in paragraph (a), and
  - (ii) the risks that institution poses to the UK financial system.

(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.

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**F41** Regs. 34A, 34B inserted (31.12.2020) by [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1401\)](#), regs. 1(3), **21** (with savings in S.I. 2019/680, **reg. 11**) (as amended by S.I. 2020/1406, regs. 1(2), **11**, 12); 2020 c. 1, **Sch. 5 para. 1(1)**

### 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.]

**F41** Regs. 34A, 34B inserted (31.12.2020) by [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1401\)](#), regs. 1(3), **21** (with savings in S.I. 2019/680, **reg. 11**) (as amended by S.I. 2020/1406, regs. 1(2), **11**, 12); 2020 c. 1, **Sch. 5 para. 1(1)**

### Specific liquidity requirements

**35.** For the purposes of determining the appropriate level of liquidity requirements on the basis of [F42a SREP], the appropriate regulator must assess whether the imposition of a specific liquidity requirement is necessary to capture liquidity risks to which an institution is or might be exposed, taking into account the following—

- (a) the particular business model of the institution;

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- (b) the institution's arrangements, processes and mechanisms (as referred to in [<sup>F43</sup>Directive 2013/36/EU UK law which implemented] Section 2 of Chapter 2 of Title 7 to the capital requirements directive, in particular in Article 86);
- (c) the outcome of [<sup>F44</sup>the SREP]; and
- (d) any systemic liquidity risk that threatens the integrity of the financial markets of the United Kingdom.

- F42** Words in [reg. 35](#) substituted (31.12.2020) by [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1401\)](#), [regs. 1\(3\), 22\(a\)](#) (with savings in [S.I. 2019/680](#), [reg. 11](#)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)
- F43** Words in [reg. 35\(b\)](#) inserted (31.12.2020) by [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1401\)](#), [regs. 1\(3\), 22\(b\)](#) (with savings in [S.I. 2019/680](#), [reg. 11](#)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)
- F44** Words in [reg. 35\(c\)](#) substituted (31.12.2020) by [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1401\)](#), [regs. 1\(3\), 22\(c\)](#) (with savings in [S.I. 2019/680](#), [reg. 11](#)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)

#### [<sup>F45</sup>Application of supervisory measures to institutions with similar risk profiles

**35A.** Where the FCA 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.

- F45** [Regs. 35A-35C](#) inserted (31.12.2020) by [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1401\)](#), [regs. 1\(3\), 23](#) (with savings in [S.I. 2019/680](#), [reg. 11](#)) (as amended by [S.I. 2020/1406](#), [regs. 1\(2\), 12](#)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)

#### 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;

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- (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;
- (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.

**F45** Regs. 35A-35C inserted (31.12.2020) by [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1401\)](#), regs. 1(3), **23** (with savings in S.I. 2019/680, **reg. 11**) (as amended by S.I. 2020/1406, regs. 1(2), **12**); 2020 c. 1, **Sch. 5 para. 1(1)**

### 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.]

**F45** Regs. 35A-35C inserted (31.12.2020) by [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1401\)](#), regs. 1(3), **23** (with savings in S.I. 2019/680, **reg. 11**) (as amended by S.I. 2020/1406, regs. 1(2), **12**); 2020 c. 1, **Sch. 5 para. 1(1)**

### Employee remuneration

**36.**—<sup>F46</sup>(1) The appropriate regulator must—

- (a) collect the information disclosed by institutions in accordance with the criteria for disclosure set out at points (g), (h) and (i) of Article 450(1) of the capital requirements regulation and use it to benchmark remuneration trends and practices;

<sup>F47</sup>(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) collect the information disclosed by institutions about any decisions taken by their shareholders, owners or members to approve a higher ratio between the fixed and variable components of remuneration approved in accordance with <sup>F48</sup>applicable remuneration rules] and use it to benchmark practices in relation to the level of such ratios; <sup>F49</sup> ...

<sup>F49</sup>(d) .....

<sup>F50</sup>(2) In paragraph (1)(c) “applicable remuneration rules” means—



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- (a) in the case of PRA-authorized 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-authorized persons, rule 19A.3.44A of the FCA's Senior management arrangements, Systems and Controls sourcebook.]

<b>F46</b>	Reg. 36 renumbered as reg. 36(1) (31.12.2020) by <a href="#">The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401)</a> , regs. 1(3), <b>24(a)</b> (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
<b>F47</b>	Reg. 36(1)(b) substituted (31.12.2020) by <a href="#">The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401)</a> , regs. 1(3), <b>24(b)</b> (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
<b>F48</b>	Words in reg. 36(1)(c) substituted (31.12.2020) by <a href="#">The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401)</a> , regs. 1(3), <b>24(c)</b> (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
<b>F49</b>	Reg. 36(1)(d) and word omitted (31.12.2020) by virtue of <a href="#">The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401)</a> , regs. 1(3), <b>24(d)</b> (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
<b>F50</b>	Reg. 36(2) inserted (31.12.2020) by <a href="#">The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401)</a> , regs. 1(3), <b>24(e)</b> (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

**Diversity practices**

**37.** The appropriate regulator must—

- (a) collect the information disclosed by institutions in accordance with Article 435(2)(c) of the capital requirements regulation and use it to benchmark diversity practices; <sup>F51</sup>...

<sup>F51</sup>(b) .....

<b>F51</b>	Reg. 37(b) and word omitted (31.12.2020) by virtue of <a href="#">The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401)</a> , regs. 1(3), <b>25</b> (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
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**Consultation with EBA: supervisory benchmarking of internal approaches for calculation own funds requirements**

<sup>F52</sup>**38.** .....

<b>F52</b>	Reg. 38 omitted (31.12.2020) by virtue of <a href="#">The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401)</a> , regs. 1(3), <b>26</b> (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
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## PART 8

### Permissions under the CRR

#### Meaning of “permission” and “protected item” in this Part

**39.** In this Part—

“permission” means a decision made by an appropriate regulator in relation to an institution under a power conferred on the appropriate regulator by—

- (a) the capital requirements regulation;<sup>F53</sup> ...
- (b) [<sup>F54</sup>any of the Specified EU Regulations under the Capital Requirements Regulation, as amended from time to time; or]
- (c) [<sup>F55</sup>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.]

“protected item” has the same meaning as in section 413 of FSMA.

**F53** Word in reg. 39 omitted (31.12.2020) by virtue of [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1401\)](#), regs. 1(3), **27(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

**F54** Words in reg. 39 substituted (31.12.2020) by [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1401\)](#), regs. 1(3), **27(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

**F55** Words in reg. 39 inserted (31.12.2020) by [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1401\)](#), regs. 1(3), **27(c)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

#### Applications for permissions: process, information and documents

**40.**—(1) This regulation applies to an application to the appropriate regulator for—

- (a) the grant of a permission;
- (b) an amendment to an existing permission;
- (c) an amendment to a condition to which an existing permission is subject.

(2) An application must—

- (a) be made in such manner as the appropriate regulator may direct; and
- (b) contain, or be accompanied by, such other information or documents as the appropriate regulator may reasonably require.

(3) At any time after receiving the application and before determining it, the appropriate regulator may require the applicant to provide it with such further information or documents as it may reasonably require.

(4) The appropriate regulator may require any information provided under this regulation to be provided in such form and verified in such manner as it may reasonably require.

(5) The appropriate regulator may require any documents provided under this regulation to be produced at such place and authenticated in such manner as it may reasonably require.

(6) Different directions may be given, and different requirements imposed, in relation to different applications or categories of application.

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(7) The powers conferred on the appropriate regulator by this regulation may not be used to require the production of a protected item.

### Decisions: written notices

**41.**—(1) On determining an application for the grant of a permission, the appropriate regulator must give the applicant a written notice stating—

- (a) its decision; and
- (b) if the permission is granted, any conditions to which the permission is subject and the date on which the permission takes effect.

(2) Where the appropriate regulator varies or revokes a permission, it must give the institution concerned a written notice stating—

- (a) that the permission is varied or revoked; and
- (b) the date on which the variation or revocation takes effect.

(3) Where the appropriate regulator amends a condition to which a permission is subject, it must give the institution concerned a written notice stating—

- (a) the amended condition; and
- (b) the date on which the amendment takes effect.

### Appeals

**42.**—(1) Where an applicant is aggrieved at the determination of an application for the grant of a permission, it may refer the matter to the Tribunal.

(2) Where an institution has been granted a permission and is aggrieved at the variation or revocation of the permission or the amendment of a condition to which the permission is subject, it may refer the matter to the Tribunal.

(3) Part 9 of FSMA (hearings and appeals) applies to a reference to the Tribunal under this regulation as it applies to a reference to the Tribunal under an Act.

### Publication of written notices

**43.**—(1) Subject to paragraph (2), the appropriate regulator must publish a relevant notice in the way appearing to the regulator to be best calculated for bringing it to the attention of—

- (a) persons likely to be affected by it; and
- (b) persons who are, in the opinion of the regulator, likely to make an application for a similar permission.

(2) Paragraph (1) does not apply if—

- (a) the relevant notice relates to an application for a permission which has been refused; or
- (b) the regulator is satisfied that it is inappropriate or unnecessary to publish the relevant notice.

(3) In deciding whether it is satisfied of the matters mentioned in paragraph (2)(b), the regulator must consider whether—

- (a) publication would prejudice, to an unreasonable degree, the commercial interests of the person concerned or any other member of the person's immediate group;
- (b) publication of the relevant notice without mentioning the identity of the person concerned might avoid any adverse consequence of publication.

(4) In this regulation, “relevant notice” means a written notice—

- (a) given under regulation 41 in relation to a decision of a regulator; or
  - (b) stating that an event referred to in paragraph (5) has occurred in relation to that decision.
- (5) The events mentioned in paragraph (4)(b) are—
- (a) the decision has been referred to the Tribunal;
  - (b) the decision has been suspended by the Tribunal;
  - (c) any suspension of the decision has been revoked by the Tribunal;
  - (d) the reference has been dismissed by the Tribunal.

### Transitional provision for matters done before commencement

- 44.—(1) This regulation applies to a decision made before 1st January 2014 to—
- (a) refuse an application for the grant of a permission;
  - (b) vary or revoke a permission; or
  - (c) amend a condition to which a permission is subject.
- (2) Regulations 40 to 43 apply to such a decision with the following modifications—
- (a) omit regulation 40;
  - (b) the appropriate regulator must comply with the requirements of regulations 41 and 43 in relation to the decision no later than 1st January 2014; and
  - (c) regulation 42 applies to the decision, but with the period of time within which a reference may be made to the Tribunal commencing on 1st January 2014.

## PART 9

### Misleading the PRA or FCA

#### Misleading the PRA or FCA

45. Section 398 of FSMA (misleading FCA or PRA: residual cases) applies to a requirement imposed by or under—

- (a) the capital requirements regulation;
- [<sup>F56</sup>(b) any of the Specified EU Regulations under the Capital Requirements Regulation, as amended from time to time;]
- [<sup>F57</sup>(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]
- (c) these Regulations;

as it applies to a requirement imposed by or under FSMA.

**F56** Reg. 45(b) substituted (31.12.2020) by [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1401\)](#), regs. 1(3), **28(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

**F57** Reg. 45(ba) inserted (31.12.2020) by [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1401\)](#), regs. 1(3), **28(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

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## **PART 10**

### **Amendments and revocations**

#### **Amendments and revocations**

**46.**—(1) Schedule 2, which contains amendments to primary and secondary legislation, has effect.

(2) Schedule 3, which contains revocations of secondary legislation, has effect.

*David Evennett*

*Mark Lancaster*

Two of the Lords Commissioners of Her  
Majesty's Treasury

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## SCHEDULE 1

Regulation 1(3)

## CRD transitional arrangements

In the table below—

- (a) the provisions specified in the first column come into force on the dates specified in the second column or cease to have effect on the dates specified in the third column; and
- (b) “transition date” means the date specified in the Commission delegated act to be made under Article 460(1) of the capital requirements regulation for the application of the liquidity coverage requirement.

<i>Provision</i>	<i>Coming into force</i>	<i>Ceasing to have effect</i>
Regulations 11(1)(d) to (f), 11(2) and 11(3)	Transition date	Not applicable
Regulation 12	1st January 2014	Transition date
Regulation 13	Transition date	Not applicable
Regulation 15(6)	Transition date	Not applicable
Regulations 16(5)(c) to (e)	Transition date	Not applicable
Paragraphs 15 and 16 of Part 1 of Schedule 2	Transition date	Not applicable

## SCHEDULE 2

Regulation 46(1)

## Amendments to primary and secondary legislation

**PART 1**

## Amendments to FSMA

1. FSMA is amended as follows.

2. In section 1H(8) (further interpretative provisions for sections 1B to 1G)<sup>M9</sup>, in the definition of “credit institution”, for “banking consolidation directive” substitute “capital requirements directive”.

**Marginal Citations**

**M9** Section 1H was inserted by the Financial Services Act 2012 c.21, section 6. There are amendments to this section but none is relevant.

3. In section 3M (directions relating to consolidated supervision of groups)<sup>M10</sup>, in subsection (3)

- (a) in paragraph (a) for “banking consolidation directive” substitute “capital requirements directive” and
- (b) omit paragraph (c).

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#### Marginal Citations

**M10** Section 3M was inserted by the Financial Services Act 2012, section 6.

4. In section 39(8) (exemption of appointed representatives) <sup>M11</sup> for “banking consolidation directive” substitute “capital requirements directive”.

#### Marginal Citations

**M11** Section 39 was amended by the Financial Services Act 2012, sections 10 and 114 and Schedule 18 paragraphs 1 and 5.

5. In section 55J(6A) (variation or cancellation on initiative of regulator) <sup>M12</sup>, in paragraph (c), for “Directive 2006/49/EC of the European Parliament and the Council on capital adequacy of investment firms and credit institutions” substitute “the capital requirements regulation or the capital requirements directive”.

#### Marginal Citations

**M12** Section 55J(6A) was inserted by S.I. 2013/1773.

6. In section 55R (persons connected with an applicant) <sup>M13</sup>, after subsection (3) insert—

“(4) Subsection (5) applies where—

(a) a credit institution (“B”) makes an application for permission under section 55A; and

(b) B is controlled by a person who also controls a credit institution, insurance undertaking or investment firm authorised in another EEA State.

(5) Before granting B's application for permission, the regulator concerned must consult the competent authorities of the other EEA State.

(6) In subsections (4) and (5), “credit institution”, “insurance undertaking” and “investment firm” have the meaning given in Article 4(1) of the capital requirements regulation.”.

#### Marginal Citations

**M13** Section 55R was substituted by the Financial Services Act 2012, section 11.

7. In section 55Z2 (notification of EBA) <sup>M14</sup>—

(a) at the end of subsection (1)(a) omit “or”;

(b) at the end of subsection (1)(b), insert “and the reasons for the cancellation; or”;

(c) after subsection (1)(b) insert—

“(c) the giving by it of a Part 4A permission to a credit institution whose head office is not in an EEA State.”.

#### Marginal Citations

**M14** Section 55Z2 was inserted by the Financial Services Act 2012, section 11.

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8. After section 55Z2 insert—

**“55Z2A Notification of the European bodies**

**55Z2A.** A regulator must notify the European Commission and the European Banking Committee established by European Commission Decision [2004/10/EC](#) of any authorisation granted for the purposes of the capital requirements directive to a credit institution whose head office is not in an EEA State.”.

9. In section 86(10)(a) (exempt offers to the public) <sup>M15</sup> for “banking consolidation directive” substitute “capital requirements directive”.

**Marginal Citations**

**M15** [Section 86](#) was substituted by [S.I. 2005/1433](#) and amended by the Financial Services Act 2012 section 16, and [S.I. 2011/1668](#), [S.I. 2012/1538](#) and [S.I. 2013/1125](#).

10. In section 184 (disregarded holdings) <sup>M16</sup>—

(a) for subsection (8)(a) substitute—

“(a) manages holdings for its parent undertaking or a controlled undertaking of the parent undertaking;”;

(b) for subsection (8)(c)(ii) substitute—

“(ii) a controlled undertaking of the parent undertaking.”;

(c) after subsection (9) insert—

“(10) For the purposes of this section, an undertaking is a controlled undertaking of the parent undertaking if it is controlled by the parent undertaking; and for this purpose the question of whether one undertaking controls another is to be determined in accordance with section 89J(4) and (5).”.

**Marginal Citations**

**M16** [Section 184](#) was substituted by [S.I. 2009/534](#) and amended by [S.I. 2011/1613](#).

11. In section 186(b) (assessment criteria) <sup>M17</sup> after “the reputation”, insert “, knowledge, skills”.

**Marginal Citations**

**M17** [Section 186](#) was substituted by [S.I. 2009/534](#).

12. In section 188 (assessment: consultation with EC competent authorities) <sup>M18</sup> in subsection (3) for “by a host state regulator in relation to a UK authorised person” substitute “ in relation to a UK authorised person by the home state regulator of an EEA firm ”.

**Marginal Citations**

**M18** [Section 188](#) was substituted by [S.I. 2009/534](#) and amended by section 26 of the [Financial Services Act 2012 \(c.21\)](#).

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**13.** In section 190(4)(b)(v) (requests for further information) <sup>M19</sup> for “banking consolidation directive” substitute “capital requirements directive”.

**Marginal Citations**

**M19** Section 190 was substituted by S.I. 2009/534 and amended by section 26 of the Financial Services Act 2012 and S.I. 2011/1043.

**14.** In section 191G(1) (interpretation) <sup>M20</sup>, in paragraph (a) of the definition of “credit institution” for “banking consolidation directive” substitute “capital requirements directive”.

**Marginal Citations**

**M20** Section 191G was substituted by S.I. 2009/534 and amended by section 26 of the Financial Services Act 2012

**15.** After section 194A (contravention by relevant EEA firm with UK branch of requirement under markets in financial instruments directive: appropriate regulator primarily responsible for securing compliance) <sup>M21</sup> insert <sup>M22</sup>—

**“194B Contravention by relevant EEA firm of requirement in capital requirements directive or capital requirements regulation**

(1) In this section—

- (a) “relevant EEA firm” means an EEA firm falling within paragraph 5(a) or 5(b) of Schedule 3 which is exercising in the United Kingdom an EEA right deriving from capital requirements directive; and
- (b) “Article 3” means Article 3 of Directive 2001/24/EC of the European Parliament and of the Council of 4 April 2001 on the reorganisation and winding up of credit institutions.

(2) This section applies where—

- (a) a relevant EEA firm has a branch, or is providing services, in the United Kingdom; and
- (b) the appropriate regulator ascertains on the basis of information received from the home state regulator that the firm is contravening, or is at a material risk of contravening, a requirement of the capital requirements directive or capital requirements regulation.

(3) The appropriate regulator must, without delay, notify the firm's home state regulator of the need for it to take all appropriate measures to ensure that the firm remedies the contravention or averts the risk of contravention.

(4) If notice has been given under subsection (3) and the appropriate regulator considers that the home state regulator is failing to comply with its obligations in respect of the contravention or the risk of contravention, the appropriate regulator may refer the matter to EBA (and EBA may act in accordance with the powers conferred on it under Article 19 of Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority)).

(5) The appropriate regulator may exercise its power of intervention in respect of the relevant EEA firm if—



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- (a) the requirement to be imposed under section 196 is necessary and appropriate to protect against financial instability that would seriously threaten the collective interests of consumers in the United Kingdom;
  - (b) the situation is an emergency;
  - (c) the home state regulator has not yet taken measures to ensure the contravention or risk of contravention is remedied; and
  - (d) reorganisation measures of the kind referred to in Article 3 have not been commenced.
- (6) Any requirement imposed by virtue of paragraph (5)—
- (a) must not favour creditors in the United Kingdom over creditors in another EEA State;
  - (b) must be rescinded if the administrative or judicial authorities of the home EEA State take reorganisation measures under Article 3;
  - (c) must be rescinded if the appropriate regulator considers that the home state regulator has taken appropriate measures to ensure the firm remedies the contravention or averts the risk of contravention
- (7) The appropriate regulator must give the firm written notice of its reasons for imposing a requirement under subsection (5).
- (8) The appropriate regulator shall inform the Commission, EBA and regulators in affected Member States of the imposition of a requirement by virtue of subsection (5).
- (9) This section is without prejudice to the powers available to the appropriate regulator under section 199.
- (10) For the purposes of this section “appropriate regulator” means the PRA in relation to a PRA-authorized person and the FCA in relation to any other person.”.

#### Marginal Citations

**M21** Section 194A was inserted by S.I. 2007/126 and amended by the Financial Services Act 2012, section 12 and schedule 4 paragraph 29 and 33 and S.I. 2012/916.

**M22** Paragraph 15 comes into force on a date specified in a Commission delegated act. See Schedule 1.

16. In section 199 <sup>M23</sup>—

(a) for subsection (7) <sup>M24</sup> substitute—

“(7) In such case, the regulator must at the earliest opportunity—

- (a) where the single market directive or directly applicable Community regulation in question is the capital requirements directive or the capital requirements regulation, inform the firm's home state regulator, the Commission, EBA and any other affected regulators of other EEA States;
- (b) in the case of any other single market directive or directly applicable Community regulation, inform the firm's home state regulator, ESMA and the Commission.

(7A) Where the single market directive or directly applicable Community regulation in question is the capital requirements directive or the capital requirements regulation the regulator must rescind any requirement imposed on the firm where the home state regulator has taken appropriate measures in accordance with section 199B(4).”.

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#### Marginal Citations

**M23** Paragraph 16 comes into force on a date specified in a Commission delegated act. See Schedule 1.

**M24** Section 199(7) was amended by the Financial Services Act 2012, section 12 and Schedule 4 paragraphs 29 and 39 and amended by S.I. 2012/916. There are other amendments to section 199 not relevant to these Regulations.

17. In section 301E (disregarded holdings) <sup>M25</sup>—

(a) for subsection (8)(a) substitute—

“(a) manages holdings for its parent undertaking or a controlled undertaking of the parent undertaking;”;

(b) for subsection (8)(c)(ii) substitute—

“(ii) a controlled undertaking of the parent undertaking.”;

(c) after subsection (9) insert—

“(10) For the purposes of this section, an undertaking is a controlled undertaking of the parent undertaking if it is controlled by the parent undertaking; and for this purpose the question of whether one undertaking controls another is to be determined in accordance with section 89J(4) and (5).”.

#### Marginal Citations

**M25** Section 301E was inserted by S.I. 2007/126, substituted by S.I. 2009/534 and amended by S.I. 2011/1613.

18. In section 301M(1) (interpretation) <sup>M26</sup> in paragraph (a) of the definition of “credit institution” for “banking consolidation directive” substitute “capital requirements directive”.

#### Marginal Citations

**M26** Section 301M was inserted by S.I. 2007/126, and substituted by S.I. 2009/543.

19. In section 313D (interpretation of part 18A) <sup>M27</sup> in paragraph (c) of the the definition of “institution” for “banking consolidation directive” substitute “capital requirements directive”.

#### Marginal Citations

**M27** Section 313D was inserted by S.I. 2007/126 and amended by section 36 of the Financial Services Act 2012 and S.I. 2010/1193.

20.—(1) Section 342 (information given by auditor or actuary to a regulator) <sup>M28</sup> is amended as follows.

(2) After subsection (6) insert—

“(6A) If the authorised person concerned is a credit institution or an investment firm, and an auditor or actuary communicates a matter to a regulator in accordance with the regulations, the matter must be disclosed simultaneously to the management body of the authorised person, unless there are compelling reasons not to do so.”.

(3) After subsection (7) insert—

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“(8) In subsection (6A) “credit institution” and “investment firm” have the same meaning as in Article 4(1) of the capital requirements regulation.”.

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**Marginal Citations**

**M28** Section 342 was amended by Schedule 13, paragraphs 1, 4 to the [Financial Services Act 2012 \(c.21\)](#).

**21.**—(1) Section 343 (information given by auditor or actuary to a regulator: persons with close links) <sup>M29</sup> is amended as follows.

(2) After subsection (6) insert—

“(6A) If the authorised person concerned is a credit institution or an investment firm, and an auditor or actuary communicates a matter to a regulator in accordance with the regulations, the matter must be disclosed simultaneously to the management body of the authorised person, unless there are compelling reasons not to do so.”.

(3) After subsection (9) insert—

“(10) In subsection (6A) “credit institution” and “investment firm” have the same meaning as in Article 4(1) of the capital requirements regulation.”.

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**Marginal Citations**

**M29** Section 343 was amended by Schedule 13, paragraphs 1, 5 to the [Financial Services Act 2012](#).

**22.** In section 391 (publication) <sup>M30</sup>, after subsection (4) insert—

“(4A) Subsection (4) is subject to section 391A.”

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**Marginal Citations**

**M30** Section 391 was amended by the [Financial Services Act 2012](#), section 37 and Schedule 9 paragraphs 1 and 30. There are other amendments not relevant to these Regulations.

**23.** After section 391 insert—

**“391A Publication: special provisions relating to certain penalties**

(1) This section applies where a decision notice or final notice relates to the imposition of a penalty to which Article 68(1) of the capital requirements directive applies.

(2) Where a regulator publishes information under section 391(4) about a matter to which a decision notice relates and the person to whom the notice is given refers the matter to the Tribunal, the regulator must, without undue delay, publish on its official website information about the status of the appeal and its outcome.

(3) Subject to subsection (4), where a regulator gives a final notice, the regulator must publish information on the type and nature of the breach and the identity of the person on whom the penalty is imposed.

(4) Information about a matter to which a final notice relates must be published anonymously where—

(a) the penalty is imposed on an individual and, following an obligatory prior assessment, publication of personal data is found to be disproportionate;

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- (b) publication would jeopardise the stability of financial markets or an ongoing criminal investigation; or
- (c) publication would cause, insofar as it can be determined, disproportionate damage to the persons involved.

(5) Where subsection (4) applies, the regulator may make such arrangements as to the publication of information (including as to the timing of publication) as are necessary to preserve the anonymity of the person on whom the penalty is imposed.

(6) Where a regulator publishes information in accordance with subsections (2) to (5), the regulator must—

- (a) publish the information on its official website;
- (b) ensure the information remains on its official website for at least five years, unless the information is personal data and the Data Protection Act 1998 requires the information to be retained for a different period; and
- (c) disclose to EBA any penalty imposed, any appeal against such a penalty and the outcome of the appeal, unless such a disclosure is not permitted by section 348.”.

24. In section 417(1) (definitions) <sup>M31</sup>, at the appropriate places, insert—

““capital requirements directive” means Directive 2013/36/EU of the European Parliament and of the Council of 26 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](#).”

““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.”.

#### Marginal Citations

**M31** [Section 417](#). There are amendments to this section but none are relevant.

25. In section 422 (controller) <sup>M32</sup>—

- (a) in subsection (5)(a)(v) for “subsidiary undertaking” substitute “ controlled undertaking ”;
- (b) after subsection (5) insert—

“(6) For the purposes of this section, an undertaking “B” is a controlled undertaking of H if any of the conditions in section 89J(4)(a) to (d) (read with section 89J(5)) is met (reading references in those provisions to A as references to H).”.

#### Marginal Citations

**M32** [Section 422](#) was substituted by [S.I. 2009/534](#).

26. In section 422A (disregarded holdings) <sup>M33</sup>—

- (a) for subsection (8)(a) substitute—
  - “(a) manages holdings for its parent undertaking or a controlled undertaking of its parent undertaking;”;
- (b) for subsection (8)(c)(ii) substitute—
  - “(ii) a controlled undertaking of the parent undertaking.”;

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(c) in subsection (10)(a) for “banking consolidation directive” substitute “ capital requirements directive ”;

(d) after subsection (10) insert—

“(11) For the purposes of this section, an undertaking is a controlled undertaking of the parent undertaking if it is controlled by the parent undertaking; and for this purpose the question of whether one undertaking controls another is to be determined in accordance with section 89J(4) and (5).”.

#### Marginal Citations

**M33** Section 422A was inserted by S.I. 2009/534 and amended by S.I. 2011/1613.

27. In section 425(1)(a) (expressions relating to authorisation elsewhere in the single market)<sup>M34</sup> for “banking consolidation directive” substitute “ capital requirements directive ”.

#### Marginal Citations

**M34** Section 425 was amended by S.I. 2003/2066, S.I. 2004/3379, S.I. 2006/2975, S.I. 2007/126, S.I. 2007/3252 and S.I. 2012/1906.

28. In section 425A(7) (consumers: regulated activities etc carried on by authorised persons)<sup>M35</sup> in paragraph (a) of the definition of “credit institution” for “banking consolidation directive” substitute “ capital requirements directive ”.

#### Marginal Citations

**M35** Section 425A was inserted by section 24 of the Financial Services Act 2012 and amended by S.I. 2013/655.

29.—(1) Schedule 3 (EEA passport rights) is amended as follows.

(2) In paragraph 1(a) (the single market directives)<sup>M36</sup>, for “the banking consolidation directive” substitute “ capital requirements directive ”.

(3) Omit paragraph 2 (the banking consolidation directive)<sup>M37</sup>.

(4) For paragraph 5(b) (EEA firm)<sup>M38</sup> substitute—

“(b) a credit institution (as defined in Article 4(1)(1) of the capital requirements regulation) which is authorised (within the meaning of Article 8 of the capital requirements directive) by its home state regulator;”.

(5) For paragraph 5(c) substitute—

“(c) a financial institution (as defined in Article 4(1)(26) of the capital requirements regulation) which is a subsidiary of the kind mentioned in Article 34 of the capital requirements directive and which fulfils the conditions of that Article;”.

(6) In paragraph 19(6) (establishment)<sup>M39</sup> for “banking consolidation directive” in both places substitute “ capital requirements directive ”.

(7) In paragraph 19(12)—

(a) at the end of paragraph (a) omit “and”;

(b) after subparagraph (a) insert—

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“(aa) the appropriate UK regulator must in the case of a credit institution notify EBA and the Commission; and”.

(8) In paragraph 20(3) (services) <sup>M40</sup> for “banking consolidation directive” substitute “ capital requirements directive ”.

(9) At the end of paragraph 20ZA (information for host state regulator) <sup>M41</sup> insert—

“(3) The appropriate UK regulator must inform the host state regulator whenever it withdraws the authorisation of a credit institution in respect of which a notice under paragraph 19(6) or paragraph 20(3) has been given.”.

(10) In paragraph 24(1)(b) (continuing regulation of UK firms) <sup>M42</sup> for “Article 24 of the banking consolidation directive” substitute “ Article 34 of the capital requirements directive”.

#### Marginal Citations

**M36** Paragraph 1(a) was substituted by [S.I. 2000/2952](#).

**M37** Paragraph 2 was substituted by [S.I. 2006/3221](#) and amended by [S.I. 2010/2628](#) and [S.I. 2012/917](#).

**M38** Paragraph 5 was amended by [S.I.2003/1473](#) and [S.I. 2006/3221](#). There are other amendments but none is relevant.

**M39** Paragraph 19 was amended by [S.I. 2003/2066](#) and [S.I. 2011/1613](#) and the Financial Services Act 2012 section 12 and Schedule 4 paragraphs 1 and 10. There are other amendments but none is relevant.

**M40** Paragraph 20(3) was amended by [S.I. 2003/2066](#) and [S.I. 2007/126](#).

**M41** Paragraph 20ZA was inserted by [S.I. 2011/1613](#) and amended by the Financial Services Act 2012 section 12 and Schedule 4 paragraphs 1, 12 and 13.

**M42** Paragraph 24(1)(b) was amended by [S.I. 2000/2952](#) and [S.I. 2006/3221](#).

**30.** In paragraph 8(6) of Schedule 11A (transferrable securities) <sup>M43</sup> for “Article 4(1) of the banking consolidation directive” substitute “ Article 4(1)(1) of the capital requirements regulation ”.

#### Marginal Citations

**M43** Paragraph 8(6) was amended by [S.I. 2006/3221](#) and [S.I.2011/99](#).

## PART 2

### Amendments to other primary legislation

#### Superannuation Act 1972

**31.** In section 1 of the Superannuation Act 1972 <sup>M44</sup> (superannuation schemes as respects civil servants, etc.) in subsections (9C)(a) and (9D)(a) for “Banking Consolidation Directive” substitute “ capital requirements directive ”.

#### Marginal Citations

**M44** 1974 (c. 74). Section 1(9C) and section 1(9D) were inserted by [S.I. 2001/3649](#).

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## Consumer Credit Act 1974

**32.** In section 25(1C) of the Consumer Credit Act 1974 <sup>M45</sup> (licensee to be a fit person) for the words “Directive 2006/48/EC of the European Parliament and of the Council of 14 June 2006 relating to the taking up and pursuit of the business of credit institutions (as that annex was last amended by Directive 2009/111/EC)” substitute “ Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 relating 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. ”.

### Marginal Citations

**M45** 1974 c. 39. Section 25(1C) was inserted by S.I. 2001/3649 and amended by S.I. 2006/3221, S.I. 2007/126 and S.I. 2011/99. It is repealed by S.I. 2013/1881.

## Judicial Pensions Act 1981

**33.** In section 33A of the Judicial Pensions Act 1981 <sup>M46</sup> (voluntary contributions), in subsections (9C)(a) and (9D)(a) for “Banking Consolidation Directive” substitute “ capital requirements directive ”.

### Marginal Citations

**M46** 1981 c. 20. Section 33A was inserted by the Courts and Legal Services Act 1990 s82(1) and subsections (9C) and (9D) were inserted by S.I. 2001/3649.

## Building Societies Act 1986

- 34.** In section 119 of the Building Societies Act 1986 <sup>M47</sup> (interpretation)—
- (a) in subsection (1), for the definition of “own funds” substitute—  
““own funds” means own funds as defined in Article 4(1)(118) of Regulation (EU) No. 575/2013 of the European Parliament and of the Council;”; and
  - (b) omit subsection (2B).

### Marginal Citations

**M47** 1986 c.53. Section 119 was amended by S.I. 2001/3649, S.I. 2006/3221, S.I. 2010/2628 and S.I. 2012/917. There are other amendments which are not relevant for these purposes.

- 35.** In paragraph 23 of Schedule 2 to the Building Societies Act 1986 <sup>M48</sup>—
- (a) in sub-paragraph (1), after “paragraphs 5(3), 7(4) and 8(4) above” insert “ and sub-paragraph (5A) below ”;
  - (b) after sub-paragraph (5) insert—  
“(5A) If the rules of the society so provide, a member who is also an employee of the building society shall not be entitled to exercise, directly or indirectly, any voting rights that the member may have with respect to a relevant resolution.  
(5B) For the purposes of sub-paragraph (5a), a relevant resolution is a resolution to approve an increase in the maximum ratio between the fixed and variable components of remuneration as permitted by Article 94(1)(g)(i) of the capital requirements directive



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(whereby the level of the variable component may be set at up to 200% of the level of the fixed component), where the member referred to would be directly affected by the increase.

(5C) In sub-paragraph (5B) the “capital requirements directive” means Directive 2013/36/EU of the European Parliament and of the Council of 26 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.”.

#### Marginal Citations

**M48** Paragraph 23 was amended by the Building Societies Act 1997 c.32, SI 2003/404 and SI 2011/593.

### Judicial Pensions and Retirement Act 1993

**36.** In section 10 of the Judicial Pensions and Retirement Act 1993 <sup>M49</sup> (additional benefits from voluntary contributions), in subsections (8C)(a) and (8D)(a) for “Banking Consolidation Directive” substitute “ capital requirements directive ”.

#### Marginal Citations

**M49** 1993 c.8. Sections 9A(8C) and (8D) were inserted by S.I. 2001/3649.

### Criminal Justice Act 1993

**37.** For paragraphs (a) and (b) of section 70(2) of the Criminal Justice Act 1993 <sup>M50</sup> (penalties under implementation regulations) substitute—

“(a) Articles 52 and 159 of Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 relating 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 (which requires the United Kingdom to make provision for the exercise in the United Kingdom by supervisory authorities of other Member States of information and inspection powers in relation to institutions authorised by them), or

(b) Articles 119(2) and (3), 122 and 124 to 126 of that Directive (which make similar provision in relation to the consolidated supervision of institutions).”.

#### Marginal Citations

**M50** 1993 c. 36. Section 70(2) was amended by S.I. 2000/2952, S.I. 2001/3649 and S.I. 2006/3221.

### Bank of England Act 1998

**38.**—(1) The Bank of England Act 1998 <sup>M51</sup> is amended as follows.

(2) After section 2A <sup>M52</sup> (financial stability objective) insert—



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## “2AA Macro-prudential measures: Article 458 of the capital requirements regulation

(1) The Bank is responsible for the application of Article 458 of the capital requirements regulation so far as it relates to measures which are prescribed by order under section 9L (macro-prudential measures).

(2) The Treasury are responsible for the application of Article 458 of the capital requirements regulation so far as it relates to measures which are not so prescribed.”.

(3) For section 17(7C)<sup>M53</sup> (power to obtain information) substitute—

“(7C) “Financial holding company” has the meaning given by Article 4(1)(20) of the capital requirements regulation.”.

### Marginal Citations

**M51** 1998 c.11.

**M52** Section 2A was inserted by section 4 of the [Financial Services Act 2012 \(c.21\)](#).

**M53** Section 17(7C) was inserted by S.I 2001/3649 and amended by [S.I. 2006/3221](#).

39. For section 41<sup>M54</sup> (general interpretation) substitute—

### “41 General interpretation

41. In this Act—

“the Bank” means the Bank of England;

“the capital requirements regulation” means Regulation (EU) No. 575/2013 of the European Parliament and of the Council.”.

### Marginal Citations

**M54** [Section 9ZA](#) was inserted by section 4 of the Financial Services Act 2012.

## Terrorism Act 2000

40.—(1) The Terrorism Act 2000<sup>M55</sup> is amended as follows.

(2) In Schedule 3A (regulated sector and supervisory authorities)<sup>M56</sup>—

(a) in paragraph 1(b) (business in the regulated sector) for “Banking Consolidation Directive” substitute “Capital Requirements Directive” in both places where it appears;

(b) in paragraph 1(2)(a) for “Article 4(1) of the Banking Consolidation Directive” substitute “Article 4(1)(1) of the Capital Requirements Regulation”.

(c) in paragraph 1(2)(b) for “Article 4(3) of that Directive” substitute “Article 4(1)(17) of that Regulation”;

(d) in paragraph 3(1) (interpretation)—

(i) omit the definition of “the Banking Consolidation Directive”; and

(ii) at the appropriate place insert—

“the Capital Requirements Regulation” means Regulation (EU) No. 575/2013 of the European Parliament and of the Council”;

(e) In paragraph 3(3) for “Banking Consolidation Directive” substitute “Capital Requirements Regulation”.

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- (3) In paragraph 6(1) <sup>M57</sup> of Schedule 6 (financial institution)—
- (a) for paragraph (g) substitute—
- “(g) a European institution carrying on a home Member State regulated activity (within the meaning of Regulation (EU) No. 575/2013 of the European Parliament and of the Council);”;
- (b) in paragraph (h) for “that Directive” substitute “ Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013, ”.

#### Marginal Citations

**M55** 2000 c. 11.

**M56** Schedule 3A was inserted by the Anti-terrorism, Crime and Security Act 2001 c.24, section 3 and Schedule 2(3) paragraphs 5(1) and (6) and substituted by S.I. 2007/3288. Relevant amendments were made by S.I. 2011/99 and S.I. 2011/2701.

**M57** Relevant amendments were made by S.I. 2000/2952, S.I. 2006/3221 and S.I. 2011/99.

#### Proceeds of Crime Act 2002

**41.**—(1) Schedule 9 to the Proceeds of Crime Act 2002 <sup>M58</sup> (regulated sector and supervisory authorities) is amended as follows.

(2) In paragraph 1(1)(b) <sup>M59</sup> (business in the regulated sector) for “Banking Consolidation Directive” substitute “ Capital Requirements Regulation ” in both places where it appears.

(3) In paragraph 1(2)(a) for “Article 4(1) of the Banking Consolidation Directive” substitute “ Article 4(1)(1) of the Capital Requirements Regulation ”.

(4) In paragraph 1(2)(b) for “Article 4(3) of that Directive” substitute “ Article 4(1)(17) of that Regulation ”.

(5) In paragraph 3(1) <sup>M60</sup> (interpretation)—

(a) omit the definition of “the Banking Consolidation Directive”; and

(b) at the appropriate place insert—

““the Capital Requirements Regulation” means Regulation (EU) No. 575/2013 of the European Parliament and of the Council”.

#### Marginal Citations

**M58** Proceeds of Crime Act 2002 c. 29. Part 1 of Schedule 9 was substituted by S.I. 2007/3287.

**M59** Paragraph 1(1)(b) was amended by S.I. 2011/99.

**M60** Paragraph 3(1) was amended by S.I. 2011/99.

#### Companies Act 2006

**42.**—(1) The Companies Act 2006 <sup>M61</sup> is amended as follows.

(2) In section 1173(1) <sup>M62</sup> (minor definitions: general) for the definition of “credit institution” substitute—

““credit institution” means a credit institution as defined in Article 4(1)(1) of Regulation (EU) No. 575/2013 of the European Parliament and of the Council.”

(3) In section 1210(3) <sup>M63</sup> (meaning of “statutory auditor”), in the definition of “bank”, for paragraph (a) substitute—

“(a) is a credit institution within the meaning of Article 4(1)(1) of Regulation (EU) No. 575/2013 of the European Parliament and of the Council, and”.

#### Marginal Citations

**M61** 2006 c. 46.

**M62** Section 1173(1) was amended by S.I. 2011/99.

**M63** Section 1210(3) was amended by S.I. 2008/565, S.I. 2011/99 and S.I. 2012/1809.

### Banking (Special Provisions) Act 2008

**43.**—(1) Section 15 of the Banking (Special Provisions) Act 2008 <sup>M64</sup> (interpretation) is amended as follows.

(2) In subsection (2) for “Section 1 of Chapter 2 of Title V of the Banking Consolidation Directive” substitute “ Title 1 of Part Two of Regulation (EU) No. 575/2013 of the European Parliament and of the Council ”.

(3) Omit subsection (3).

#### Marginal Citations

**M64** 2008 c.2. Relevant amendments were made by S.I. 2010/2628 and S.I. 2013/917.

### Counter-Terrorism Act 2008

**44.**—(1) Schedule 7 to the Counter-Terrorism Act 2008 <sup>M65</sup> (terrorist financing and money laundering) is amended as follows.

(2) In paragraph 5 (meaning of “credit institution” and “financial institution”)—

(a) in sub-paragraph (1), for “Article 4(1) of the banking consolidation directive” substitute “ Article 4(1)(1) of the capital requirements regulation ”; and

(b) in sub-paragraph (2)(a) for “banking consolidation directive” substitute “ capital requirements directive ” in each place where it appears.

(3) In paragraph 7 (interpretation of this Part)—

(a) omit the definition of “the banking consolidation directive”; and

(b) insert at the relevant place—

“the capital requirements directive” means Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 relating 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](#);

“the capital requirements regulation” means Regulation (EU) No. 575/2013 of the European Parliament and of the Council;”.

(4) In paragraph 46 (index of defined expressions)—

(a) omit the entry for “banking consolidation directive”;

(b) insert the following entries at the appropriate place—

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<i>expression</i>	<i>provision</i>
the capital requirements directive	paragraph 7
the capital requirements regulation	paragraph 7

#### Marginal Citations

**M65** [2008 c. 28](#). Schedule 7 was amended by the Terrorist Asset-Freezing etc. Act [2010 c.38](#) and [S.I. 2011/99](#).

### Banking Act 2009

**45.**—(1) The Banking Act 2009 <sup>M66</sup> is amended as follows.

(2) In section 14(5)(b) <sup>M67</sup> (interpretation: “securities”) for the words from “section 1” to the end of that paragraph substitute “ Title 1 of Part 2 of Regulation (EU) No. 575/2013 of the European Parliament and of the Council. ”

(3) In section 258A(1) <sup>M68</sup> (“investment firm”) for “Directive [2006/49/EC](#) on the capital adequacy of investment firms and credit institutions” substitute “ Regulation (EU) No. 575/2013 of the European Parliament and of the Council. ”.

#### Marginal Citations

**M66** [2009 c.1](#).

**M67** [Section 14\(5\)](#) was amended by [S.I. 2628/2010](#).

**M68** [Section 258A](#) was inserted by the Financial Services Act 2012.

## PART 3

### Amendments to secondary legislation

#### Credit Institutions (Protection of Depositors) Regulations 1995

**46.** In regulation 2(1) of the Credit Institutions (Protection of Depositors) Regulations 1995 <sup>M69</sup> (interpretation) omit the definition of “Banking Consolidation Directive”.

#### Marginal Citations

**M69** [S.I. 1995/1442](#). Relevant amendments were made by [S.I. 2001/3649](#) and [S.I. 2013/472](#).

#### Cash Ratio Deposits (Eligible Liabilities) Order 1998

**47.** In article 2(3) of the Cash Ratio Deposits (Eligible Liabilities) Order 1998 <sup>M70</sup> (interpretation) for “Directive [2006/48/EC](#) of the European Parliament and of the Council of 14 June 2006 relating to the taking up and pursuit of the business of credit institutions as last amended on 24th November 2010 by Directives [2010/76/EU](#) and [2010/78/EU](#) of the European Parliament and of the Council” substitute “ Directive [2013/36/EU](#) of the European Parliament and of the Council of 26 June 2013 relating to the activity of credit institutions and the prudential supervision of credit institutions

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and investment firms, amending Directive [2002/87/EC](#) and repealing Directives [2006/48/EC](#) and [2006/49/EC](#) ”.

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#### Marginal Citations

**M70** [S.I.1998/1130](#). Article 2(3) was amended by [S.I. 2006/3221](#), [S.I. 2010/2628](#) and [S.I. 2012/917](#). There are other amending instruments but none is relevant.

### Financial Markets and Insolvency (Settlement Finality) Regulations 1999

**48.** In regulation 2(1) of the Financial Markets and Insolvency (Settlement Finality) Regulations 1999 <sup>M71</sup> (interpretation) for the definition of “credit institution” substitute—

““credit institution” means a credit institution as defined in Article 4(1)(1) of 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;”.

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#### Marginal Citations

**M71** [S.I. 1999/2979](#). Regulation 2(1) was amended by [S.I. 2006/3221](#), [S.I. 2010/2993](#) and [S.I. 2011/99](#).

### Competition Act 1998 (Small Agreements and Conduct of Minor Significance) Regulations 2000

**49.** Paragraph 1 of the Schedule to the Competition Act 1998 (Small Agreements and Conduct of Minor Significance) Regulations 2000 <sup>M72</sup> (applicable turnover: interpretation) is amended as follows—

(a) for the definition of “credit institution” substitute—

““credit institution” means a credit institution for the purposes of Article 4(1)(1) of 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;”;

(b) for the definition of “financial institution” substitute—

““financial institution” means a financial institution for the purposes of Article 4(1)(26) of 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 or any undertaking located outside the EEA which does not fall within the definition in that Article but which carries on equivalent activities;”.

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#### Marginal Citations

**M72** [S.I. 2000/262](#).

### Competition Act 1998 (Determination of Turnover for Penalties) Order 2000

**50.** Paragraph 1(1) of the Schedule to the Competition Act 1998 (Determination of Turnover for Penalties) Order 2000 <sup>M73</sup> (applicable turnover: interpretation) is amended as follows—

(a) for the definition of “credit institution” substitute—

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““credit institution” means a credit institution for the purposes of Article 4(1)(1) of 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;”;

(b) for the definition of “financial institution” substitute—

““financial institution” means a financial institution for the purposes of Article 4(1)(26) of 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 or any undertaking located outside the EEA which does not fall within the definition in that Article but which carries on equivalent activities;”.

#### Marginal Citations

**M73** [S.I. 2000/309](#). Paragraph 1 was amended by [S.I. 2000/2952](#), [S.I. 2004/1259](#), [S.I. 2006/3221](#) and [S.I. 2011/99](#). There are other amendments but none is relevant.

### Financial Services and Markets Act 2000 (Regulated Activities) Order 2001

**51.**—(1) The Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 <sup>M74</sup> is amended as follows.

(2) In article 3(1) <sup>M75</sup> (interpretation)—

- (a) in paragraph (a) of the definition of “credit institution” for “banking consolidation directive (as last amended by Directive [2009/111/EC](#))” substitute “ capital requirements directive ”;
- (b) in the definition of “home Member State” for “Article 4.7 of the banking consolidation directive” substitute “ Article 4(1)(43) of the capital requirements regulation ”.

(3) In article 9C(2) <sup>M76</sup> (persons certified as small issuers etc) for “Article 4(1)(a) of the banking consolidation directive” substitute “ Article 4(1)(1) of the capital requirements regulation ”.

#### Marginal Citations

**M74** [S.I. 2001/544](#).

**M75** [Article 3\(1\)](#) was amended by [S.I. 2006/3384](#) and [S.I. 2011/99](#). There are other amendments not relevant to these Regulations.

**M76** [Article 9C\(2\)](#) was inserted by [S.I. 2002/682](#) and amended by [S.I. 2006/3221](#). There are other amendments not relevant to these Regulations.

### Financial Services and Markets Act 2000 (Recognition Requirements for Investment Exchanges and Clearing Houses) Regulations 2001

**52.**—(1) The Financial Services and Markets Act 2000 (Recognition Requirements for Investment Exchanges and Clearing Houses) Regulations 2001 <sup>M77</sup> are amended as follows.

(2) In regulation 3(1) <sup>M78</sup> (interpretation)—

- (a) in the definition of “branch” for “Article 4.3 of the banking consolidation directive” substitute “ Article 4(1)(17) of the capital requirements regulation ”;
- (b) in paragraph (a) of the definition of “credit institution” for “banking consolidation directive” substitute “ capital requirements directive ”.

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(3) In paragraph 7B(4)(b) <sup>M79</sup> of the Schedule (recognition requirements for investment exchanges: access to the exchange's facilities) for “banking consolidation directive” substitute “ capital requirements directive ”.

**Marginal Citations**

**M77** [S.I. 2001/995](#).

**M78** [Regulation 3\(1\)](#) was amended by [S.I.2006/3386](#). There are other amendments not relevant to these Regulations.

**M79** [Paragraph 7B](#) was inserted by [S.I. 2006/3386](#) and amended by [S.I.2013/472](#).

**Financial Services and Markets Act 2000 (Appointed Representatives) Regulations 2001**

**53.** In regulation 1(2) (interpretation) of the Financial Services and Markets Act 2000 (Appointed Representatives) Regulations 2001 <sup>M80</sup>, in the definition of “EEA credit institution” for “banking consolidation directive” substitute “ capital requirements directive ”.

**Marginal Citations**

**M80** [S.I. 2001/1217](#). Regulation 1(2) was amended by [S.I. 2006/3414](#). There are other amendments not relevant to these Regulations.

**Financial Services and Markets Act 2000 (Compensation Scheme: Electing Participants) Regulations 2001**

**54.** In regulation 1(2) (interpretation) of the Financial Services and Markets Act 2000 (Compensation Scheme: Electing Participants) Regulations 2001 <sup>M81</sup>, in the definition of “credit institution” for “Article 4(1) of the banking consolidation directive” substitute “ Article 4(1)(1) of the capital requirements regulation ”.

**Marginal Citations**

**M81** [S.I. 2001/1783](#). Regulation 1(2) was amended by [S.I. 2006/3221](#). There are other amendments not relevant to these Regulations.

**Financial Services and Markets Act 2000 (Disclosure of Confidential Information) Regulations 2001**

**55.—(1)** The Financial Services and Markets Act 2000 (Disclosure of Confidential Information) Regulations 2001 <sup>M82</sup> are amended as follows.

(2) In regulation 2 <sup>M83</sup> (interpretation)—

(a) in the definition of “markets in financial instruments directive information” for “Directive [2006/49/EC](#) of the European Parliament and of the Council as last amended on 24th November 2010 by Directives 2010/76/EU and 2010/78/EU of the European Parliament and of the Council” substitute “ the capital requirements directive ”;

(b) in the definition of “single market restrictions”, for paragraph (b) substitute—

“(b) section 2 of Chapter 1 of Title 7 of the capital requirements directive”;

(3) In regulation 9 <sup>M84</sup> (disclosure by regulators or regulator workers to certain other persons)—



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- (a) after paragraph (1) insert—
  - “(1A) A regulator or a person who is employed by a regulator may disclose confidential information if it is necessary to do so in order to publish the outcome of a stress test conducted in respect of a credit institution or investment firm in accordance with Article 100 of the capital requirements directive or Article 32 of Regulation (EU) No 1093/2010 of the European Parliament and of the Council establishing a European Supervisory Authority (European Banking Authority).”;
- (b) for paragraph (2ZA)(b) substitute—
  - “(b) article 55 of the capital requirements directive;”;
- (c) for paragraph (3)(b)(ii) substitute—
  - “(ii) articles 52 and 159 of the capital requirements directive;”;
- (d) for paragraph (4) substitute—
  - “(4) Paragraph (1) does not permit disclosure—
    - (a) in breach of any restriction on the disclosure of confidential information in Section 2 of Chapter 1 of Title 7 of the capital requirements directive; or
    - (b) to persons specified in the first column in Part 5 of Schedule 1 (except to the extent that they are referred to in other parts of the Schedule) other than where—
      - (i) it is obtained by the FCA or PRA in the course of discharging its functions under the capital requirements directive or the capital requirements regulation;
      - (ii) there is an emergency situation, as referred to in Article 114 of the capital requirements directive; and
      - (iii) such information is relevant for the performance of such persons' functions.”.
- (4) In Schedule 1 <sup>M85</sup> (disclosure of confidential information whether or not subject to single market restrictions), in Part 1—
  - (a) in paragraph (b)(iii) of the entry in the right-hand column of the table next to the entry for the Office of Fair Trading, for “article 47(a) of the banking consolidation directive” substitute “ article 56(a) of the capital requirements directive ”;
  - (b) in paragraph (b)(iii) of the entry in the right-hand column of the table next to the entry for the Competition Commission, for “article 47(a) of the banking consolidation directive” substitute “ article 56(a) of the capital requirements directive ”.

#### Marginal Citations

**M82** [S.I. 2001/2188](#).

**M83** [Regulation 2](#) was amended by [S.I. 2004/1862](#), [S.I. 2006/3413](#), [S.I. 2012/916](#) and [S.I. 2013/504](#). There are other amendments not relevant to these Regulations.

**M84** [Regulation 9](#) was amended by [S.I. 2006/3413](#), [S.I. 2004/3379](#), [S.I. 2006/3221](#), [S.I. 2007/3255](#), [S.I. 2010/2628](#), [S.I. 2013/472](#) and [S.I. 2013/1773](#). There are other amendments not relevant to these Regulations.

**M85** [Schedule 1](#) was amended by [S.I. 2006/3413](#) and [S.I. 2010/2628](#). There are other amendments not relevant to these Regulations.



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## Financial Services and Markets Act 2000 (EEA Passport Rights) Regulations 2001

**56.**—(1) The Financial Services and Markets Act 2000 (EEA Passport Rights) Regulations 2001<sup>M86</sup> are amended as follows.

(2) In regulation 2 (establishment of a branch: contents of consent notice)—

(a) in paragraph (3)—

(i) in sub-paragraph (c), for “Section 1 of Chapter 2 of Title V to the banking consolidation directive” substitute “ Article 4(1)(118) of the capital requirements regulation ”;

(ii) for sub-paragraph (d)<sup>M87</sup> substitute—

“(d) the own funds requirements under Article 92 of the capital requirements regulation of that institution.”;

(b) in paragraph (4)<sup>M88</sup>—

(i) in sub-paragraph (c), for “Section 1 of Chapter 2 of Title V to the banking consolidation directive” substitute “ Article 4(1)(118) of the capital requirements regulation ”;

(ii) for sub-paragraph (d) substitute—

“(d) the own funds requirements under Article 92 of the capital requirements regulation of the firm's parent undertaking.”.

(3) For regulation 2A(2)<sup>M89</sup> (prescribed cases: establishment) substitute—

“(2) The case is the receipt by the FCA of a consent notice in respect of an investment firm to which the obligation in Article 28(2) of the capital requirements directive applies, where the investment firm intends to provide services or activities in the United Kingdom which consist of or include dealing on its own account.”.

(4) In regulation 11(1) (UK management companies, credit institutions and financial institutions: changes to branch details)<sup>M90</sup> for “banking consolidation directive” substitute “ capital requirements directive ”.

### Marginal Citations

**M86** [S.I. 2001/2511](#).

**M87** Sub-paragraph (d) was amended by [S.I. 2002/765](#), 2011/99 and 2006/3221.

**M88** Paragraph (4) was amended by [S.I.2002/765](#), [S.I. 2006/3221](#) and [S.I. 2001/99](#).

**M89** [Regulation 2A](#) was inserted by [S.I. 2013/439](#).

**M90** [Regulation 11\(1\)](#) was amended by [S.I. 2003/2066](#) and [S.I. 2006/3385](#).

## Financial Services and Markets Act 2000 (Gibraltar) Order 2001

**57.**—(1) The Financial Services and Markets Act 2000 (Gibraltar) Order 2001<sup>M91</sup> is amended as follows.

(2) In article 2(2)<sup>M92</sup> (exercise of deemed passport rights by Gibraltar-based firms) for “banking consolidation directive” substitute “ capital requirements directive ”.

(3) In article 4(4)<sup>M93</sup> (exercise by UK firms of deemed passport rights in Gibraltar) for “Article 24 of the banking consolidation directive” substitute “ Article 34 of the capital requirements directive ”.

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#### Marginal Citations

- M91** [S.I. 2001/3084](#).  
**M92** [Article 2\(2\)](#) was amended by [S.I. 2006/1805](#).  
**M93** [Article 4\(4\)](#) was amended by [S.I. 2006/3221](#).

### Financial Services and Markets Act 2000 (Confidential Information) (Bank of England) (Consequential Provisions) Order 2001

**58.**—(1) The Financial Services and Markets Act 2000 (Confidential Information) (Bank of England) (Consequential Provisions) Order 2001 <sup>M94</sup> is amended as follows.

(2) In article 2(1) (interpretation) in the definition of “an EEA regulatory authority” for “banking consolidation directive” substitute “ capital requirements directive ”.

(3) In article 4(2) <sup>M95</sup> (information to be treated as single market directive information) for “Article 43 of the banking consolidation directive” substitute “ Articles 52 and 159 of the capital requirements directive ”.

(4) In article 6(4) <sup>M96</sup> (information supplied before commencement by an overseas regulatory authority) for “Article 43 of the banking consolidation directive” substitute “ Articles 52 and 159 of the capital requirements directive ”.

#### Marginal Citations

- M94** [S.I. 2001/3648](#).  
**M95** [Article 4\(2\)](#) was amended by [S.I. 2006/3221](#).  
**M96** [Article 6\(4\)](#) was amended by [S.I. 2006/3221](#).

### Uncertificated Securities Regulations 2001

**59.** Paragraph 28(4) (access to central counterparty, clearing and settlement facilities) of Schedule 1 to the Uncertificated Securities Regulations 2001 <sup>M97</sup> is amended as follows—

- (a) omit the definition of “banking consolidation directive”;
- (b) in the definition of “branch” for “Article 4.3 of the banking consolidation directive” substitute “ Article 4(1)(17) of 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 ”;
- (c) in the definition of “credit institution” for “the banking consolidation directive” substitute “ Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 relating 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](#) ”.

#### Marginal Citations

- M97** [S.I. 2001/3755](#). Paragraph 28(4) of Schedule 1 was inserted by [S.I. 2007/124](#) and amended by [S.I. 2010/2628](#), [S.I. 2012/917](#) and [S.I. 2013/472](#).

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### **Enterprise Act 2002 (Merger Fees and Determination of Turnover) Order 2003**

**60.** Paragraph 1 of the Schedule (applicable turnover: interpretation) to the Enterprise Act 2002 (Merger Fees and Determination of Turnover) Order 2003 <sup>M98</sup> is amended as follows—

(a) for the definition of “credit institution” substitute—

““credit institution” means a credit institution for the purposes of Article 4(1)(1) of Regulation (EU) 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;”;

(b) for the definition of “financial institution” substitute—

““financial institution” means a financial institution for the purposes of Article 4(1)(26) of Regulation (EU) 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;”.

#### **Marginal Citations**

**M98** [S.I. 2003/1370](#). Paragraph 1 of the Schedule was amended by [S.I. 2006/3221](#) and [S.I. 2011/99](#).

### **Financial Collateral Arrangements (No. 2) Regulations 2003**

**61.** In regulation 3(1) (interpretation) of the Financial Collateral Arrangements (No. 2) Regulations 2003 <sup>M99</sup> for the definition of “credit claims” substitute—

““credit claims” means pecuniary claims which arise out of an agreement whereby a credit institution, as defined in Article 4(1)(1) of Regulation (EU) 575/2013 of the European Parliament and of the Council of 26 June 2013, and including the institutions listed in Article 2(5)(2) to (23) of Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013, grants credit in the form of a loan;”.

#### **Marginal Citations**

**M99** [S.I. 2003/3226](#). Regulation 3 was amended by [S.I. 2010/2993](#).

### **Conduct of Employment Agencies and Employment Businesses Regulations 2003**

**62.** In regulation 25(1) (client accounts) of the Conduct of Employment Agencies and Employment Businesses Regulations 2003 <sup>M100</sup> for the definition of “credit institution” substitute—

““credit institution” means a credit institution as defined in Article 4(1)(1) of 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, that is to say, an undertaking whose business is to receive deposits or other repayable funds from the public and to grant credits for its own account;”.

#### **Marginal Citations**

**M100** [S.I. 2003/3319](#). Regulation 25(1) was amended by [S.I. 2006/3221](#) and [S.I. 2011/99](#).

**Status:** Point in time view as at 31/12/2020.

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## Credit Institutions (Reorganisation and Winding Up) Regulations 2004

**63.**—(1) The Credit Institutions (Reorganisation and Winding Up) Regulations 2004 <sup>M101</sup> are amended as follows.

(2) In regulation 2(1) (interpretation) <sup>M102</sup>—

- (a) omit the definition of “banking consolidation directive”;
- (b) in the appropriate place insert—

““capital requirements directive” means Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 relating 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;

“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;”;

- (c) in the definition of “branch” for “Article 4(3) of the banking consolidation directive” substitute “ Article 4(1)(17) of the capital requirements regulation ”;
- (d) for the definition of “EEA credit institution” substitute—
 

““EEA credit institution” means an EEA undertaking, other than a UK credit institution, of the kind mentioned in Article 4(1)(1) and 4(1)(17) of the capital requirements regulation and subject to the exclusion of the undertakings referred to in Article 2(5)(2) to (23) of the capital requirements directive;”;
- (e) in the definition of “EEA regulator” for “Article 4(4) of the banking consolidation directive” substitute “ Article 4(1)(40) of the capital requirements regulation ”.

(3) In regulation 5(6) (reorganisation measures and winding-up proceedings in respect of EEA credit institutions effective in the United Kingdom) <sup>M103</sup>, in the definition of “relevant EEA state”, for “Article 6 of the banking consolidation directive” substitute “ Article 8 of the capital requirements directive ”.

### Marginal Citations

**M101** S.I. 2004/1045.

**M102** Regulation 2(1) was amended by S.I. 2006/3221 and S.I. 2011/99. There are other amendments not relevant to these Regulations.

**M103** Regulation 5(6) was amended by S.I. 2006/3221.

## Financial Conglomerates and Other Financial Groups Regulations 2004

**64.**—(1) The Financial Conglomerates and Other Financial Groups Regulations 2004 <sup>M104</sup> are amended as follows.

(2) In regulation 1(2) (interpretation) <sup>M105</sup>—

- (a) omit the definition of “the capital adequacy directive”;
- (b) at the appropriate place insert—

““the capital requirements directive” means Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 relating to the activity of credit institutions and the prudential supervision of credit institutions and investment firms,

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amending Directive [2002/87/EC](#) and repealing Directives [2006/48/EC](#) and [2006/49/EC](#);

“the capital requirements regulation” means Regulation (EU) 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;”;

- (c) for paragraph (b) of the definition of “directive requirement” substitute—
    - “(b) Article 127 of the capital requirements directive;”;
  - (d) in paragraph (a) of the definition of “regulated entity” for “Article 4(1) of the banking consolidation directive” substitute “ Article 4(1)(1) of the capital requirements regulation ”;
  - (e) in paragraph (d) of the definition of “regulated entity” for “Article 3(1)(b) of the capital adequacy directive” substitute “ Article 4(1)(2) of the capital requirements regulation ”.
- (3) In regulation 7(1) (supervision of third-country financial conglomerates and third-country groups – interpretation) <sup>M106</sup> in the definition of “credit institution” for “the banking consolidation directive” substitute “ capital requirements directive ”.
- (4) In regulation 9 (supervision of third-country banking groups) <sup>M107</sup>—
- (a) in paragraph (1)—
    - (i) for “Article 143 of the banking consolidated directive (third-country parent undertakings)” substitute “Article 127 of the capital requirements directive (assessment of equivalence of third countries' consolidated supervision)”;
    - (ii) for “Articles 71, 72 and 73(1) and (3) of that directive (supervision on a consolidated basis of credit institutions)” substitute “ the capital requirements directive and Chapter 2 of Title II of Part I of the capital requirements regulation ”; and
    - (iii) in sub-paragraph (b) for “the first sub-paragraph of Article 143(2) of that Directive” substitute “ the first sub-paragraph of Article 127(2) of the capital requirements directive ”;
  - (b) in paragraph (2) for “Article 143(3) of the banking consolidation directive” substitute “ Article 127(3) of the capital requirements directive ”;
  - (c) in paragraph (3)(a) and (b) for “Articles 125 or 126 of the banking consolidation directive” substitute “ Article 111 of the capital requirements directive ”.
- (5) In regulation 10 (supervision of third-country groups subject to the capital adequacy directive) <sup>M108</sup>—
- (a) for the title substitute—

“Supervision of third-country groups subject to the capital requirements regulation and capital requirement directive”;
  - (b) for paragraph (1) substitute—

“(1) Paragraph (2) applies if a regulator is, for the purposes of Article 127 of the capital requirements directive, verifying whether an institution is subject to supervision by a third-country competent authority which is equivalent to that governed by the principles laid down in the capital requirements directive and Chapter 2 of Title II of Part 1 of the capital requirements regulation.”;
  - (c) in paragraph (2)(b) for “Article 143(2) of that directive” substitute “ Article 127(2) of the capital requirements directive ”;

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- (d) in paragraph (3) for “Article 143(3) of the banking consolidation directive as applied by Articles 2 and 37(1) of the capital adequacy directive” substitute “ Article 127(3) of the capital requirements directive ”;
- (e) in paragraph (4)(a) and (b) for “Articles 125 or 126 of the banking consolidation directive, as applied by Articles 2 and 37(1) of the capital adequacy directive” substitute “ Article 111 of the capital requirements directive ”.
- (6) For regulation 15(1)(b) <sup>M109</sup> (extension of power to vary Part 4A permission) substitute—  
“(b) acting in accordance with any of Articles 65(2), 104, 118, 123, 126 or 127 of the capital requirements directive or Article 18 of the capital requirements regulation;”.

#### Marginal Citations

**M104** S.I. 2004/1862.

**M105** Regulation 1(2) was amended by S.I. 2006/3221, S.I. 2007/126, S.I. 2010/2628, S.I. 2012/917, S.I. 2013/472 and S.I. 2013/1773. There are other amendments not relevant to these Regulations.

**M106** Regulation 7(1) was amended by S.I. 2007/126. There are other amendments not relevant to these Regulations.

**M107** Regulation 9 was amended by S.I. 2006/3221 and S.I. 2013/472.

**M108** Regulation 10 was amended by S.I. 2006/3221 and S.I. 2013/472. There are other amendments not relevant to these Regulations.

**M109** Regulation 15(1)(b) was amended by S.I. 2006/3221 and S.I. 2013/472.

#### Building Societies Act 1986 (Modification of the Lending Limit and Funding Limit Calculations) Order 2004

**65.** In article 2(1) (interpretation) of the Building Societies Act 1986 (Modification of the Lending Limit and Funding Limit Calculations) Order 2004 <sup>M110</sup> for the definition of “credit institution” substitute—

““credit institution” means a credit institution as defined by Article 4(1)(1) of Regulation (EU) 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;”.

#### Marginal Citations

**M110** S.I. 2004/3200. Article 2(1) was amended by S.I. 2006/3221 and S.I. 2011/99.

#### Gambling (Operating Licence and Single-Machine Permit Fees) Regulations 2006

**66.** In regulation 23(2)(b) (change in corporate control application fee) of the Gambling (Operating Licence and Single-Machine Permit Fees) Regulations 2006 <sup>M111</sup> for “article 4.5 of the Banking Consolidation Directive” substitute “ Article 4(1)(26) of Regulation (EU) 575/2013 of the European Parliament and of the Council of 26 June 2013 ”.

#### Marginal Citations

**M111** S.I. 2006/3284. Regulation 23(2) was substituted by S.I. 2008/1803 and by S.I. 2012/829 and amended by S.I. 2013/472.

## **Financial Services and Markets Act 2000 (Markets in Financial Instruments) Regulations 2007**

67. Regulation 4C (requirements to be applied to exempt investment firms) of the Financial Services and Markets Act 2000 (Markets in Financial Instruments) Regulations 2007<sup>M112</sup> is amended as follows—

- (a) in paragraph (3)(c)(ii) for “banking consolidation directive” substitute “ capital requirements directive ”;
- (b) in paragraph (3)(c)(iii) for “the banking consolidation directive or Directive [2006/49/EC](#) of the European Parliament and of the Council of 14 June 2006 on the capital adequacy of investment firms and credit institutions as last amended on 24th November 2010 by Directives [2010/76/EU](#) and [2010/78/EU](#) of the European Parliament and of the Council,” substitute “ the capital requirements directive or Regulation (EU) 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, ”;
- (c) for paragraph (4)(b) substitute—
  - (b) “the capital requirements directive” means Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 relating 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](#)”;

### **Marginal Citations**

**M112** [S.I. 2007/126](#). Regulation 4C was inserted by [S.I. 2007/763](#) and amended by [S.I. 2010/2628](#), [S.I. 2012/917](#) and [S.I.2013/472](#).

## **Money Laundering Regulations 2007**

68.—(1) The Money Laundering Regulations 2007<sup>M113</sup> are amended as follows.

(2) In regulation 2(1) (interpretation)<sup>M114</sup>—

- (a) omit the definition of “the banking consolidation directive”; and
- (b) at the appropriate place insert—

““the capital requirements directive” means Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 relating 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](#);

“the capital requirements regulation” means Regulation (EU) 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.”.

(3) In regulation 3 (application of the Regulations)<sup>M115</sup>—

- (a) in paragraph (2)(a) for “Article 4(1) of the banking consolidated directive” substitute “ Article 4(1)(1) of the capital requirements regulation ”;
- (b) in paragraph (2)(b) for “Article 4(3) of that directive” substitute “ Article 4(1)(17) of that regulation ”;



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- (c) in paragraph (3) for “banking consolidated directive” substitute “ capital requirements directive ” in each place in which it appears.
- (4) In Schedule 1 (activities listed in points 2 to 12, 14 and 15 of Annex 1 to the banking consolidation directive) <sup>M116</sup> for the title substitute— “ Activities listed in points 2 to 12, 14 and 15 of Annex 1 to the capital requirements directive ”.

#### Marginal Citations

**M113** 2007/2157.

**M114** Regulation 2(1) has been amended but none of the amendments is relevant to these Regulations.

**M115** Regulation 3 was amended by S.I. 2011/99. There are other amendments but none is relevant to these Regulations.

**M116** Schedule 1 was amended by S.I. 2009/209 and S.I. 2011/99.

#### Regulated Covered Bonds Regulations 2008

- 69.**—(1) The Regulated Covered Bonds Regulations 2008 <sup>M117</sup> are amended as follows.
- (2) In regulation 1(2) (interpretation) <sup>M118</sup>—
- (a) omit the definition of “banking consolidation directive”;
- (b) at the appropriate place insert—
- ““capital requirements regulation” means Regulation (EU) 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;”;
- (c) in the definition of “liquid assets”—
- (i) in paragraph (a), for “paragraph 68(a) or (b) of Annex VI to the banking consolidation directive” substitute “ Article 129(1)(a) or (b) of the capital requirements regulation ”; and
- (ii) in paragraph (b), for “paragraph 68(c) of Annex VI to the banking consolidation directive” substitute “ Article 129(1)(c) of the capital requirements regulation ”.
- (3) In regulation 2 (eligible property) <sup>M119</sup>—
- (a) in paragraph (1)(a) for “paragraph 68 of Annex VI of the banking consolidation directive” substitute “ Article 129 of the capital requirements regulation ”;
- (b) in paragraph (1A)(a) for “paragraph 68 of Annex VI of the banking consolidation directive” substitute “ Article 129(1) of the capital requirements regulation ”;
- (c) in paragraph (1A)(b) for “sub-paragraph (d) of paragraph 68 of Annex VI of the banking consolidation direction” substitute “ sub-paragraph (d) and (e) of Article 129(1) of the capital requirements regulation ”;
- (d) in paragraph (1A)(c) for “sub-paragraph (e) of paragraph 68 of Annex VI of the banking consolidation directive” substitute “ sub-paragraph (f) of Article 129(1) of the capital requirements regulation ”;
- (e) in paragraph (1B)(a) for “Annex VI of the banking consolidation directive” substitute “ Part Three, Title II, Chapter 2 of the capital requirements regulations ”;
- (f) in paragraph (1B)(b) for “French Fonds Communs de Creances” substitute “ French Fonds Communs de Titrisation ”;



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- (g) in paragraph (4) for “banking consolidated directive has the same meaning as in that directive” substitute “ capital requirements regulation has the same meaning as in that regulation ”.

#### Marginal Citations

M117 S.I. 2008/346.

M118 Regulation 1(2) was amended by S.I. 2011/2859 and S.I. 2012/917.

M119 Regulation 2 was amended by S.I. 2011/2859 and S.I. 2012/917.

### Payment Services Regulations 2009

70.—(1) The Payment Services Regulations 2009<sup>M120</sup> are amended as follows.

(2) In regulation 2(1) (interpretation)<sup>M121</sup>—

(a) omit the definition of “the banking consolidated directive”;

(b) in the appropriate place insert—

““the capital requirements directive” means Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 relating 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;

“the capital requirements regulation” means Regulation (EU) 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;”;

(c) in the definition of “credit institution” for “Article 4(1) of the banking consolidation directive” substitute “ Article 4(1)(1) of the capital requirements regulation ”;

(d) in the definition of “qualifying holding” for “article 4(11) of the banking consolidation directive” substitute “ Article 4(1)(36) of the capital requirements regulation ”.

(3) In regulation 18(2) (capital requirements)—

(a) in paragraph (a) for “banking consolidation directive” substitute “ capital requirements directive ”;

(b) in paragraph (b) for “Article 69(1) of the banking consolidation directive” substitute “ Article 7(1) of the capital requirements regulation ”.

(4) In regulation 19(15) (safeguarding requirements) in the definition of “authorised credit institution” for “Article 6 of the banking consolidation directive” substitute “ Article 8 of the capital requirements directive ”.

(5) In regulation 121(1) (transitional provisions: deemed authorisation)<sup>M122</sup> for “banking consolidation directive” substitute “ Directive 2006/48/EC of the European Parliament and of the Council ” in both places where it appears.

(6) In paragraph 5 of Schedule 3 (capital requirements) for “banking consolidation directive” substitute “ capital requirements regulation ”.

#### Marginal Citations

M120 S.I. 2009/209.

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**M121** Regulation 2(1) was amended by S.I. 2011/99. There are other amendments but none is relevant to these Regulations.

**M122** Regulation 121 was amended by S.I. 2010/22.

### **Banking Act 2009 (Restriction of Partial Property Transfers) Order 2009**

71. Article 1(3) (interpretation) of the Banking Act 2009 (Restriction of Partial Property Transfers) Order 2009 <sup>M123</sup> is amended as follows—

- (a) omit the definition of “Banking Consolidated Directive”;
- (b) at the appropriate place insert—
  - ““capital requirements directive” means Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 relating 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;”;
- (c) in the definition of “excluded rights” for “Banking Consolidation Directive” substitute “capital requirements directive ” in each place where it appears.

#### **Marginal Citations**

**M123** S.I. 2009/322. Article 1(3) was amended by S.I. 2009/1826. There are other amendments but none is relevant to these Regulations.

### **Financial Services and Markets Act 2000 (Controllers) (Exemption) Order 2009**

72. In article 2 (interpretation) of the Financial Services and Markets Act 2000 (Controllers) (Exemption) Order 2009 <sup>M124</sup> in paragraph (a) of the definition of “relevant UK authorised person” for “banking consolidation directive” substitute “ capital requirements directive ”.

#### **Marginal Citations**

**M124** S.I. 2009/774. Article 2 was amended by S.I. 2011/1613.

### **Provision of Services Regulations 2009**

73. In regulation 2(2)(a) (“service”) of the Provision of Services Regulations 2009 <sup>M125</sup> for “Directive 2006/48/EC of the European Parliament and of the Council of 14 June 2006 relating to the taking up and pursuit of the business of credit institutions” substitute “ Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 relating 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 ”.

#### **Marginal Citations**

**M125** S.I. 2009/2999. There are amendments to Regulation 2 but none is relevant.

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## Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations 2010

74. In regulation 35(2) (further conditions applicable to automatic enrolment schemes) of the Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations 2010 <sup>M126</sup> for paragraph (a) in the definition of “competent authority” substitute—

- “(a) paragraph (40) of Article 4(1) of Regulation (EU) 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;”.

### Marginal Citations

**M126** [S.I. 2010/772](#). Regulation 35 was substituted by [S.I. 2012/1257](#). There are other amendments but none is relevant to these Regulations.

## Electronic Money Regulations 2011

75.—(1) The Electronic Money Regulations 2011 <sup>M127</sup> are amended as follows.

(2) In regulation 2(1) (interpretation)—

- (a) omit the definition of “the banking consolidation directive”;
- (b) at the appropriate places insert—

““the capital requirements directive” means Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 relating 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](#);

“the capital requirements regulation” means Regulation (EU) 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”;

(c) in the definition of “credit institution”—

- (i) for “Article 4(1) of the banking consolidation directive” substitute “ Article 4(1)(1) of the capital requirements regulation ”;
- (ii) for “Article 4(3) of that directive” substitute “ Article 4(1)(17) of that regulation ”;
- (iii) for “Article 38 of that directive” substitute “ Article 47 of the capital requirements directive ”;

(d) in the definition of “qualifying holding” for “Article 4(11) of the banking consolidation directive” substitute “ Article 4(1)(36) of the capital requirements regulation ”.

(3) In regulation 21—

(a) for paragraph (6)(a)(i) (safeguarding option 1) substitute—

“(i) asset items falling into one of the categories set out in Article 336(1) of the capital requirements regulation, for which the specific risk capital charge is no higher than 1.6% but excluding other qualifying items as defined in Article 336(4); or”;

(b) in the definition of “authorised credit institution” in paragraph (7) for “Article 6 of the banking consolidated directive” substitute “ Article 8 of the capital requirements directive ”.

(4) In paragraph 6 of Schedule 2 (capital requirements: qualifying items) for “banking consolidation directive” substitute “ capital requirements regulation ”.

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#### Marginal Citations

M127 S.I. 2011/99, to which there are amendments not relevant to these Regulations.

### Recognised Auction Platforms Regulations 2011

76. In regulation 20(4)(b) (access to auctions) of the Recognised Auction Platforms Regulations 2011 <sup>M128</sup> for “banking consolidation directive” substitute “ capital requirements directive ”.

#### Marginal Citations

M128 S.I. 2011/2699, to which there are amendments not relevant to these Regulations.

### Financial Services and Markets Act 2000 (Prescribed Financial Institutions) Order 2013

77. In article 1(2) (interpretation) of the Financial Services and Markets Act 2000 (Prescribed Financial Institutions) Order 2013 <sup>M129</sup>—

- (a) in the definition of “credit institution” for “Article 4 of the banking consolidation directive” substitute “ Article 4(1)(1) of the capital requirements regulation ”;
- (b) in the definition of “financial institution” for “banking consolidation directive” substitute “ capital requirements directive ”.

#### Marginal Citations

M129 S.I. 2013/165.

### Financial Services and Markets Act 2000 (PRA-regulated Activities) Order 2013

78. For article 3(3)(a) (dealing in investments as principal: designation by the PRA) of the Financial Services and Markets Act 2000 (PRA-regulated Activities) Order 2013 <sup>M130</sup> substitute—

- “(a) is an investment firm to which Article 28(2) of the capital requirements directive (investment firms which are required to have an initial capital of EUR 730,000) applies;”.

#### Marginal Citations

M130 S.I. 2013/556.

### Bank of England Act 1998 (Macro-prudential Measures) Order 2013

79. Article 1(2) (interpretation) of the Bank of England Act 1998 (Macro-prudential Measures) Order 2013 <sup>M131</sup> is amended as follows—

- (a) omit the definition of “banking consolidation directive”;
- (b) in the definition of “credit institution” for “Article 4(1) of the banking consolidation directive” substitute “ Article 4(1)(1) of Regulation (EU) 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 ”;

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- (c) in the definition of “financial sector entity” for “banking consolidation directive” substitute “ Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 relating 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 ”.

**Marginal Citations**

M131 S.I. 2013/644.

**Alternative Investment Fund Managers Regulations 2013**

**80.** In regulation 77(1)(a) (depositories of EEA AIFs until 22nd July 2017) of the Alternative Investment Fund Managers Regulations 2013 <sup>M132</sup> for “banking consolidation directive” substitute “ capital requirements directive ”.

**Marginal Citations**

M132 S.I. 2013/1773, to which there are amendments not relevant to these Regulations.

## SCHEDULE 3

Regulation 46(2)

## Revocations

<i>Regulations revoked</i>	<i>References</i>	<i>Extent of revocation</i>
The Financial Services and Markets Act 2000 (Consultation with Competent Authorities) Regulations 2001	S.I. 2001/2509	The whole Regulations
The Collective Investment Schemes (Miscellaneous Amendments) Regulations 2003	S.I. 2003/2066	Regulation 6
The Financial Conglomerates and Other Financial Groups Regulations 2004	S.I. 2004/1862	Regulation 13
The Capital Requirements Regulations 2006 M133	S.I. 2006/3221	The whole Regulations
The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment No 3) Order 2006	S.I. 2006/3384	Article 38
The Financial Services and Markets Act 2000 (Markets in Financial Instruments) Regulations 2007	S.I. 2007/126	Paragraph 16 of Schedule 6

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The Financial Services and Markets Act 2000 (Reinsurance Directive) Regulations 2007	S.I. 2007/3255	Regulation 4
The Credit Rating Agencies Regulations 2010	S.I. 2010/906	Regulation 31
The Capital Requirements (Amendment) Regulations 2010	S.I. 2010/2628	The whole Regulations.
The Credit Rating Agencies (Amendment) Regulations 2011	S.I. 2011/1435	Regulation 3.
The Capital Requirements (Amendment) Regulations 2012	S.I. 2012/917	The whole Regulations.
The Alternative Investment Fund Managers Regulations 2013	S.I. 2013/1773	Paragraph 13 of Schedule 2

#### Marginal Citations

M133 Revoked by regulation 3.

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations implement in part a package of EU legislation known as “CRD4”. CRD4 is concerned with the authorisation of credit institutions and the prudential rules applicable to credit institutions and investment firms.

In the remainder of these notes:

- (a) “CRD” means Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms (OJ no L176, 27/6/2013, p. 338; for corrigenda see OJ no L208, 2/8/2013, p.73);
- (b) “CRR” 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 (OJ no L176, 27/6/2013, p.1; for corrigenda see OJ no L208, 27/6/2013, p.68 and OJ no L321, 30/11/2013, p6);
- (c) “FCA” means the Financial Conduct Authority;
- (d) “FSMA” means the Financial Services and Markets Act 2000 (c. 8);
- (e) “PRA” means the Prudential Regulation Authority.

The CRD and the CRR comprise CRD4 and are intended to be read together. Whilst these Regulations implement some provisions of the CRD, the remainder are implemented through rules made, and other legally binding requirements imposed, by the PRA and FCA. These Regulations should be read with the Financial Services and Markets Act 2000 (Qualifying EU Provisions) (No. 2) Order 2013, which specifies the CRR as a “qualifying EU provision” for

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various provisions of FSMA. This gives the PRA and FCA supervisory and enforcement powers in relation to the CRR.

Part 1 and Schedule 1 make provision for commencement, expiry and interpretation. Articles 151 to 159 of the CRD set out a range of transitional provisions. They will cease to have effect on a date to be specified in a Commission delegated act, and will be replaced by the provisions at Articles 40, 41, 43, 49, 50 and 51 of the CRD. This is reflected in the commencement and expiry provisions included in these Regulations.

Part 2 consists of provision revoking the Capital Requirements Regulations 2006.

Part 3 comprises provision designating the competent authorities for the purposes of the CRD and CRR. The PRA and FCA are designated as competent authorities for the main provisions of the CRD and CRR. Articles 128 to 142 of the CRD (capital buffers) will be the subject of a further statutory instrument in 2014. Responsibility for Article 458 of the CRD (macro-prudential measures) is split between the Treasury and the Bank of England, and paragraph 38 of Schedule 2 inserts provision to that effect into the Bank of England Act 1998 (c. 11).

Part 4 imposes obligations on the PRA and FCA in relation to cooperation and co-ordination with other competent authorities and the European Supervisory Authorities.

Part 5 imposes obligations on the PRA and FCA regarding disclosure of information and notifications required under the CRD.

Part 6 contains provision on how the PRA or FCA must act when it is the consolidating supervisor of a group of credit institutions or investment firms. “Consolidating supervisor” is defined in Article 4(1)(41) of the CRR.

Part 7 concerns the exercise of supervision by the PRA and FCA, in particular in relation to own funds, specific liquidity requirements, employee remuneration and diversity practices.

Part 8 concerns permissions under the CRR. The CRR confers discretion on competent authorities to grant firms permission to do certain things under the CRR, for example permission to use the Internal Ratings Based approach to calculating risk-weighted exposure amounts. Part 8 makes provision for the procedural aspects of the exercise of this discretion. In particular, regulation 42 grants a right of appeal to the Upper Tribunal.

Part 9 extends the criminal offence established by section 398 of FSMA (misleading the FCA or PRA: residual cases) to requirements imposed by or under the CRR, directly applicable regulations made under the CRD or CRR, or these Regulations.

Part 10 and Schedules 2 and 3 make amendments to primary and secondary legislation. Part 1 of Schedule 2 makes amendments to FSMA, in particular in relation to the passporting rights of non-UK firms into the UK. Part 2 of Schedule 2 amends the Building Societies Act 1986 and the Bank of England Act 1998 and makes consequential amendments to other primary legislation. Part 3 of Schedule 2 amends the Financial Services and Markets Act 2000 (Disclosure of Confidential Information) Regulations (S.I. 2001/2188) and the Financial Services and Markets Act 2000 (EEA Passport Rights) Regulations 2001 (S.I.2001/2511) and makes consequential amendments to other secondary legislation.

A Transposition Table setting out how the CRD is transposed into UK law is available from HM Treasury, 1 Horseguards Road, London, SW1A 2HQ.

An impact assessment has not been produced for this instrument as no significant impact on the costs of business or the voluntary sector is foreseen.

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