
EXPLANATORY NOTE

(This note is not part of the Order)

This Order prescribes macro-prudential measures for the purposes of section 9H of the Bank of England Act 1998 (c.11) (“the 1998 Act”) (power of the Financial Policy Committee of the Bank of England to direct the Financial Conduct Authority and the Prudential Regulation Authority).

The Order specifies the imposition of requirements by the Prudential Regulation Authority on UK banks and UK investment firms to maintain additional own funds (in other words, capital requirements) by reference to residential property exposures, commercial property exposures or financial sector exposures. The Order also specifies the imposition of requirements by reference to the failure to maintain such own funds. Such requirements might for example include an obligation not to make certain discretionary payments. The Order also specifies the imposition of requirements by the Prudential Regulation Authority on UK banks and UK investment firms to treat such exposures as if they gave rise to an increased level of risk.

The Financial Policy Committee may give directions that any such requirements are to be imposed either on a solo basis (by reference to the position of the undertakings which are the subject of the direction) or on a consolidated basis (by reference to the position of the undertakings which are the subject of the direction, taken together with relevant members of that undertaking’s group).

The Financial Policy Committee will, under section 9H of the 1998 Act, be able to direct the Prudential Regulation Authority to implement the measures prescribed by the Order in relation to UK banks and UK investment firms which are PRA-authorised persons (as defined by section 2B of the Financial Services and Markets Act 2000 (c.8) (“FSMA”)).

Article 3 provides that where the Financial Policy Committee gives a direction which specifies a particular increase (for example an increase in the risk weighting to be applied to residential property exposures) and subsequently gives another direction which is identical in substance to the first direction except in relation to the level of the increase, the Prudential Regulation Authority need not comply with the obligation under section 138J of FSMA to include a cost benefit analysis when consulting on rules that the Prudential Regulation Authority proposes to make to implement the subsequent direction.

A full impact assessment of the effect that this Order will have on the costs of business and the voluntary sector is available from Her Majesty’s Treasury, 1 Horse Guards Road, London SW1A 2HQ or on www.hm-treasury.gov.uk and is published alongside the Order on www.legislation.gov.uk.