
STATUTORY INSTRUMENTS

2018 No. 1297

**EXITING THE EUROPEAN UNION
BANKS AND BANKING**

The Bank of England (Amendment) (EU Exit) Regulations 2018

<i>Sift requirements satisfied</i>	<i>21st November 2018</i>
<i>Made - - - -</i>	<i>4th December 2018</i>
<i>Laid before Parliament</i>	<i>5th December 2018</i>
<i>Coming into force in accordance with regulation 1</i>	

The requirements of paragraph 3(2) of Schedule 7 to the European Union (Withdrawal) Act 2018⁽¹⁾ (relating to the appropriate Parliamentary procedure for these Regulations) have been satisfied.

The Treasury make the following Regulations in exercise of the powers conferred by section 8(1) of that Act.

PART 1

Introduction

Citation and commencement

1.—(1) These Regulations may be cited as the Bank of England (Amendment) (EU Exit) Regulations 2018.

(2) They come into force on exit day.

PART 2

Amendments of Primary Legislation

Amendments of the Bank of England Act 1998

2. The Bank of England Act 1998⁽²⁾ is amended in accordance with regulations 3 to 7.

(1) 2018 c.16.
(2) 1998 c.11.

Part 1: constitution, regulation and financial arrangements

3. Omit section 2AA (macro-prudential measures: Article 458 of the capital requirements regulation)(3).

Part 1A: financial stability

4.—(1) In section 9H (directions to FCA or PRA requiring macro-prudential measures)(4)—

(a) in subsection (2)(a)—

(i) at the end of sub-paragraph (i), insert “or”;

(ii) at the end of sub-paragraph (ii), omit “or”;

(iii) omit sub-paragraph (iii);

(b) omit subsection (11).

(2) In section 9I (compliance with directions under section 9H)(5)—

(a) omit subsection (1A);

(b) omit subsection (4A).

(3) In section 9Q (recommendations to FCA and PRA)(6), omit subsections (4A), (4B) and (4C).

(4) In section 9U (publication of record of meetings)(7)—

(a) in subsection (3), omit paragraph (c);

(b) in subsection (8), omit paragraphs (f) and (g).

Part 3A: prudential regulation

5. In section 30C (operational independence)(8)—

(a) for subsection (1), substitute—

“(1) The Bank must make arrangements to ensure that the discharge of its resolution functions (as defined by section 7D(10)) is operationally independent of the discharge of its functions as the PRA.”(9);

(b) omit subsections (5) to (7).

Part 4: miscellaneous and general

6. In section 41 (general interpretation)(10)—

(a) renumber the existing provision as subsection (1);

(b) after subsection (1), as so renumbered, insert—

“(2) References in this Act to an EU regulation are to that regulation as it forms part of domestic law by virtue of section 3 of the European Union (Withdrawal) Act 2018.”.

(3) Section 2AA was inserted by [S.I. 2013/3115](#), and amended by [S.I. 2014/894](#).

(4) Section 9H was inserted with sections 9A to 9G and 9I to 9ZA by section 4 of the Financial Services Act 2012 (c.21). It was amended by [S.I. 2014/894](#).

(5) Subsections (1A) and (4A) were inserted by [S.I. 2014/894](#).

(6) Subsections (4A) to (4C) were inserted by [S.I. 2014/894](#).

(7) Subsection (3)(c) and (8)(f) and (g) were inserted by [S.I. 2014/894](#).

(8) Section 30C was inserted by section 13 of the Bank of England and Financial Services Act 2016 (c.14).

(9) Section 7D was inserted by section 11 of the Bank of England and Financial Services Act 2016.

(10) Section 41 was substituted by [S.I. 2013/3115](#) and amended by [S.I. 2017/1064](#).

Schedule 7

7. In paragraph 5 of Schedule 7 (restriction on disclosure of information: other permitted disclosures)(11)—

- (a) at the end of paragraph (a), insert “or”;
- (b) at the end of paragraph (b), omit “or”;
- (c) omit paragraph (c).

Financial Services Act 2012.

8.—(1) The Financial Services Act 2012(12) is amended as follows.

(2) In section 57B (duty of Bank to inform Treasury about resolution plans)(13)—

- (a) for subsection (2)(b), substitute—
 - “(b) the Bank’s assessment of the risk that the failing of the institution or entity would pose to the stability of the financial system in the United Kingdom,”;
- (b) in subsection (7), omit the definition of “systemic risk”.

(3) In section 66 (memorandum of understanding: international organisations)—

- (a) in subsection (1), omit “the European Supervisory Authorities, EU institutions and other”;
- (b) omit subsections (2) and (6);
- (c) in subsection (7), omit “the European Supervisory Authorities, EU institutions and other”.

(4) In section 82(3)(a) (publication of reports of inquiries and investigations), omit “, enforceable EU obligation”.

(5) For section 93(8B)(14) (interpretation of Part 7), substitute—

- “(8B) References to Article 5 of the market abuse regulation include—
 - (a) any EU regulation, originally made under that Article, which is retained direct EU legislation, and
 - (b) any subordinate legislation (within the meaning of the Interpretation Act 1978) made under that Article on or after exit day.”(15).

PART 3

Amendments of Secondary Legislation

Cash Ratio Deposits (Eligible Liabilities) Order 1998

9.—(1) The Cash Ratio Deposits (Eligible Liabilities) Order 1998(16) is amended as follows.

(2) In regulation 2(3), for the words from “[Directive 2013/36/EU](#)” to the end, substitute “point (118) of Article 4(1) of Regulation (EU) No 575/2013 on prudential requirements for credit institutions and investment firms”.

(11) Paragraph 5(c) was amended by [S.I. 2011/1043](#).

(12) [2012 c.21](#).

(13) Section 57B was inserted by section 36 of the Bank of England and Financial Services Act [2016 \(c.14\)](#).

(14) Subsection (8B) was inserted by [S.I. 2016/680](#).

(15) [1978 c.30](#). The definition of “subordinate legislation” in section 21 of that Act is amended by paragraph 19 of Schedule 8 to the European Union (Withdrawal) Act [2018 \(c.16\)](#).

(16) [S.I. 1998/1130](#). Regulation 2(3) was amended by [S.I. 2015/3115](#).

The Scottish and Northern Ireland Banknote Regulations 2009

10. In regulation 17(2) of the Scottish and Northern Ireland Banknote Regulations 2009, omit sub-paragraph (g)(17).

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

11.—(1) The Bank of England Act 1998 (Macro-prudential Measures) Order 2013(18) is amended as follows.

(2) In article 1(2)—

- (a) in the definition of “financial sector entity”, in paragraph (e), for the words from “activities listed” to the end, substitute “activities listed in paragraphs 2 to 12 and 15 of the Annex 1 Activities (with the meaning given by Article 4(1)(26A) of the Regulation (EU) 575/2013 of 26 June 2013 of the European Parliament and of the Council on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012”;
- (b) for the definition of “insurance undertaking” substitute—
 - ““insurance undertaking” has the meaning given in section 417(1) of the Financial Services and Markets Act 2000;”;
- (c) in the definition of “mixed financial holding company”, for “under Article 3(3) of that Directive” substitute “not to regard a group as a financial conglomerate”;
- (d) for the definition of “reinsurance undertaking” substitute—
 - ““reinsurance undertaking” has the meaning given in section 417(1) of the Financial Services and Markets Act 2000;”;
- (e) for the definition of “third country insurance undertaking” substitute—
 - ““third country insurance undertaking” has the meaning given in regulation 2(1) of the Solvency 2 Regulations 2015(19);”;
- (f) for the definition of “third country reinsurance undertaking” substitute—
 - ““third country reinsurance undertaking” means an undertaking which, if its head office were in the United Kingdom, would—
 - (a) require permission under Part 4A of the Financial Services and Markets Act 2000(20) to carry out regulated activities relating to reinsurance, and
 - (b) immediately before exit day, have required authorisation as a reinsurance undertaking in accordance with Article 14 of the solvency 2 directive(21);”.

The Bank of England Act 1998 (Macro-prudential Measures) (No 2) Order 2015

12.—(1) The Bank of England Act 1998 (Macro-prudential Measures) (No 2) Order 2015(22) is amended as follows.

(2) In article 2(1)—

- (a) omit the definition of “capital requirements directive”;
- (b) for the definition of “countercyclical capital buffer rate” substitute—

(17) S.I. 2009/3056. Regulation 17(2)(g) was amended by S.I. 2011/1043.

(18) S.I. 2013/644.

(19) S.I. 2015/575.

(20) 2000 c.8. Part 4A was inserted by section 11(2) of the Financial Services Act 2012 (c.21).

(21) OJ L 335 17.12.2009, p.1, as last amended by Directive (EU) 2018/843 of the European Parliament and of the Council of 30 May 2018 amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, and amending Directives 2009/138/EC and 2013/36/EU (OJ L 156, 19.6.2018, p. 43).

(22) S.I. 2015/905.

““countercyclical capital buffer rate” means any of the rates that UK banks and investment firms must apply to calculate their institution-specific countercyclical capital buffer;”;

(c) for the definition of “G-SII buffer” substitute—

““G-SII buffer” has the meaning given in regulation 2 of the Capital Requirements (Capital Buffers and Macro-prudential Measures) Regulations 2014⁽²³⁾;”;

(d) at the appropriate place, insert—

““institution-specific countercyclical capital buffer” has the meaning given in regulation 2 of the Capital Requirements (Capital Buffers and Macro-prudential Measures) Regulations 2014;”;

(e) in the definition of “SRB institution”, for “34D” substitute “34C”;

(f) in the definition of “systemic risk buffer”, for “regulation 2”, substitute “regulation 34A”.

The Bank of England Act 1998 (Macro-prudential Measures) Order 2016

13. In article 2(1) of the Bank of England Act 1998 (Macro-prudential Measures) Order 2016⁽²⁴⁾, in the definition of “buy-to-let mortgage contract” in paragraph (b), for “any EEA state” substitute “the United Kingdom”.

David Rutley
Craig Whittaker

Two of the Lords Commissioners of HM
Treasury

4th December 2018

⁽²³⁾ S.I. 2014/894.

⁽²⁴⁾ S.I. 2016/1240.

Status: This is the original version (as it was originally made).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in exercise of the powers in section 8(1) of the European Union (Withdrawal) Act 2018 in order to address failures of retained EU law to operate effectively and other deficiencies arising from the withdrawal of the United Kingdom from the European Union (and in particular the deficiencies specified in subsection (2)(e) and (g)). They amend the Bank of England Act 1998, the Financial Services Act 2012, the Cash Ratio Deposits (Eligible Liabilities) Order 1998, the Scottish and Northern Ireland Banknote Regulations 2009, the Bank of England Act 1998 (Macro-prudential Measures) Order 2013, the Bank of England Act 1998 (Macro-prudential Measures) (No 2) Order 2015 and the Bank of England Act 1998 (Macro-prudential Measures) Order 2016.

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