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## STATUTORY INSTRUMENTS

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**2014 No. 894**

# FINANCIAL SERVICES AND MARKETS

## The Capital Requirements (Capital Buffers and Macro-prudential Measures) Regulations 2014

*Made - - - - 1st April 2014*  
*Laid before Parliament 3rd April 2014*  
*Coming into force in accordance with regulation 1*

<sup>M1M2</sup>The Treasury are designated for the purposes of section 2(2) of the European Communities Act 1972 in relation to financial services.

The Treasury, in exercise of the powers conferred by section 2(2) of the European Communities Act 1972, make the following Regulations:

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### Modifications etc. (not altering text)

- C1** Regulations: power to modify conferred (11.7.2023) by [Financial Services and Markets Act 2023](#) (c. 29), ss. 3, 86(3), **Sch. 1 Pt. 2**; S.I. 2023/779, reg. 2(d)
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### 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 1972 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).

## PART 1

### Introductory provisions

#### Citation, commencement and cessation

1.—(1) These Regulations may be cited as the Capital Requirements (Capital Buffers and Macro-prudential Measures) Regulations 2014.

(2) Regulations 1 to 3, 7 to 13, 15 to 20, and 36 come into force on 1st May 2014.

(3) Regulations 4 to 6, 14, and 21 to 34 come into force on 1st January 2016.

(4) Regulation 35 comes into force on—

(a) 1st May 2014 so far as it relates to the institution-specific countercyclical capital buffer;  
<sup>F1</sup> ...

(b) 1st January 2016 so far as it relates to the capital conservation buffer and the G-SII buffer  
<sup>F2</sup>; and]

<sup>F3</sup>(c) 1st January 2019 so far as it relates to the systemic risk buffer.]

(5) Regulations 13 and 19 cease to have effect on 1st January 2016.

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|-----------|---|
| <b>F1</b> | Word in reg. 1(4)(a) omitted (31.5.2016) by virtue of <a href="#">The Capital Requirements (Capital Buffers and Macro-prudential Measures) (Amendment) Regulations 2015 (S.I. 2015/19)</a> , regs. 1(4), <b>2(2)(a)</b> |
| <b>F2</b> | Word in reg. 1(4)(b) inserted (31.5.2016) by <a href="#">The Capital Requirements (Capital Buffers and Macro-prudential Measures) (Amendment) Regulations 2015 (S.I. 2015/19)</a> , regs. 1(4), <b>2(2)(b)</b>          |
| <b>F3</b> | Reg. 1(4)(c) inserted (31.5.2016) by <a href="#">The Capital Requirements (Capital Buffers and Macro-prudential Measures) (Amendment) Regulations 2015 (S.I. 2015/19)</a> , regs. 1(4), <b>2(2)(c)</b>                  |

#### Interpretation

2.—(1) In these Regulations—

<sup>F4</sup> ...

“the Bank” means the Bank of England;

<sup>F5</sup>“capital conservation buffer” means—

(a) in relation to a PRA-authorised person, the capital conservation buffer that the person must calculate in accordance with Chapter 2 of the Capital Buffers Part of the PRA rulebook;

(aa) in relation to a parent financial holding company and a parent mixed financial holding company, a capital conservation buffer the holding company <sup>F6</sup>must calculate in accordance with Chapter 2 of the Capital Buffers Part of the PRA Rulebook];

(b) <sup>F7</sup> ...]

<sup>F8</sup>“the capital requirements regulation” means Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012, as it forms part of domestic law by virtue of section 3 of the European Union (Withdrawal) Act 2018, and as amended from time to time thereafter;]

<sup>F9</sup>“combined buffer requirement” means the total Common Equity Tier 1 capital required to meet the requirements for the capital conservation buffer extended by the following, as applicable—

- (a) an institution-specific countercyclical capital buffer;
- (b) a G-SII buffer;
- (ba) an O-SII buffer;
- (c) a systemic risk buffer;]

“common equity tier 1 capital” has the same meaning as in Chapter 2 of Title 1 of Part 2 of the capital requirements regulation;

“countercyclical capital buffer” has the same meaning as in Articles 130, and 135 to 140, of the capital requirements directive;

F10 ...

F10 ...

F10 ...

F10 ...

“FPC” means the Financial Policy Committee of the Bank of England <sup>M3</sup>;

“FSMA” means the Financial Services and Markets Act 2000 <sup>M4</sup>;

“G-SII” means a global systemically important institution <sup>M5</sup>;

[<sup>F11</sup>“G-SII buffer” means the own funds that a G-SII is required to maintain in accordance with Part 4 of these Regulations, corresponding to the sub-category to which the G-SII is allocated and consisting of and supplementary to the Common Equity Tier 1 capital;]

[<sup>F12</sup>“institution-specific countercyclical capital buffer” means—

- (a) in relation to a PRA-authorised person, the countercyclical capital buffer that the person must calculate in accordance with Chapter 3 of the Capital Buffers Part of the PRA rulebook;
- (aa) in relation to a parent financial holding company or a parent mixed financial holding company, a countercyclical capital buffer which the holding company [<sup>F13</sup>must calculate in accordance with Chapter 3 of the Capital Buffers Part of the PRA Rulebook;]
- (b) <sup>F14</sup>...]

“O-SII” means other systemically important institution <sup>M6</sup>;

[<sup>F15</sup>“O-SII buffer” has the meaning given in regulation 34ZA.]

[<sup>F16</sup>“parent financial holding company” and “parent mixed financial holding company” have the meanings given in section 192O(2) of FSMA;]

[<sup>F17</sup>“systemic risk buffer” has the meaning set out in regulation 34C(1) of these 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 or Article 3 (definitions) of the capital requirements directive has the meaning which it is given in that Article <sup>M7</sup>;
- (b) any other expression used in these Regulations which is defined in section 417 (definitions) of the Financial Services and Markets Act 2000 <sup>M8</sup> has the meaning given by that section.

[<sup>F18</sup>(2A) 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>F19</sup>forms part of retained EU law].]

**Changes to legislation:** The Capital Requirements (Capital Buffers and Macro-prudential Measures) Regulations 2014 is up to date with all changes known to be in force on or before 28 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

[<sup>F20</sup>[<sup>F21</sup>(3A)] In these Regulations—

- (a) a reference to the PRA rulebook is to the rulebook published by the Prudential Regulation Authority containing rules made by that Authority under FSMA as the rulebook has effect on IP completion day;]
- (b) .....<sup>F22</sup>
- <sup>F23</sup>(3) .....
- <sup>F24</sup>(4) .....

- F4** Words in [reg. 2\(1\)](#) omitted (1.1.2022) by virtue of [The Financial Services Act 2021 \(Prudential Regulation of Credit Institutions and Investment Firms\) \(Consequential Amendments and Miscellaneous Provisions\) Regulations 2021](#) (S.I. 2021/1376), regs. 1(3), [17\(2\)\(a\)](#)
- F5** Words in [reg. 2\(1\)](#) substituted (31.12.2020) by [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1401), regs. 1(3), [35\(2\)\(a\)](#) (as amended by S.I. 2020/1406, regs. 1(2), [13\(a\)\(ii\)](#)) and with savings in S.I. 2019/680, [reg. 11](#); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)
- F6** Words in [reg. 2\(1\)](#) substituted (1.1.2022) by [The Financial Services Act 2021 \(Prudential Regulation of Credit Institutions and Investment Firms\) \(Consequential Amendments and Miscellaneous Provisions\) Regulations 2021](#) (S.I. 2021/1376), regs. 1(3), [17\(2\)\(b\)\(i\)](#)
- F7** Words in [reg. 2\(1\)](#) omitted (1.1.2022) by virtue of [The Financial Services Act 2021 \(Prudential Regulation of Credit Institutions and Investment Firms\) \(Consequential Amendments and Miscellaneous Provisions\) Regulations 2021](#) (S.I. 2021/1376), regs. 1(3), [17\(2\)\(b\)\(ii\)](#)
- F8** 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), [35\(2\)\(b\)](#) (with savings in S.I. 2019/680, [reg. 11](#)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)
- F9** Words in [reg. 2\(1\)](#) substituted (29.12.2020) by [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1401), regs. 1(2A), [35\(2\)\(c\)](#) (as amended by S.I. 2020/1406, regs. 10, [13\(a\)\(iii\)](#)) and with savings in S.I. 2019/680, [reg. 11](#))
- F10** 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), [35\(2\)\(g\)](#) (as amended by S.I. 2020/1406, regs. 1(2), [13\(a\)\(vii\)](#)) and with savings in S.I. 2019/680, [reg. 11](#); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)
- F11** Words in [reg. 2\(1\)](#) substituted (31.12.2020) by [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1401), regs. 1(3), [35\(2\)\(d\)](#) (with savings in S.I. 2019/680, [reg. 11](#)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)
- F12** Words in [reg. 2\(1\)](#) substituted (31.12.2020) by [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1401), regs. 1(3), [35\(2\)\(e\)](#) (as amended by S.I. 2020/1406, regs. 1(2), [13\(a\)\(iv\)](#)) and with savings in S.I. 2019/680, [reg. 11](#); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)
- F13** Words in [reg. 2\(1\)](#) substituted (1.1.2022) by [The Financial Services Act 2021 \(Prudential Regulation of Credit Institutions and Investment Firms\) \(Consequential Amendments and Miscellaneous Provisions\) Regulations 2021](#) (S.I. 2021/1376), regs. 1(3), [17\(2\)\(c\)\(i\)](#)
- F14** Words in [reg. 2\(1\)](#) omitted (1.1.2022) by virtue of [The Financial Services Act 2021 \(Prudential Regulation of Credit Institutions and Investment Firms\) \(Consequential Amendments and Miscellaneous Provisions\) Regulations 2021](#) (S.I. 2021/1376), regs. 1(3), [17\(2\)\(c\)\(ii\)](#)
- F15** Words in [reg. 2\(1\)](#) substituted (29.12.2020) by [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1401), regs. 1(2A), [35\(2A\)](#) (as inserted by S.I. 2020/1406, regs. 1(2), [13\(b\)](#))
- F16** 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), [35\(ea\)](#) (as inserted by S.I. 2020/1406, regs. 1(2), [13\(a\)\(v\)](#)) and with savings in S.I. 2019/680, [reg. 11](#); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)
- F17** Words in [reg. 2\(1\)](#) substituted (29.12.2020) by [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1401), regs. 1(2A), [35\(2\)\(f\)](#) (as amended by S.I. 2020/1406, regs. 10, [13\(a\)\(vi\)](#)) and with savings in S.I. 2019/680, [reg. 11](#))

**Changes to legislation:** The Capital Requirements (Capital Buffers and Macro-prudential Measures) Regulations 2014 is up to date with all changes known to be in force on or before 28 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- F18** Reg. 2(2A) inserted (20.12.2018) by [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1401\)](#), regs. 1(2), **6**
- F19** Words in reg. 2(2A) 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)(f)**
- F20** Reg. 2(2A) inserted (31.12.2020) by [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1401\)](#), regs. 1(3), **35(3)** (as amended by S.I. 2020/1301, regs. 1, 3, **Sch. para. 11(b)**) and with savings in S.I. 2019/680, **reg. 11**; 2020 c. 1, **Sch. 5 para. 1(1)**
- F21** Reg. 2(2A) renumbered as reg. 2(3A) (1.1.2022) by [The Financial Services Act 2021 \(Prudential Regulation of Credit Institutions and Investment Firms\) \(Consequential Amendments and Miscellaneous Provisions\) Regulations 2021 \(S.I. 2021/1376\)](#), regs. 1(3), **17(3)(a)**
- F22** Reg. 2(3A)(b) omitted (1.1.2022) by virtue of [The Financial Services Act 2021 \(Prudential Regulation of Credit Institutions and Investment Firms\) \(Consequential Amendments and Miscellaneous Provisions\) Regulations 2021 \(S.I. 2021/1376\)](#), regs. 1(3), **17(3)(b)**
- F23** Reg. 2(3) omitted (31.12.2020) by virtue of [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1401\)](#), regs. 1(3), **35(4)** (with savings in S.I. 2019/680, **reg. 11**); 2020 c. 1, **Sch. 5 para. 1(1)**
- F24** Reg. 2(4) omitted (31.12.2020) by virtue of [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1401\)](#), regs. 1(3), **35(5)** (with savings in S.I. 2019/680, **reg. 11**); 2020 c. 1, **Sch. 5 para. 1(1)**

#### Marginal Citations

- M3** The Financial Policy Committee was established by section 9B of the [Bank of England Act 1998 \(c. 11\)](#), which was inserted by section 4(1) of the [Financial Services Act 2012 \(c. 21\)](#).
- M4** 2000 c. 8.
- M5** The terms “G-SII” and “global systemically important institution” are used in Article 131 of the capital requirements directive. “Systemically important institution” is defined in Article 3(30) of the capital requirements directive and applies here by virtue of regulation 2(2)(a).
- M6** The terms “O-SII” and “other systemically important institution” are used in Article 131 of the capital requirements directive. “Systemically important institution” is defined in Article 3(30) of the capital requirements directive and applies here by virtue of regulation 2(2)(a).
- M7** “authorisation”, “consolidated basis”, “financial holding company”, “institution”, “investment firm”, “mixed financial holding company”, “sub-consolidated basis” and “subsidiary” are all defined in these Articles.
- M8** 2000 c.8. Section 417 was amended by section 48(1) of the [Financial Services Act 2012 \(c. 21\)](#), **S.I. 2010/22**, **S.I. 2012/916** and **S.I. 2013/3115**. There are other amending enactments, but none is relevant to these Regulations. Section 417 includes definitions of “capital requirements directive”, “capital requirements regulation” and “Tribunal”.

### Conferral of functions or discretion on the FPC

3. Where these Regulations confer a function or discretion on the FPC, the FPC must exercise that function or discretion.

### Appeals: application of Part 9 of the Financial Services and Markets Act 2000

4. Part 9 of FSMA (hearings and appeals) applies to a reference to the Tribunal under these regulations as it applies to a reference to the Tribunal under an Act.

**Changes to legislation:** The Capital Requirements (Capital Buffers and Macro-prudential Measures) Regulations 2014 is up to date with all changes known to be in force on or before 28 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

## PART 2

### Capital conservation buffer

#### Transitional provisions: 1st January 2016 to 31st December 2018

5.—(1) The appropriate regulator must apply the capital conservation buffer in accordance with the following transitional provisions.

(2) In 2016, the capital conservation buffer must consist of common equity tier 1 capital equal to 0.625% of the total of the risk-weighted exposure amounts of an institution.

(3) In 2017, the capital conservation buffer must consist of common equity tier 1 capital equal to 1.25% of the total of the risk-weighted exposure amounts of an institution.

(4) In 2018, the capital conservation buffer must consist of common equity tier 1 capital equal to 1.875% of the total of the risk-weighted exposure amounts of an institution.

(5) The risk weighted exposure amounts of an institution must be calculated in accordance with Article 92(3) of the capital requirements regulation.

#### Exemption for small and medium-sized investment firms

<sup>F25</sup>6. ....

**F25** Reg. 6 omitted (1.1.2022) by virtue of [The Financial Services Act 2021 \(Prudential Regulation of Credit Institutions and Investment Firms\) \(Consequential Amendments and Miscellaneous Provisions\) Regulations 2021 \(S.I. 2021/1376\)](#), regs. 1(3), **17(4)**

## PART 3

### Countercyclical Capital Buffer

#### CHAPTER 1

[<sup>F26</sup>Overview and interpretation]

**F26** Pt. 3 Ch. 1 heading substituted (31.12.2020) by [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1401\)](#), regs. 1(3), **37** (with savings in [S.I. 2019/680](#), reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

[<sup>F27</sup>Overview

7.—(1) This Part makes provision—

(a) for how the Bank—

(i) must assess and set a countercyclical capital buffer rate for the United Kingdom (which relates to exposures located in the United Kingdom), and;

(ii) may recognise or set buffer rates for exposures which are located in countries other than the United Kingdom and held by UK institutions.

(b) for how the PRA is to apply institution-specific countercyclical capital buffers to parent financial holding companies and parent mixed financial holding companies.

**Changes to legislation:** The Capital Requirements (Capital Buffers and Macro-prudential Measures) Regulations 2014 is up to date with all changes known to be in force on or before 28 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

(2) The buffer rates mentioned in paragraph (1) must be used in the determination of institution-specific countercyclical capital buffers.]

**F27** Reg. 7 substituted (31.12.2020) by [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1401\)](#), regs. 1(3), **38** (as amended by [S.I. 2020/1406](#), regs. 1(2), **14** and with savings in [S.I. 2019/680](#), **reg. 11**); 2020 c. 1, **Sch. 5 para. 1(1)**

## Meaning of “UK institution”

8. In this Part—

**F28** ...

“UK institution” means an institution with permission to carry on a regulated activity under Part 4A of FSMA.

**F28** Words in [reg. 8](#) omitted (31.12.2020) by virtue of [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1401\)](#), regs. 1(3), **39** (with savings in [S.I. 2019/680](#), **reg. 11**); 2020 c. 1, **Sch. 5 para. 1(1)**

## CHAPTER 2

### Exposures located in the United Kingdom

#### The buffer guide

9.—(1) The FPC must calculate for every quarter a buffer guide as a reference to guide its exercise of judgement in assessing and setting the buffer rate in accordance with regulation 10.

(2) The buffer guide must—

- (a) reflect, in a meaningful way, the credit cycle and the risks due to excess credit growth in the United Kingdom; and
- (b) duly take into account the specificities of the economy of the United Kingdom.

(3) The buffer guide must be based on the deviation of the ratio of credit to gross domestic product from its long term trend, taking into account—

- (a) an indicator of the growth of levels of credit within the United Kingdom and, in particular, an indicator reflecting the changes in the ratio of credit granted in the United Kingdom to gross domestic product; **F29** ...

**F29**(b) .....

**F29** [Reg. 9\(3\)\(b\)](#) and word omitted (31.12.2020) by virtue of [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1401\)](#), regs. 1(3), **40** (with savings in [S.I. 2019/680](#), **reg. 11**); 2020 c. 1, **Sch. 5 para. 1(1)**

#### Countercyclical buffer rate

10.—(1) The FPC must assess and set a buffer rate for the United Kingdom.

(2) The purpose of the buffer rate is to enable institutions with exposures located in the United Kingdom to calculate their institution-specific countercyclical capital buffers.

(3) The buffer rate must be assessed and set on a quarterly basis, taking into account—

- (a) the buffer guide calculated in accordance with regulation 9(1);



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<sup>F30</sup>(b) .....

<sup>F30</sup>(c) .....

(d) any other variables that the FPC considers relevant for addressing cyclical systemic risk.

(4) The buffer rate must be expressed as a percentage of the total risk exposure of institutions with exposures located in the United Kingdom.

(5) Total risk exposure must be calculated in accordance with Article 92(3) of the capital requirements regulation.

(6) The buffer rate must be—

(a) set between 0% and 2.5%, except where the matters referred to in paragraph (3) justify a higher rate; and

(b) an integer multiple of 0.25%.

**F30** Reg. 10(3)(b)(c) omitted (31.12.2020) by virtue of [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1401\)](#), regs. 1(3), **41** (with savings in [S.I. 2019/680](#), reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

### Date from which changes to the buffer rate apply

**11.—**(1) Where the FPC—

(a) sets the buffer rate above zero for the first time; or

(b) increases the buffer rate;

it must decide the date from which UK institutions must apply the buffer rate for the purposes of calculating their institution-specific countercyclical capital buffers.

(2) The date referred to in paragraph (1) must be 12 months after the date when the buffer rate is published in accordance with regulation 12(1), unless an earlier date is justified on the basis of exceptional circumstances.

(3) Where the FPC reduces the buffer rate, it must decide on an indicative period during which no increase in that rate is expected.

(4) The indicative period referred to in paragraph (3) is not be binding on the FPC.

### Announcement of changes to the buffer rate

**12.—**(1) The Bank must publish the following information on its website—

(a) the buffer rate assessed and set by the FPC in accordance with regulation 10(1);

(b) the relevant ratio of credit to gross domestic product and its deviation from the long-term trend;

(c) the buffer guide calculated by the FPC in accordance with regulation 9;

(d) the reasons for the FPC's decision on the level of the buffer rate.

(2) Where the FPC decides to increase the buffer rate, the Bank must publish on its website—

(a) the date from which UK institutions must apply the new buffer rate for the purposes of calculating their institution-specific countercyclical capital buffer; and

(b) any exceptional circumstances which justify any decision by the FPC to require institutions to apply the new buffer rate less than a year after it is published.

(3) Where the FPC decides to decrease the buffer rate, the Bank must publish on its website the indicative period referred to in regulation 11(3) and the FPC's reasons for choosing that period.



**Changes to legislation:** The Capital Requirements (Capital Buffers and Macro-prudential Measures) Regulations 2014 is up to date with all changes known to be in force on or before 28 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

<sup>F31</sup>(4) .....

<sup>F31</sup>(5) .....

**F31** Reg. 12(4)(5) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **42** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

### [<sup>F32</sup>Buffer rate rules

**12A.**—(1) Nothing in paragraph 17(9)(b) of Schedule 6A to the Bank of England Act 1998 <sup>F33</sup>... prohibits the making of a rule by the PRA <sup>F33</sup>... that references a countercyclical capital buffer rate set by the FPC under this Part.]

**F32** Reg. 12A inserted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **43** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

**F33** Words in reg. 12A(1) omitted (1.1.2022) by virtue of The Financial Services Act 2021 (Prudential Regulation of Credit Institutions and Investment Firms) (Consequential Amendments and Miscellaneous Provisions) Regulations 2021 (S.I. 2021/1376), regs. 1(3), **17(5)**

## CHAPTER 3

### Exposures located outside the United Kingdom

### [<sup>F34</sup>Buffer rates for EEA exposures: savings provision

**14.**—(1) Where, on or before IP completion day—

- (a) an EEA authority set a buffer rate (“the EEA buffer rate”) for that EEA state for the purpose of enabling institutions in that EEA State to calculate their institution-specific countercyclical capital buffer,
- (b) the EEA buffer rate exceeded 2.5%, and
- (c) the EEA buffer rate was recognised by the FPC, so that UK institutions with exposures located in that EEA State could be required by the PRA and FCA to apply it in their calculation of their institution-specific countercyclical capital buffers,

the FPC's decision to recognise the EEA buffer rate must be treated after IP completion day as though it were a decision made under regulation 15 of these Regulations.]

**F34** Reg. 14 substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **44** (as amended by S.I. 2020/1301, regs. 1, 3, Sch. para. 11(c) and with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

### Buffer rates for exposures outside the [<sup>F35</sup>UK]

**15.**—(1) This regulation specifies the circumstances in which the FPC may recognise or set a buffer rate for exposures—

- (a) held by a UK institution; and
- (b) located in a country [<sup>F36</sup>other than the United Kingdom] (a “third country”).

**Changes to legislation:** The Capital Requirements (Capital Buffers and Macro-prudential Measures) Regulations 2014 is up to date with all changes known to be in force on or before 28 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

(2) Where the supervisory authority of the third country has not set and published a buffer rate for a capital buffer serving the same purpose as the countercyclical capital buffer, the FPC may set a buffer rate for the third country.

(3) Where the supervisory authority of the third country sets a buffer rate of more than 2.5% for a capital buffer serving the same purpose as the countercyclical capital buffer, the FPC may recognise that buffer rate.

(4) Where the supervisory authority of the third country sets a buffer rate (the “third country buffer rate”) for a capital buffer serving the same purpose as the countercyclical capital buffer and the FPC reasonably considers that the third country buffer rate is not sufficient to protect UK institutions from the risks of excessive credit growth in the third country, the FPC may—

- (a) set a buffer rate for the third country which is higher than the third country buffer rate; or
- (b) set a buffer rate for the third country which is lower than the third country buffer rate, provided the buffer rate set by the FPC exceeds 2.5%.

(5) The purpose for which a buffer rate may be recognised or set under this regulation is so that UK institutions with exposures located in the third country may be required by the PRA and FCA to apply that buffer rate in their calculation of their institution-specific countercyclical capital buffers.

- F35** Word in [reg. 15](#) heading substituted (31.12.2020) by [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1401), [regs. 1\(3\), 45\(a\)](#) (with savings in S.I. 2019/680, [reg. 11](#)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)
- F36** Words in [reg. 15\(1\)\(b\)](#) substituted (31.12.2020) by [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1401), [regs. 1\(3\), 45\(b\)](#) (with savings in S.I. 2019/680, [reg. 11](#)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)

### Buffer rates: integer multiples of 0.25%

**16.** A buffer rate set by the FPC under regulation 13(2)(b), 15(2) or 15(4) must be an integer multiple of 0.25%.

### Date of application of buffer rates

**17.—(1)** Where FPC—

- (a) recognises or sets a buffer rate under [<sup>F37</sup>regulation 15] in relation to exposures located outside the United Kingdom; and
- (b) the buffer rate is higher than the buffer rate which UK institutions are currently required to apply in relation to those exposures when calculating their institution-specific countercyclical capital buffers;

then the FPC must decide the date from which UK institutions must apply the buffer rate for the purposes of calculating their institution-specific countercyclical capital buffers.

(2) The date referred to in paragraph (1)—

- (a) may only be earlier than 12 months after the date when the buffer rate is published if such a date is justified on the basis of exceptional circumstances; and
- (b) may not be later than 12 months after the date when the buffer rate is published where the FPC has set the buffer rate under regulation 15(2) or 15(4).

- F37** Words in [reg. 17\(1\)\(a\)](#) substituted (31.12.2020) by [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1401), [regs. 1\(3\), 46](#) (with savings in S.I. 2019/680, [reg. 11](#)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)

## Announcement of changes to buffer rates

**18.**—(1) Where the FPC recognises or sets a buffer rate under [<sup>F38</sup>regulation 15], the Bank must publish the FPC's decision on its website.

(2) The Bank must also publish the following information when a decision is published under paragraph (1)—

- (a) the buffer rate;
- (b) where the FPC has set the buffer rate under regulation 15(2) or 15(4), the justification for the buffer rate;
- (c) the <sup>F39</sup>...country to which that buffer rate applies;
- (d) the date from which the buffer rate applies; and
- (e) any exceptional circumstances justifying a date of application of less than twelve months after the date of publication.

- F38** Words in [reg. 18\(1\)](#) substituted (31.12.2020) by [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1401\)](#), [regs. 1\(3\), 47\(a\)](#) (with savings in [S.I. 2019/680](#), [reg. 11](#)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)
- F39** Words in [reg. 18\(2\)\(c\)](#) omitted (31.12.2020) by virtue of [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1401\)](#), [regs. 1\(3\), 47\(b\)](#) (with savings in [S.I. 2019/680](#), [reg. 11](#)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)

## CHAPTER 4

### Institution-specific countercyclical capital buffers

#### [<sup>F40</sup>Application of the institution-specific countercyclical capital buffer to holding companies]

**19A.** Where the PRA makes rules under section 192V of FSMA requiring a parent financial holding company or a parent mixed financial holding company (a “holding company”) to calculate an institution-specific countercyclical capital buffer—

- (a) the buffer rate set by the FPC under regulation 10, or recognised or set under regulation 15, is to apply to the holding company as it applies to a UK institution;
- (b) the date set by the FPC for the application—
  - (i) of a change in the buffer rate under regulation 11, or
  - (ii) of a buffer rate recognised or set under regulation 15,
 is to apply to the holding company as it applies to a UK institution.]

- F40** [Reg. 19A](#) inserted (31.12.2020) by [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1401\)](#), [regs. 1\(3\), 47A](#) (as inserted by [S.I. 2020/1406](#), [regs. 1\(2\), 15](#) and with savings in [S.I. 2019/680](#), [reg. 11](#)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)

## Exemption for small and medium-sized investment firms

<sup>F41</sup>**20.** .....

**Changes to legislation:** The Capital Requirements (Capital Buffers and Macro-prudential Measures) Regulations 2014 is up to date with all changes known to be in force on or before 28 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

**F41** Reg. 20 omitted (1.1.2022) by virtue of The Financial Services Act 2021 (Prudential Regulation of Credit Institutions and Investment Firms) (Consequential Amendments and Miscellaneous Provisions) Regulations 2021 (S.I. 2021/1376), regs. 1(3), **17(6)**

## PART 4

### G-SII Buffer

#### [<sup>F42</sup>Duty of PRA to identify G-SIIs

**21.** The PRA must identify G-SIIs in accordance with the provisions of this Part.]

**F42** Reg. 21 substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **49** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

#### G-SIIs: location and nature

**22.—(1)** A G-SII must be—

- (a) a person with permission to carry on a regulated activity for the purposes of Part 4A of FSMA; or
- (b) a person established in the United Kingdom.

[<sup>F43</sup>(2) A G-SII must also be—

- (a) a group, the parent undertaking of which is—
  - (i) a UK parent institution,
  - (ii) a UK parent financial holding company, or
  - (iii) a UK parent mixed financial holding company, or
- (b) an institution authorised in the United Kingdom which is not a subsidiary of a body mentioned in sub-paragraph (a)(i) to (iii).]

**F43** Reg. 22(2) substituted (29.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(2A), **50** (as amended by S.I. 2020/1406, regs. 10, **16(1)**) and with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

#### Identification methodology

**23.—(1)** In order to identify whether a [<sup>F44</sup>particular group or body] (“the [<sup>F45</sup>relevant institution]”) is a G-SII, the PRA must apply an identification methodology to the [<sup>F45</sup>relevant institution] on a consolidated basis.

[<sup>F46</sup>(2) Where the parent undertaking of the relevant institution is a UK parent institution, a UK parent financial holding company or a UK parent mixed financial holding company, the identification methodology must be applied in accordance with Commission Delegated Regulation (EU) No 1222/2014 or any technical standards made by the PRA under the functions conferred on it by Article 464B(3) of the capital requirements regulation.]

(3) The identification methodology must be based on the following criteria—

- (a) the size of the group [<sup>F47</sup>concerned];
  - (b) the interconnectness of the group within the financial system;
  - (c) the extent to which an entity or entities outside the group could provide the services or financial infrastructure which the group provides;
  - (d) the complexity of the group;
  - (e) the extent of the group's cross-border activity, including cross-border activity between EEA States and between an EEA State and a country outside the EEA.
- (4) Each criteria in the identification methodology must consist of quantifiable indicators and be given an equal weighting.
- (5) The identification methodology must result in an overall score for the [<sup>F48</sup>relevant institution] which allows the PRA to—
- (a) determine whether the [<sup>F48</sup>relevant institution] is a G-SII; and
  - (b) if the [<sup>F48</sup>relevant institution] is a G-SII, allocate the [<sup>F48</sup>relevant institution] to an appropriate sub-category of G-SII;

in accordance with the sub-categories of G-SII defined by the PRA in accordance with regulation 24.

- |            |  |
|------------|--|
| <b>F44</b> | Words in reg. 23(1) substituted (29.12.2020) by S.I. 2018/1401, <b>reg. 51(za)(i)</b> (as inserted by <a href="#">The Financial Holding Companies (Approval etc.) and Capital Requirements (Capital Buffers and Macro-prudential Measures) (Amendment) (EU Exit) Regulations 2020</a> (S.I. 2020/1406), regs. 1(2), <b>16(2)(a)</b> )      |
| <b>F45</b> | Words in reg. 23(1) substituted (29.12.2020) by S.I. 2018/1401, <b>reg. 51(za)(ii)</b> (as inserted by <a href="#">The Financial Holding Companies (Approval etc.) and Capital Requirements (Capital Buffers and Macro-prudential Measures) (Amendment) (EU Exit) Regulations 2020</a> (S.I. 2020/1406), regs. 1(2), <b>16(2)(a)</b> )     |
| <b>F46</b> | Reg. 23(2) substituted (29.12.2020) by <a href="#">The Capital Requirements (Amendment) (EU Exit) Regulations 2018</a> (S.I. 2018/1401), regs. 1(2A), <b>51(a)</b> (as amended by S.I. 2020/1406, regs. 10, 16(2)(b) and with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)   |
| <b>F47</b> | Words in reg. 23(3)(a) substituted (29.12.2020) by S.I. 2018/1401, <b>reg. 51(b)(i)</b> (as substituted by <a href="#">The Financial Holding Companies (Approval etc.) and Capital Requirements (Capital Buffers and Macro-prudential Measures) (Amendment) (EU Exit) Regulations 2020</a> (S.I. 2020/1406), regs. 1(2), <b>16(2)(c)</b> ) |
| <b>F48</b> | Words in reg. 23(5) substituted (29.12.2020) by S.I. 2018/1401, <b>reg. 51(c)</b> (as inserted by <a href="#">The Financial Holding Companies (Approval etc.) and Capital Requirements (Capital Buffers and Macro-prudential Measures) (Amendment) (EU Exit) Regulations 2020</a> (S.I. 2020/1406), regs. 1(2), <b>16(2)(d)</b> )          |

### Sub-categories of G-SII and corresponding buffer rates

- 24.—**(1) The PRA must define the sub-categories of G-SII in accordance with this regulation and [<sup>F49</sup>Commission Delegated Regulation (EU) 1222/2014 or any technical standards made by the PRA under the functions conferred on it by Article 464B(3) of the capital requirements regulation.]
- (2) There must be five or six sub-categories of G-SII.
  - (3) The lowest boundary and the boundaries between each sub-category must be determined by the scores under the identification methodology.
  - (4) The cut-off scores between adjacent sub-categories must—
    - (a) be defined clearly; and
    - (b) ensure that there is a linear relationship between the systemic significance represented by the sub-categories and the G-SII buffer rates assigned to those sub-categories.

**Changes to legislation:** The Capital Requirements (Capital Buffers and Macro-prudential Measures) Regulations 2014 is up to date with all changes known to be in force on or before 28 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

(5) Where there are five sub-categories, the cut-off score between the highest sub-category and the sub-category immediately below it need not comply with paragraph (4)(b).

(6) The following G-SII buffer rates must be assigned to the sub-categories—

- (a) 1% for the lowest sub-category;
- (b) 3.5% for the highest sub-category;
- (c) for all other sub-categories, the rate must be 0.5% higher than the rate assigned to the sub-category immediately below it.

**F49** Words in [reg. 24\(1\)](#) substituted (31.12.2020) by [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1401\)](#), [regs. 1\(3\), 52](#) (with savings in [S.I. 2019/680](#), [reg. 11](#)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)

### Re-allocation in exercise of sound supervisory judgement

**25.** The PRA may, in the exercise of sound supervisory judgement—

- (a) determine that [<sup>F50</sup>a group or] a body is a G-SII, notwithstanding the fact that [<sup>F51</sup>the group or] the body is not recognised as a G-SII in accordance with the PRA's identification methodology and the sub-categories which the PRA has defined;
- (b) allocate a G-SII to a higher sub-category to that indicated by its score under the identification methodology and the sub-categories which the PRA has defined.

**F50** Words in [reg. 25\(a\)](#) inserted (29.12.2020) by [S.I. 2018/1401](#), [reg. 52A\(a\)](#) (as inserted 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\(2\), 16\(3\)](#))

**F51** Words in [reg. 25\(a\)](#) inserted (29.12.2020) by [S.I. 2018/1401](#), [reg. 52A\(b\)](#) (as inserted 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\(2\), 16\(3\)](#))

### Notification, publication and review

**26.**—<sup>F52</sup>(1) .....

<sup>F52</sup>(2) .....

<sup>F52</sup>(3) .....

(4) The PRA must publish an up-to-date list of the names of the G-SIIs it has identified and the sub-category to which each has been allocated.

(5) The PRA must review its identification of G-SIIs and their allocation to sub-categories annually and report the results of its review [<sup>F53</sup>to the UK parent institution, UK parent financial holding company, UK parent mixed financial holding company or institution concerned], <sup>F54</sup>....

**F52** [Reg. 26\(1\)-\(3\)](#) omitted (31.12.2020) by virtue of [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1401\)](#), [regs. 1\(3\), 53\(a\)](#) (with savings in [S.I. 2019/680](#), [reg. 11](#)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)

**F53** Words in [reg. 26\(5\)](#) substituted (29.12.2020) by virtue of [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1401\)](#), [regs. 1\(2A\), 53\(b\)\(i\)](#) (as substituted by [S.I. 2020/1406](#), [regs. 1\(2\), 16\(4\)](#)) and with savings in [S.I. 2019/680](#), [reg. 11](#))

**Changes to legislation:** The Capital Requirements (Capital Buffers and Macro-prudential Measures) Regulations 2014 is up to date with all changes known to be in force on or before 28 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

**F54** Words in [reg. 26\(5\)](#) omitted (31.12.2020) by virtue of [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1401), [regs. 1\(2A\)](#), [53\(b\)\(ii\)](#) (as substituted by S.I. 2020/1406, [regs. 1\(2\)](#), [16\(4\)](#)) and with savings in S.I. 2019/680, [reg. 11](#); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)

## Appeals

**27.—(1)** Where a person is aggrieved at the PRA's decision—

- (a) that the person [<sup>F55</sup>or a group for which the person is UK parent institution, UK parent financial holding company, UK parent mixed financial holding company (a “relevant group”),] is, or is not, a G-SII; or
- (b) to allocate that person [<sup>F56</sup>or the relevant group] to a particular sub-category of G-SII;

then the person may refer the matter to the Tribunal.

(2) The scope of an appeal under paragraph (1) is limited to the application of the PRA's identification methodology and sub-categories of G-SII to the aggrieved person [<sup>F57</sup>or the relevant group] .

- F55** Words in [reg. 27\(1\)\(a\)](#) inserted (29.12.2020) by [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1401), [regs. 1\(2A\)](#), [53A\(a\)\(i\)](#) (as inserted by S.I. 2020/1406, [regs. 1\(2\)](#), [16\(5\)](#))
- F56** Words in [reg. 27\(1\)\(b\)](#) inserted (29.12.2020) by [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1401), [regs. 1\(2A\)](#), [53A\(a\)\(ii\)](#) (as inserted by S.I. 2020/1406, [regs. 1\(2\)](#), [16\(5\)](#))
- F57** Words in [reg. 27\(2\)](#) inserted (29.12.2020) by [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1401), [regs. 1\(2A\)](#), [53A\(b\)](#) (as inserted by S.I. 2020/1406, [regs. 1\(2\)](#), [16\(5\)](#))

## Transitional provision: 1st January 2016 to 31st December 2019

<sup>F58</sup>**28.** . . . . .

**F58** [Reg. 28](#) omitted (31.12.2020) by virtue of [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1401), [regs. 1\(3\)](#), [54](#) (with savings in S.I. 2019/680, [reg. 11](#)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)

## PART 5

### O-SIIs

#### [<sup>F59</sup>Duty of PRA to identify O-SIIs

**29.** The PRA must identify O-SIIs in accordance with the provisions of this Part.]

**F59** [Reg. 29](#) substituted (31.12.2020) by [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1401), [regs. 1\(3\)](#), [55](#) (with savings in S.I. 2019/680, [reg. 11](#)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)



**Changes to legislation:** The Capital Requirements (Capital Buffers and Macro-prudential Measures) Regulations 2014 is up to date with all changes known to be in force on or before 28 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

## O-SIIs: location and nature

**30.—**(1) An O-SII must be—

- (a) a person with permission to carry on a regulated activity for the purposes of Part 4A of FSMA; or
- (b) a person established in the United Kingdom.

(2) An O-SII must also be—

<sup>F60</sup>(a) a group, the parent undertaking of which is—

- (i) a UK parent institution,
- (ii) a UK parent financial holding company, or
- (iii) a UK parent mixed financial holding company, or

(b) an institution.]

**F60** Reg. 30(2)(a)-(b) substituted for reg. 30(2)(a)-(d) (29.12.2020) by [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1401\)](#), regs. 1(2A), **56** (as amended by S.I. 2020/1046, reg. 10, **17(1)**) and with savings in S.I. 2019/680, **reg. 11**); 2020 c. 1, **Sch. 5 para. 1(1)**

## Identification of O-SIIs

**31.—**(1) In order to assess whether a [<sup>F61</sup>particular group or body] (“the [<sup>F62</sup>relevant institution]”) is an O-SII, the PRA must base its assessment on the systemic importance of the [<sup>F62</sup>relevant institution] on an individual, sub-consolidated or consolidated basis.

(2) The assessment of systemic importance must include a consideration of one or more of the following criteria—

- (a) the size of the [<sup>F63</sup>relevant institution];
- (b) the importance of the [<sup>F63</sup>relevant institution] to economy of the United Kingdom <sup>F64</sup>...;
- (c) the significance of the [<sup>F65</sup>relevant institution’s] cross-border activities; and
- (d) the interconnectedness of the [<sup>F63</sup>relevant institution], or [<sup>F66</sup>, in the case of an institution,] the group to which it belongs, with the financial system.

**F61** Words in [reg. 31\(1\)](#) substituted (29.12.2020) by [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1401\)](#), regs. 1(2A), **57(a)(i)** (as substituted by S.I. 2020/1406, regs. 1(2), **17(2)**)

**F62** Words in [reg. 31\(1\)](#) substituted (29.12.2020) by [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1401\)](#), regs. 1(2A), **57(a)(ii)** (as substituted by S.I. 2020/1406, regs. 1(2), **17(2)**)

**F63** Words in [reg. 31\(2\)](#) substituted (29.12.2020) by [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1401\)](#), regs. 1(2A), **57(b)(i)** (as substituted by S.I. 2020/1406, regs. 1(2), **17(2)**)

**F64** Words in [reg. 31\(2\)\(b\)](#) omitted (31.12.2020) by virtue of [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1401\)](#), regs. 1(3), **57(b)(ii)** (as substituted by S.I. 2020/1406, regs. 1(2), **17(2)**) and with savings in S.I. 2019/680, **reg. 11**); 2020 c. 1, **Sch. 5 para. 1(1)**

**F65** Words in [reg. 31\(2\)\(c\)](#) substituted (29.12.2020) by [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1401\)](#), regs. 1(2A), **57(b)(iii)** (as substituted by S.I. 2020/1406, regs. 1(2), **17(2)**)

**Changes to legislation:** The Capital Requirements (Capital Buffers and Macro-prudential Measures) Regulations 2014 is up to date with all changes known to be in force on or before 28 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

**F66** Words in [reg. 31\(1\)\(d\)](#) inserted (29.12.2020) by [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1401\)](#), [regs. 1\(2A\)](#), [57\(b\)\(iv\)](#) (as substituted by [S.I. 2020/1406](#), [regs. 1\(2\)](#), [17\(2\)\(2\)](#)))

## [<sup>F67</sup>Publication and review]

**32.—**<sup>F68</sup>(1) .....

(2) The PRA must publish an up-to-date list of the names of the O-SIIs it has identified.

(3) The PRA must review its identification of O-SIIs annually and report the results of its review to [<sup>F69</sup>to the UK parent institution, UK parent financial holding company, UK parent mixed financial holding company or institution concerned]<sup>F70</sup>....

**F67** [Reg. 32](#) heading substituted (31.12.2020) by [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1401\)](#), [regs. 1\(3\)](#), [58\(a\)](#) (with savings in [S.I. 2019/680](#), [reg. 11](#)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#))

**F68** [Reg. 32\(1\)](#) omitted (31.12.2020) by virtue of [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1401\)](#), [regs. 1\(3\)](#), [58\(b\)](#) (with savings in [S.I. 2019/680](#), [reg. 11](#)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#))

**F69** Words in [reg. 32\(3\)](#) substituted (31.12.2020) by [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1401\)](#), [regs. 1\(3\)](#), [58\(c\)\(i\)](#) (as substituted by [S.I. 2020/1406](#), [regs. 1\(2\)](#), [17\(3\)](#)) and with savings in [S.I. 2019/680](#), [reg. 11](#)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#))

**F70** Words in [reg. 32\(3\)](#) omitted (31.12.2020) [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1401\)](#), [regs. 1\(3\)](#), [58\(c\)\(ii\)](#) (as substituted by [S.I. 2020/1406](#), [regs. 1\(2\)](#), [17\(3\)](#)) and with savings in [S.I. 2019/680](#), [reg. 11](#)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#))

## Appeals

**33.** Where a person is aggrieved at the PRA's decision that the person [<sup>F71</sup>or a group for which the person is UK parent institution, UK parent financial holding company, or UK parent mixed financial holding company (a relevant group)], is, or is not, an O-SII, then the person may refer the matter to the Tribunal.

**F71** Words in [reg. 33](#) inserted (29.12.2020) by [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1401\)](#), [regs. 1\(2A\)](#), [58A](#) (as inserted by [S.I. 2020/1406](#), [regs. 1\(2\)](#), [17\(4\)](#)))

## [<sup>F72</sup>PART 5ZA

### O-SII Buffers

**F72** [Pt. 5ZA](#) substituted for [reg. 34](#) (29.12.2020) by [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1401\)](#), [regs. 1\(2A\)](#), [59](#) (as amended by [S.I. 2020/1406](#), [regs. 1\(2\)](#), [10](#), [18](#)))

## CHAPTER 1

### Interpretation and power to impose O-SII buffer

## Interpretation

**34.—**(1) For the purposes of this Part, a relevant O-SII is an O-SII, or part of an O-SII, which is—

**Changes to legislation:** The Capital Requirements (Capital Buffers and Macro-prudential Measures) Regulations 2014 is up to date with all changes known to be in force on or before 28 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (a) a ring-fenced body within the meaning of section 142A of FSMA;
- (b) a large building society; or
- (c) a financial holding company or a mixed financial holding company which—
  - (i) has a ring-fenced body or a large building society as a subsidiary; and
  - (ii) is required, whether by the PRA by a direction under section 192C of FSMA or otherwise, to comply with the requirements of the capital requirements regulation [<sup>F73</sup>, CRR rules] and Directive 2013/36/EU UK law on a sub-consolidated basis.
- (2) In paragraph (1)(b) “large building society” means a building society where the sum total of the following two values exceeds £25 billion—
  - (a) the value of shares issued by the building society that are not deferred shares; and
  - (b) the value of deposits held in accounts with the building society where one or more of the account holders is a small business.
- (3) In paragraph (1)(c), “Directive 2013/36/EU UK law”, “financial holding company” and “mixed financial holding company” have the meanings given in section 192O of FSMA [<sup>F74</sup> and “CRR rules” has the meaning given in section 144A of that Act].
- (4) In paragraph (2)—
  - (a) “building society”, “deferred shares”, “deposit” and “share” have the meaning given by section 119 (interpretation) of the Building Societies Act 1986;
  - (b) a person is a small business only if the person is a small business for the purposes of section 7(10) (the funding limit) of the Building Societies Act 1986.
- (5) For the purposes of this Part—
  - “buffer rate” has the meaning given in regulation 34ZA(2);
  - “FPC framework” has the meaning given in regulation 34ZB(1);
  - “O-SII buffer” has the meaning given in regulation 34ZA(1).

**F73** Words in reg. 34(1)(c)(ii) inserted (1.1.2022) by The Financial Services Act 2021 (Prudential Regulation of Credit Institutions and Investment Firms) (Consequential Amendments and Miscellaneous Provisions) Regulations 2021 (S.I. 2021/1376), regs. 1(3), **17(7)(a)**

**F74** Words in reg. 34(3) inserted (1.1.2022) by The Financial Services Act 2021 (Prudential Regulation of Credit Institutions and Investment Firms) (Consequential Amendments and Miscellaneous Provisions) Regulations 2021 (S.I. 2021/1376), regs. 1(3), **17(7)(b)**

## Power for the PRA to require an O-SII buffer to be maintained

**34ZA.—**(1) The PRA may require a relevant O-SII to maintain Common Equity Tier 1 capital, to be known as an “O-SII buffer”.

(2) The amount of capital which the PRA may require a relevant O-SII to hold (“the buffer rate”) must be expressed as a percentage of the relevant O-SII’s total risk exposure amount calculated in accordance with Article 92(3) of the capital requirements regulation.

## CHAPTER 2

### United Kingdom buffer rates for O-SIIs

#### O-SII buffer rates: The FPC framework

**34ZB.—**(1) The FPC must have a framework for O-SII buffer rates in the United Kingdom established in accordance with this regulation (“the FPC framework”).

- (2) The FPC framework must contain the following elements—
- (a) a set of criteria for assessing the extent to which the failure or distress of a relevant O-SII might pose a risk to the financial system;
  - (b) a methodology for measuring the criteria and giving a relevant O-SII a single score in relation to the criteria; and
  - (c) in relation to each score that an O-SII may receive, a buffer rate that corresponds to the score.
- (3) In paragraph (2)(a), a relevant O-SII is in distress only if it experiences a significant deterioration in its financial situation.
- (4) In paragraph (2)(a) the criteria to be specified must each be—
- (a) measurable; and
  - (b) capable of being applied to a relevant O-SII on an individual basis, a sub-consolidated basis and a consolidated basis.
- (5) In paragraph (2)(c) the only buffer rates that the FPC may specify are 0%, 1%, 1.5%, 2%, 2.5% and 3%.
- (6) The way in which buffer rates correspond to scores in the FPC framework—
- (a) must be clear, precise and unambiguous;
  - (b) must ensure that a score corresponds to one buffer rate only;
  - (c) may not be expressed in terms of a discretion conferred on a person or body (including the FPC); and
- may be expressed by way of a formula, an algorithm, a graph or a table.
- (7) The Bank must publish each element of the FPC framework, together with the FPC's justification for each element.

### **Determination by PRA of buffer rates for individual relevant O-SIIs**

- 34ZC.**—(1) The PRA may, in relation to each relevant O-SII, determine—
- (a) whether or not to set a buffer rate for the O-SII; and
  - (b) where it does set a buffer rate, subject to paragraph (3), the level of the rate;
- by applying the steps set out in paragraph (2).
- (2) The steps set out in this paragraph are—

#### *Step 1—determining level of consolidation*

The PRA must choose one of the following bases on which to apply the criteria specified in the FPC framework to the relevant O-SII—

- (a) (a) an individual basis;
- (b) (b) a sub-consolidated basis; or
- (c) (c) a consolidated basis.

#### *Step 2—deriving a framework buffer rate from the FPC framework*

The PRA must derive a buffer rate from the FPC framework for the relevant O-SII (“a framework buffer rate”) by—

- (a) (a) applying the methodology of the FPC framework to obtain a score for the relevant O-SII; and
- (b) (b) ascertaining to what buffer rate the score corresponds under the FPC framework.

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*Step 3—setting a buffer rate for a relevant O-SII based on supervisory judgment*

The PRA may, if it makes a sound supervisory judgment that it is appropriate to do so—

- (a) (a) set a buffer rate for a relevant O-SII, even if it has derived a framework buffer rate for the institution of 0% under Step 2;
- (b) (b) set a buffer rate for a relevant O-SII which is different to the framework buffer rate derived for the institution under Step 2; or
- (c) (c) set no buffer rate for a relevant O-SII, even if it has derived a framework buffer rate for the institution of other than 0% under Step 2.

Where the PRA sets a buffer rate under sub-paragraph (a) or (b) of this Step the rate must be 1%, 1.5%, 2%, 2.5% or 3%.

*Step 4—setting a buffer rate for relevant O-SIIs based on framework buffer rate*

Unless the PRA exercises the discretion in Step 3—

- (a) (a) where the PRA derives a framework buffer rate under Step 2 of 0% for the relevant O-SII, the PRA may not set a buffer rate for the institution; and
- (b) (b) where the PRA derives a framework buffer rate under Step 2 other than 0% for the relevant O-SII, the PRA must set the rate so derived as the buffer rate for the institution.
- (3) Where paragraph (4) applies, the PRA may not apply an O-SII buffer rate to a relevant O-SII which exceeds the lower of—
  - (a) the sum of—
    - (i) the higher of the G-SII or the O-SII buffer rate applicable to the group at consolidated level, and
    - (ii) 1% of the total risk exposure amount calculated in accordance with Article 92(3) of the capital requirements regulation; and
  - (b) 3% of the total risk exposure amount calculated in accordance with Article 92(3) of the capital requirements regulation.
- (4) This paragraph applies where the relevant O-SII is a subsidiary of—
  - (a) a G-SII; or
  - (b) an O-SII, which is subject to an O-SII buffer on a consolidated basis.
- (5) Where a group is subject on a consolidated basis to both a G-SII buffer and an O-SII buffer, only the higher buffer is to apply.

## CHAPTER 3

### Date of application and calculation of O-SII buffer

#### Date of application

**34ZD.**—(1) Where the PRA sets a buffer rate for a relevant O-SII under regulation 34ZC, the PRA must decide the date from which the O-SII must apply that rate in the calculation of its O-SII buffer.

(2) Where the PRA has set a buffer rate for a relevant O-SII under regulation 34ZC and determines that a buffer rate is no longer to be set for the O-SII under that regulation, the PRA must decide the date from which this takes effect.

#### Calculation of buffer

**34ZE.**—(1) The PRA must require a relevant O-SII to calculate its O-SII buffer by applying the buffer rate set for it under regulation 34ZC to all its exposures.

(2) The PRA must require the relevant O-SII, for the purposes of the calculation required under paragraph (1), to—

- (a) determine the value of its exposures by applying the level of consolidation selected by the PRA under Step 1 of regulation 34ZC(2); and
- (b) apply the buffer rate equally to all exposures, regardless of where they are located.

## CHAPTER 4

### Publication, Review and Appeals

#### Publication: United Kingdom buffer rates

**34ZF.**—(1) Where the PRA sets a buffer rate for a relevant O-SII under regulation 34ZC, the PRA must publish the following information—

- (a) the relevant O-SII to which the buffer rate applies;
- (b) the buffer rate;
- (c) the justification for setting the buffer rate;
- (d) the date from which the relevant O-SII must apply the buffer rate;
- (e) the level of consolidation to be used in the calculation of the O-SII buffer (as determined under Step 1 of regulation 34ZC(2)); and
- (f) the fact that the O-SII buffer applies to exposures located anywhere in the world.

(2) Where the PRA determines that a buffer rate is no longer to be set for a relevant O-SII under regulation 34ZC, the PRA must publish the following information—

- (a) the fact that the buffer rate is no longer set;
- (b) the fact that the relevant O-SII is no longer required to maintain an O-SII buffer;
- (c) the justification for ceasing to set the buffer rate; and
- (d) the date from which the relevant O-SII may cease to apply the buffer rate.

(3) A reference to the PRA's justification in paragraphs (1)(c) and (2)(c) includes the PRA's justification for doing anything under Step 3 of regulation 34ZC(2).

(4) The PRA must not publish information under paragraph (1)(c) or (2)(c) if publication might jeopardise the stability of the financial system.

#### Review

**34ZG.**—(1) The FPC must review the elements of the FPC framework at least every second year.

(2) The PRA must review the following matters at least once every year—

- (a) a buffer rate set under regulation 34ZC;
- (b) a decision not to set a buffer rate under regulation 34ZC.

#### Appeals

**34ZH.**—(1) A person who is aggrieved by a decision of the PRA under regulation 34ZC may refer the matter to the Tribunal.

(2) The scope of such an appeal is limited to—

- (a) the application of Step 2 of regulation 34ZC(2); and
- (b) the exercise of the PRA's discretion in Step 3 of regulation 34ZC(2).]

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## [<sup>F75</sup>PART 5A

### Systemic Risk Buffer

**F75** Pt. 5A substituted (29.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(2A), 60 (as amended by S.I. 2020/1406, regs. 1(2), 10, 19)

#### Interpretation

**34A.** In this Part—

“institution” means—

- (a) a credit institution, or
- (b) an investment firm which is for the time being designated by the PRA under article 3 of the Financial Services and Markets Act 2000 (PRA-regulated Activities) Order 2013;

“recognition decision” means a decision by the PRA to recognise a third country buffer rate;

“relevant entity” has the meaning given in regulation 34C(1);

“systemic risk buffer” has the meaning given in regulation 34C(1);

“third country buffer rate” has the meaning given in regulation 34B.

#### Third country buffer rates: recognition

**34B.—**(1) In this Part, a “third country buffer rate” means—

- (a) in relation to an EEA state, a buffer rate set in accordance with Article 133 of the capital requirements directive as it has effect in EU law as amended from time to time, or if revoked, by its successor; or
  - (b) in relation to a country other than the United Kingdom which is not an EEA state, a buffer rate set by the relevant authority of that country, that the PRA considers serves a similar purpose to the buffer rates that may be set in accordance with Article 133 of the capital requirements directive as it has effect in EU law as amended from time to time, or if revoked, by its successor.
- (2) The PRA may decide to recognise a third country buffer rate (“a recognition decision”).
- (3) A recognition decision may relate to all institutions or institutions of a specified description.
- (4) The PRA may revoke a recognition decision.

#### Requirement to maintain a systemic risk buffer

**34C.—**(1) The PRA may require an institution, a UK parent financial holding company, or a UK parent mixed financial holding company (a “relevant entity”) to hold additional Common Equity Tier 1 capital (“a systemic risk buffer”) in relation to some or all of the exposures referred to in regulation 34G, in order to prevent or mitigate macro-prudential or systemic risks which are not covered—

- (a) under the capital requirements regulation; or
- (b) by the countercyclical capital buffer, the G-SII buffer or the O-SII buffer provided for in these Regulations.

(2) If the PRA imposes a requirement on a relevant entity under paragraph (1), the PRA must specify—

- (a) the exposures or subset of exposures to which that requirement relates;



(b) the buffer rate to be applied to those exposures.

(3) The only buffer rates that the PRA may specify for the purposes of paragraph (2) are 0.5%, 1%, 1.5%, 2%, 2.5%, 3%, 3.5%, 4%, 4.5% and 5%.

(4) For the purposes of this regulation, a risk is a “macro-prudential or systemic risk” if it is a risk of disruption in the financial system with the potential to have serious negative consequences to the financial system and the real economy in the United Kingdom.

(5) The PRA may impose a requirement under paragraph (1) on all relevant entities, or on relevant entities of a specified description, and may impose different requirements in relation to different relevant entities or classes of exposures.

### **Third country rates: application to relevant entities**

**34D.**—(1) The PRA may require a relevant entity which has exposures located in a third country, in relation to which a recognition decision is in effect, to apply the third country buffer rate, in relation to its total exposures in that country.

(2) The powers in paragraph (1), in relation to a recognition decision which is limited to relevant entities of a specified description (in accordance with regulation 34B(3)), apply only to relevant entities falling within the description.

(3) Where a relevant entity is required to apply a third country buffer rate under paragraph (1), the PRA must specify, to the relevant entity concerned, the basis to be applied in valuing exposures from one of the following bases—

- (a) an individual basis;
- (b) a sub-consolidated basis; or
- (c) a consolidated basis.

(4) Where the PRA require a relevant entity to apply a third country buffer rate under paragraph (1)—

- (a) if the third country buffer rate addresses different risks to the systemic risk buffer rate applied under regulation 34C (the “regulation 34C rate”), the third country buffer rate may be applied cumulatively with the systemic risk buffer rate;
- (b) if the third country buffer rate addresses the same risks as the regulation 34C rate, only the higher buffer rate is to be applied.

(5) The PRA may revoke a requirement imposed under paragraph (1).

(6) Where the PRA decides that a relevant entity must apply a third country buffer rate, the regulator must decide the date from which the relevant entity must apply the third country buffer rate.

(7) Where the PRA revokes a requirement that a relevant entity maintain a third country buffer, the regulator must decide the date from which the relevant entity must cease to apply the third country buffer rate.

### **Calculation of the systemic risk buffer**

**34E.**—(1) Relevant entities must calculate the amount of the systemic risk buffer in accordance with the following formula—

where—

“SRB” is the systemic risk buffer;

“R<sub>T</sub>” is the buffer rate applicable to the amount of the total risk exposure of a relevant entity;

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“E<sub>T</sub>” is the amount of the total risk exposure of the relevant entity calculated in accordance with Article 92(3) of the capital requirements regulation;

“I” is the index denoting the subset of exposures specified by the PRA under regulation 34C(2);

“R<sub>I</sub>” is the buffer rate applicable to the amount of the risk exposure of I;

“E<sub>I</sub>” is the risk exposure amount of a relevant entity for I calculated in accordance with Article 92(3) of the capital requirements regulation.

(2) The PRA may require a relevant entity to maintain a systemic risk buffer on—

- (a) an individual basis;
- (b) a sub-consolidated basis; or
- (c) a consolidated basis.

### Cumulative buffers

**34F.**—(1) Where a relevant entity is subject to a systemic risk buffer, applied in accordance with this Part, subject to paragraph (2), that buffer is to be cumulative with the O-SII buffer applied under Part 5ZA or the G-SII buffer set under Part 4.

(2) The sum of the systemic risk buffer rate and the O-SII buffer rate or G-SII buffer rate may not exceed 5%.

### Systemic risk buffer exposures

**34G.** A systemic risk buffer may apply to the following exposures—

- (a) all exposures located in the United Kingdom;
- (b) the following sectoral exposures located in the United Kingdom—
  - (i) all retail exposures to natural persons which are secured by residential property,
  - (ii) all exposures to legal persons which are secured by mortgages on commercial immoveable property,
  - (iii) all exposures to natural persons other than those specified in sub-paragraph (i),
  - (iv) all exposures to legal persons other than those specified in sub-paragraph (ii);
- (c) all exposures located in a third country;
- (d) sectoral exposures referred to in paragraph (b) which are located in a third country;
- (e) a specified subset of the exposures referred to in paragraphs (a) to (d).

### Notifications

**34H.**—(1) Where the PRA gives or revokes a recognition decision under regulation 34B, it must notify—

- (a) the FCA;
- (b) the authorities of the third country which are responsible for supervision of undertakings; and
- (c) if different, the authorities of the third country responsible for setting the buffer rate.

(2) When the relevant entity to which one or more systemic risk buffers apply is a subsidiary undertaking of a parent undertaking which is incorporated under the law of a third country, the PRA must notify the competent authority of the third country concerned of any requirements imposed on the relevant entity under regulation 34C.

(3) Where a systemic risk buffer is applied to exposures in a third country, the PRA must notify the competent authority of the third country concerned.

#### **Publication: systemic risk buffer**

**34I.**—(1) Where the PRA requires a relevant entity to maintain a systemic risk buffer under regulation 34C, it must publish the following information on its website—

- (a) the systemic risk buffer rate;
- (b) the relevant entities to which the systemic risk buffer applies;
- (c) the exposures to which the systemic risk buffer rate applies;
- (d) the justification for setting or resetting the systemic risk buffer rate;
- (e) the date from which the relevant entities are to apply the setting or the resetting of the systemic risk buffer rate; and
- (f) the names of the countries where exposures located in those countries are recognised in the systemic risk buffer.

(2) The PRA must not publish information under paragraph (1)(d) if publication might jeopardise the stability of the financial system.

(3) Where the PRA revokes a requirement that a relevant entity maintain a systemic risk buffer rate under regulation 34C, it must publish—

- (a) the fact that the requirement has been revoked;
- (b) the justification for its decision to revoke the requirement; and
- (c) the date from which the relevant entity may cease to apply the systemic risk buffer rate.

#### **Publication: third country buffer rates**

**34J.**—(1) Where the PRA recognises a third country buffer rate under regulation 34B, it must publish—

- (a) the buffer rate; and
- (b) the justification for recognising the buffer rate.

(2) Where the PRA requires a relevant entity to apply a third country buffer rate under regulation 34D, it must publish—

- (a) the date from which the relevant entity must apply the third country buffer rate;
- (b) the location of the exposures to which the third country buffer rate relates;
- (c) the level of consolidation which applies in the calculation of the third country buffer; and
- (d) the justification for its decision under regulation 34D(1).

(3) The PRA must not publish information under paragraph (1)(b) or (2)(d) if publication might jeopardise the stability of the financial system.

(4) Where the PRA revokes a requirement that a relevant entity apply a third country buffer rate under regulation 34D, it must publish—

- (a) the fact that the requirement has been revoked;
- (b) the justification for its decision to revoke the requirement; and
- (c) the date from which the relevant entity may cease to apply the third country buffer rate.

#### **Review**

**34K.** The PRA must review the following matters at least once every second year—

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- (a) the decision to require a relevant entity or class of relevant entities to maintain a systemic risk buffer under regulation 34C(1);
- (b) a buffer rate set under regulation 34C(2);
- (c) the exposures, or subset of exposures, to which that buffer rate is applied;
- (d) a decision that a relevant entity must maintain a third country buffer under regulation 34D;
- (e) a decision as to the level of consolidation to apply in relation to the application of a third country buffer rate under regulation 34D(3).

## Appeals

**34L.**—(1) A person who is aggrieved by a decision of the PRA under regulation 34C may refer the matter to the Tribunal.

(2) The scope of such an appeal is limited to the buffer rate set under regulation 34C(2).]

## PART 6

### Combined buffer requirement

#### Combined buffer requirement

**35.** The [<sup>F76</sup>PRA] is responsible for requiring institutions [<sup>F77</sup>, parent financial holding companies and parent mixed financial holding companies] to comply with the combined buffer requirement.

**F76** Word in [reg. 35](#) substituted (1.1.2022) by [The Financial Services Act 2021 \(Prudential Regulation of Credit Institutions and Investment Firms\) \(Consequential Amendments and Miscellaneous Provisions\) Regulations 2021 \(S.I. 2021/1376\)](#), regs. 1(3), **17(8)**

**F77** Words in [reg. 35](#) inserted (31.12.2020) by [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1401\)](#), regs. 1(3), **60A** (as inserted by [S.I. 2020/1406](#), regs. 1(2), **20** and with savings in [S.I. 2019/680](#), [reg. 11](#)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#))

#### Commencement Information

**II** S. 35 partly in force at 1.5.2014 for specified purposes, s. 35 in force at 1.1.2016 for other specified purposes

## PART 7

### Macro-prudential measures: procedure

#### Amendments to the Bank of England Act 1998

**36.**—(1) The Bank of England Act 1998 <sup>M11</sup> is amended as follows.

(2) In section 2AA <sup>M12</sup> (macro-prudential measures: Article 458 of the capital requirements regulation), after subsection (2) insert—

“(3) The Bank must undertake (in relation to a measure falling within subsection (1)) the notification process required by Article 458 of the capital requirements regulation (“the Article 458 notification process”) in any case where it is requested to do so by the Financial Policy Committee in connection with—

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- (a) a direction that the Committee has given or proposes to give under section 9H, or
  - (b) recommendations that the Committee has made or proposes to make under section 9Q.
- (4) The Treasury must undertake (in relation to a measure falling within subsection (2)) the Article 458 notification process in any case where they are requested to do so by the Financial Policy Committee in connection with recommendations that the Committee has made or proposes to make under section 9Q.
- (5) Subsections (3) and (4) do not require the Bank or the Treasury to undertake the Article 458 notification process if—
  - (a) the Financial Policy Committee revokes the request, or
  - (b) the Bank considers (in a case within subsection (3)), or the Treasury consider (in a case within subsection (4)), that the measure is incompatible with EU law.
- (6) Neither the Bank nor the Treasury may undertake the Article 458 notification process except in accordance with subsection (3) or (4).
- (7) Where the Bank undertakes the Article 458 notification process, it must consult the Treasury about the assessment required by Article 458(2)(f) of the capital requirements regulation.
- (8) Where the Financial Policy Committee requests the Treasury to undertake the Article 458 notification process, it must include in the request any information that would in its opinion be relevant to any notification by the Treasury.”.
- (3) In section 9H <sup>M13</sup>(directions to FCA or PRA requiring macro-prudential measures), after subsection (10) insert—
  - “(11) Before giving a direction under this section, the Financial Policy Committee—
    - (a) must consider whether the measure is one to which Article 458 of the capital requirements regulation applies, and
    - (b) if the Committee is of the opinion that it is, may request the Bank to complete the notification process required by that Article.”.
- (4) In section 9I <sup>M14</sup>(compliance with directions under section 9H)—
  - (a) after subsection (1) insert—
    - “(1A) But where a direction under section 9H concerns the implementation of a measure to which Article 458 of the capital requirements regulation applies, the regulator—
      - (a) is not required to comply with the direction unless it has been notified by the Financial Policy Committee that the measure is authorised in accordance with that Article, and
      - (b) must then comply with the direction as soon as reasonably practicable.”; and
  - (b) after subsection (4) insert—
    - “(4A) For the purposes of subsection (1A), a measure is authorised in accordance with Article 458 of the capital requirements regulation if the notification process required by that Article has been completed and any of the following applies—
      - (a) the period during which the European Commission may issue a proposal for an implementing act to reject the draft measure has expired and no such proposal has been issued,
      - (b) where the European Commission has issued a proposal for an implementing act to reject the draft measure, the period during which the Council of the European

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Union may adopt a decision in the form of an implementing act to reject the draft measure has expired without any such decision being adopted, or

(c) the measure falls within Article 458(10).”.

(5) In section 9Q <sup>M15</sup> (recommendations to FCA and PRA), after subsection (4), insert—

“(4A) Before making recommendations under this section, the Financial Policy Committee—

(a) must consider whether acting in accordance with the recommendations would involve a measure to which Article 458 of the capital requirements regulation applies, and

(b) if the Committee is of the opinion that it would, may—

(i) where the measure falls within section 2AA(1), request the Bank to complete the notification process required by that Article, or

(ii) where the measure falls within section 2AA(2), request the Treasury to complete that process.

(4B) If the body to which recommendations under this section are made is of the opinion that the implementation of the recommendations would involve a measure to which Article 458 of the capital requirements regulation applies, that body must—

(a) state that opinion to the Financial Policy Committee, and

(b) indicate to the Financial Policy Committee whether it intends to act in accordance with the recommendations if the measure is authorised in accordance with Article 458.

(4C) Subsection (4B)(b) is to be read in accordance with section 9I(4A).”.

(6) In section 9U <sup>M16</sup> (publication of record of meetings)—

(a) in subsection (3), after paragraph (b) insert—

“(c) to make or revoke a request under section 2AA(3) or (4);

(d) made under the Capital Requirements (Capital Buffers and Macro-prudential Measures) Regulations 2014.”; and

(b) in subsection (8), after paragraph (e) insert—

“(f) information about a decision to make a request under section 2AA(3) or (4) which has been revoked before the record of the meeting at which it was given is published;

(g) information about the decision to revoke a request under section 2AA(3) or (4) where information about the request is withheld under paragraph (f).”.

#### Marginal Citations

**M11** 1998 c. 11.

**M12** Section 2AA was inserted by [S.I. 2013/3115](#).

**M13** Section 9H was inserted by section 4(1) of the Financial Services Act 2012.

**M14** Section 9I was inserted by section 4(1) of the Financial Services Act 2012.

**M15** Section 9Q was inserted by section 4(1) of the Financial Services Act 2012.

**M16** Section 9U was inserted by section 4(1) of the Financial Services Act 2012.

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**Changes to legislation:** *The Capital Requirements (Capital Buffers and Macro-prudential Measures) Regulations 2014 is up to date with all changes known to be in force on or before 28 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)*

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*Anne Milton*  
*Mark Lancaster*  
Two of the Lords Commissioners of Her  
Majesty's Treasury



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## EXPLANATORY NOTE

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

These Regulations implement in part the provisions relating to capital buffers in 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). This directive (“the capital requirements directive”) is part of a package of EU legislation commonly known as “CRD4”. Articles 128 to 142, 160 and 162 of the capital requirements directive are concerned with capital buffers. Further implementation of the capital buffers provisions will be achieved through rules, or other binding requirements, imposed by the Prudential Regulation Authority (“PRA”) and Financial Conduct Authority (“FCA”).

The Regulations also make provision in relation to the notification procedure under Article 458 of Regulation 575/2013/EU 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, p.6) (“the capital requirements regulation”).

Part 1 contains provisions relating to commencement, cessation and interpretation. The countercyclical capital buffer commences on 1st May 2014 and the other capital buffers commence on 1st January 2016.

Part 2 is concerned with the capital conservation buffer (Articles 129 and 160 of the capital requirements directive). The buffer rate is set at 2.5% under Article 129(1), subject to the transitional provisions at Article 160 which are implemented by regulation 5. The FCA is given the power to exempt small or medium-sized investment firms in appropriate circumstances.

Part 3 is concerned with the countercyclical capital buffer (Articles 130, and 135 to 140, of the capital requirements directive). Under the capital requirements directive, institutions must calculate an institution-specific countercyclical capital buffer rate by taking a weighted average of the countercyclical buffer rates set by macro-prudential regulatory authorities in the countries in which its exposures are located. By virtue of regulation 10, the Financial Policy Committee (a statutory sub-committee of the Court of the Bank of England) will set the buffer rate for the United Kingdom. Regulations 13, 14 and 15 specify the circumstances in which the Financial Policy Committee may recognise or set a buffer rate for a country other than the United Kingdom. Part 4 is concerned with the “G-SII” buffer (Articles 131 and 162(5) of the capital requirements directive). G-SII is a term used in the capital requirements directive as an abbreviation for “global systemically significant institution”. Under Part 4, the PRA must identify G-SIIs using an identification methodology and various sub-categories, with the buffer rates for each sub-category specified by regulation 24(6). The transitional provisions at Article 162(5) of the capital requirements directive are applied by regulation 28.

Part 5 is concerned with “O-SII”s (Article 131 of the capital requirements directive). O-SII is a term used in the capital requirements directive to describe “other systemically significant institutions”. Under Part 5, the PRA must identify O-SIIs. However, the provisions of the capital requirements directive requiring O-SIIs to maintain a specific O-SII buffer are not mandatory and the United Kingdom is not implementing them.

Part 6 provides that the PRA and FCA are responsible for requiring institutions to comply with the combined buffer requirement. The combined buffer required is the total amount of Common Equity Tier 1 capital required to meet all the buffers which apply to an institution.

Part 7 amends the Bank of England Act 1998 to make provision for the notification procedure under Article 458 of the capital requirements regulation.

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A Transposition Table setting out how the relevant provisions of the capital requirements directive are transposed into UK law is available from Her Majesty's Treasury, 1 Horse Guards Road, London SW1A 2HQ.

Impact assessments of the effect that these Regulations will have on the costs of business and the voluntary sector are available from Her Majesty's Treasury, 1 Horse Guards Road, London SW1A 2HQ and from—

- (a) [http://www.legislation.gov.uk/ukia/2013/1156/pdfs/ukia\\_20131156\\_en.pdf](http://www.legislation.gov.uk/ukia/2013/1156/pdfs/ukia_20131156_en.pdf) ) in relation to the macro-prudential measures; and
- (b) [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/223566/PU1488\\_Banking\\_reform\\_consultation\\_-\\_online-1.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/223566/PU1488_Banking_reform_consultation_-_online-1.pdf) in relation to the other measures.

**Changes to legislation:**

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**Changes and effects yet to be applied to :**

- Pt. 5A substituted by [S.I. 2018/1401 reg. 60](#) (This amendment not applied to [legislation.gov.uk](#). Words in reg. 60 substituted (27.11.2020) by S.I. 2020/1046, regs. 1(2), 19)
- Regulations revoked by [2023 c. 29 Sch. 1 Pt. 2](#)
- reg. 23(3)(e) words omitted by [S.I. 2018/1401 reg. 51\(b\)](#) (This amendment not applied to [legislation.gov.uk](#). Reg. 51(b) substituted (27.11.2020) by S.I. 2020/1046, regs. 1(2), 16(2)(c))
- reg. 26(5) words omitted by [S.I. 2018/1401 reg. 53\(b\)](#) (This amendment not applied to [legislation.gov.uk](#). Reg. 53(b) substituted (27.11.2020) by S.I. 2020/1046, regs. 1(2), 16(4))
- reg. 31(2)(b) words omitted by [S.I. 2018/1401 reg. 57](#) (This amendment not applied to [legislation.gov.uk](#). Words in reg. 57 substituted (27.11.2020) by S.I. 2020/1046, regs. 1(2), 17(2))
- reg. 32(3) words omitted by [S.I. 2018/1401 reg. 58\(c\)](#) (This amendment not applied to [legislation.gov.uk](#). Reg. 58(c) substituted (27.11.2020) by S.I. 2020/1046, regs. 1(2), 17(3))
- reg. 34 substituted by [S.I. 2018/1401 reg. 59](#) (This amendment not applied to [legislation.gov.uk](#). Words in reg. 59 substituted (27.11.2020) by S.I. 2020/1046, regs. 1(2), 18)