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STATUTORY INSTRUMENTS

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**2014 No. 894**

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

**PART 7**

**Macro-prudential measures: procedure**

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

**36.**—(1) The Bank of England Act 1998(1) is amended as follows.

(2) In section 2AA(2) (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—

- (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.”.

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(1) 1998 c. 11.

(2) Section 2AA was inserted by S.I. 2013/3115.

(3) In section 9H(3)(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(4)(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 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(5) (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—

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

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

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

- (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(6) (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).”.