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STATUTORY INSTRUMENTS

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**2018 No. 1401**

**The Capital Requirements (Amendment)  
(EU Exit) Regulations 2018**

**PART 4**

Amendment of retained direct EU legislation

**CHAPTER 1**

Amendment of the Capital Requirements Regulation

**Article 522 (insertion of new paragraph)**

**216.** After Article 521 insert—

*“Article 522*

*Savings provisions: pre-exit decisions*

- 1.** Where a decision of the type set out in paragraph 2 is made before exit day by a body other than the PRA or FCA—
  - (a) that decision shall continue to have effect on and after exit day;
  - (b) the PRA and FCA shall have the same powers in respect of that decision on and after exit day as if it was a decision taken by the PRA in relation to a PRA-authorised person and the FCA in relation to any other person; and
  - (c) those powers shall include the power to review, vary, modify or revoke the decision.
- 2.** The types of decision are—
  - (a) in respect of applications for the permissions referred to in Articles 143(1), 143(3), 151(4), 151(9), 283, 312(2) and 363 of Regulation No 575/2013, a decision whether or not to grant the permission sought and to determine the terms and conditions pursuant to which any such permission should be subject, where that decision has been made—
    - (i) jointly by the competent authorities in accordance with Article 20(1) of Regulation No 575/2013; or
    - (ii) by the consolidating supervisor in accordance with Article 20(4) of Regulation No 575/2013;
  - (b) a decision whether the criteria for a specific intragroup treatment referred to in Articles 422(9) and 425(4) of Regulation No 575/2013 are met, where that decision has been made—
    - (i) jointly by the competent authorities in accordance with Article 20(1) of Regulation No 575/2013; or

- (ii) by the competent authority responsible for the supervision of the subsidiary on an individual basis in accordance with Article 20(5) of Regulation No 575/2013;
- (c) a decision on whether the conditions in points (a) to (d) of Article 8(1) of Regulation No 575/2013 are met and identifying a single liquidity sub-group for the application of Article 8 of Regulation No 575/2013 (including where that decision also imposes constraints on the locations and ownership of liquid assets and requires minimum amounts of liquid assets to be held by institutions that are exempt from the application of Part 6), where that decision has been made—
  - (i) jointly by the competent authorities in accordance with Article 21(1) of Regulation No 575/2013; or
  - (ii) by the competent authority responsible for supervision on an individual basis in accordance with Article 21(2) of Regulation No 575/2013;
- (d) a decision on the application of Articles 73 and 97 of [Directive 2013/36/EU](#) to determine the adequacy of the consolidated level of own funds held by the group of institutions with respect to its financial situation and risk profile and the required level of own funds for the application of Article 104(1)(a) of [Directive 2013/36/EU](#) to each entity within the group of institutions and on a consolidated basis, where that decision has been made—
  - (i) jointly by the competent authorities in accordance with Article 113(1) of [Directive 2013/36/EU](#); or
  - (ii) by the consolidating supervisor in accordance with Article 113(3) of [Directive 2013/36/EU](#);
- (e) a decision on measures required to address any significant matters and material findings relating to liquidity supervision including relating to the adequacy of the organisation and the treatment of risks as required pursuant to Article 86 of [Directive 2013/36/EU](#) and relating to the need for institution-specific liquidity requirements in accordance with Article 105 of [Directive 2013/36/EU](#), where that decision has been made—
  - (i) jointly by the competent authorities in accordance with Article 113(1) of [Directive 2013/36/EU](#); or
  - (ii) by the consolidating supervisor in accordance with Article 113(3) of [Directive 2013/36/EU](#);
- (f) a decision to update a decision of the type specified in (d) or (e), where that decision has been made—
  - (i) jointly by the competent authorities in accordance with Article 113(4) of [Directive 2013/36/EU](#);
  - (ii) by the consolidating supervisor in accordance with Article 113(4) of [Directive 2013/36/EU](#); or
  - (iii) as a decision of bilateral application made in accordance with Article 105 (4) of [Directive 2013/36/EU](#) by the consolidating supervisor and a relevant competent authority where one of those parties was the PRA or FCA;
- (g) a decision under the second sub-paragraph of Article 124(2) of Regulation No 575/2013, taken by a competent authority other than the PRA or FCA, to set higher risk weights or apply stricter criteria in respect of exposures secured on residential or commercial immovable property located in its territory;

- (h) a decision under the second sentence of Article 164(5) of Regulation No 575/2013, taken by a competent authority other than the PRA or FCA, to set higher minimum values of exposure weighted average LGD for exposures secured by immovable property located in their territory;
- (i) a decision determining whether the criteria referred to in Article 29(2) and Article 34(2) of Commission Delegated Regulation (EU) 2015/61 of 10th of October 2014 are met, where that decision has been made—
  - (i) jointly by the competent authorities in accordance with Article 20(1) of Regulation No 575/2013; or
  - (ii) by the competent authority responsible for the supervision of the subsidiary on an individual basis in accordance with Article 20(5) of Regulation No 575/2013.

3. For the purposes of paragraph 2, references to specific provisions of Regulation No 575/2013, [Directive 2013/36/EU](#), and Commission Delegated Regulation (EU) 2015/61 are to those instruments as they stood immediately before exit day, and without the modifications made under the European (Withdrawal) Act 2018.<sup>(1)</sup><sup>(1)</sup>.

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(1) 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; OJNo. L 176, 27.6.2013, p.1–337. [Directive 2013/36/EU](#) of the European Parliament and of the Council of 26th June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending [Directive 2002/87/EC](#) and repealing Directives [2006/48/EC](#) and [2006/49/EC](#); OJ No. L. 176, 27.6.2013, p.338-436. Commission Delegated Regulation (EU) 2015/61 of 10th October 2014 to supplement Regulation (EU) No 575/2013 of the European Parliament and Council with regard to liquidity coverage requirement for Credit Institutions; OJ No. L 11, 17.1.2015, p.1–36.

(1) 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; OJNo. L 176, 27.6.2013, p.1–337. [Directive 2013/36/EU](#) of the European Parliament and of the Council of 26th June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending [Directive 2002/87/EC](#) and repealing Directives [2006/48/EC](#) and [2006/49/EC](#); OJ No. L. 176, 27.6.2013, p.338-436. Commission Delegated Regulation (EU) 2015/61 of 10th October 2014 to supplement Regulation (EU) No 575/2013 of the European Parliament and Council with regard to liquidity coverage requirement for Credit Institutions; OJ No. L 11, 17.1.2015, p.1–36.