
STATUTORY INSTRUMENTS

2013 No. 3115

The Capital Requirements Regulations 2013

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 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—

- (a) an institution does not meet the requirements set out in 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 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) the review referred to in Article 98(4) or Article 101(4) of the capital requirements directive reveals that non-compliance with the requirements for the application of the respective approach will likely lead to inadequate own funds requirements;
- (e) the risks are likely to be underestimated despite compliance with the applicable requirements of the capital requirements directive or 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 the review and evaluation carried out in accordance with Section 3 of Chapter 2 of Title 7 to the capital requirements directive, 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 Article 73 of the capital requirements directive;
- (b) the institution's arrangements, processes and mechanisms referred to in Article 74 of the capital requirements directive;
- (c) the outcome of the review and evaluation carried out in accordance with Article 97 or 101 of the capital requirements directive; and

- (d) the assessment of systemic risk.

Specific liquidity requirements

35. For the purposes of determining the appropriate level of liquidity requirements on the basis of the review and evaluation carried out in accordance with Section 3 of Chapter 2 of Title 7 to the capital requirements directive, 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;
- (b) the institution's arrangements, processes and mechanisms (as referred to in Section 2 of Chapter 2 of Title 7 to the capital requirements directive, in particular in Article 86);
- (c) the outcome of the review and evaluation carried out in accordance with Article 97 of the capital requirements directive; and
- (d) any systemic liquidity risk that threatens the integrity of the financial markets of the United Kingdom.

Employee remuneration

36. 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;
- (b) collect the information specified in Article 75(3) of the capital requirements directive on the number of employees in each institution that are remunerated 1 million euros or more per financial year;
- (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 Article 94(1)(g)(ii) of the capital requirements directive and use it to benchmark practices in relation to the level of such ratios; and
- (d) provide EBA with the information referred to in paragraphs (a) to (c).

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; and
- (b) provide EBA with the information referred to in paragraph (a).

Consultation with EBA: supervisory benchmarking of internal approaches for calculation of own funds requirements

38.—(1) In addition to benchmark portfolios developed by EBA and referred to in Article 78(8)(b) of the capital requirements directive, the appropriate regulator may develop benchmark portfolios in accordance with Article 78(2) of the capital requirements directive to monitor the range of risk weighted exposure amounts or own funds requirements for institutions permitted to use internal approaches.

(2) Where the appropriate regulator chooses to develop such portfolios they shall do so in consultation with EBA.