
STATUTORY INSTRUMENTS

2018 No. 1401

**EXITING THE EUROPEAN UNION
FINANCIAL SERVICES AND MARKETS**

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

Made - - - - 19th December 2018

Coming into force in accordance with regulation 1

**THE CAPITAL REQUIREMENTS
(AMENDMENT) (EU EXIT) REGULATIONS 2018**

PART 1

Introduction

1. Citation and commencement
2. Interpretation

PART 2

Amendment of secondary legislation: European Communities Act 1972

3. 2008 Regulations
4. 2013 Regulations
5. 2013 Reporting Regulations
6. 2014 Regulations

PART 3

Amendment of secondary legislation: European Union (Withdrawal) Act 2018

CHAPTER 1

Amendment of 2008 Regulations

7. Amendments to the Regulated Covered Bonds Regulations 2008
8. Regulation 2 (eligible property)
9. Regulation 41 (notification of the Commission)

Status: This is the original version (as it was originally made).

CHAPTER 2

Amendment of 2013 Regulations

10. Amendments to the Capital Requirements Regulations 2013
11. Regulation 2 (interpretation)
12. Regulation 2A (insertion of new paragraph)
13. Regulation 4 (main provisions)
14. Regulation 5 (capital buffers and Article 458 of the capital requirements regulation)
15. Regulations 6 (co-operation within the European System of Financial Supervision) to 17 (Duties to notify EBA and EIOPA)
16. Regulations 18 (general disclosures required of PRA and FCA) to 19 (specific disclosures required of the PRA and FCA)
17. Regulation 20 (determination of the consolidating supervisor)
18. Regulation 21 (assessment of equivalent of consolidated supervision by supervisory authorities in non-EEA states)
19. Regulations 22 (co-ordination and co-operation arrangements) to 33 (colleges of supervisors)
20. Regulation 34 (supervisory powers: own funds)
21. Regulations 34A and 34B (insertion of new paragraphs)
22. Regulation 35 (specific liquidity requirements)
23. Regulation 35A (insertion of new paragraphs)
24. Regulation 36 (employee remuneration)
25. Regulation 37 (diversity practices)
26. Regulation 38 (consultation with the EBA)
27. Regulation 39 (meaning of “permission” and “protected item” in this part)
28. Regulation 45 (misleading the PRA or FCA)

CHAPTER 3

Amendment of the 2013 Reporting Regulations

29. Amendments to the Capital Requirements (Country-by-Country Reporting) Regulations 2013
30. Regulation 1 (citation, commencement and interpretation)
31. Regulation 2 (ongoing reporting obligation)
32. Regulation 3 (interim reporting obligation)
33. Regulation 5 (prior disclosure: prevention of duplication)

CHAPTER 4

Amendment of the 2014 Regulations

34. Amendments to the Capital Requirements (Capital Buffers and Macro-prudential Measures) Regulations 2014
35. Regulation 2 (interpretation)
36. Regulation 6 (exemption for small and medium-sized investment firms)
37. Chapter 1, Part 3 (designated authority and interpretation)
38. Regulation 7 (designated authority)
39. Regulation 8 (meaning of “UK institution”)
40. Regulation 9 (the buffer guide)
41. Regulation 10 (countercyclical buffer rate)

42. Regulation 12 (announcement of changes to the buffer rate)
43. Regulation 12A (insertion of new paragraph)
44. Regulation 14 (buffer rates for EEA exposures)
45. Regulation 15 (buffer rates for exposures outside the EEA)
46. Regulation 17 (date of application of buffer rates)
47. Regulation 18 (announcement of changes to buffer rates)
48. Regulation 20 (exemption for small and medium-sized investment firms)
49. Regulation 21 (designated authority)
50. Regulation 22 (G-SIIs: location and nature)
51. Regulation 23 (identification methodology)
52. Regulation 24 (sub-categories of G-SII and corresponding buffer rates)
53. Regulation 26 (notification, publication and review)
54. Regulation 28 (transitional provision: 1st January 2016 to 31st December 2019)
55. Regulation 29 (designated authority)
56. Regulation 30 (O-SIIs: location and nature)
57. Regulation 31 (identification of O-SIIs)
58. Regulation 32 (notification, publication and review)
59. Regulation 34 (no requirement to maintain an O-SII buffer)
60. Part 5A (Systemic Risk Buffer)

PART 4

Amendment of retained direct EU legislation

CHAPTER 1

Amendment of the Capital Requirements Regulation

61. Amendments to the Capital Requirements Regulation
62. Article 1 (scope)
63. Article 2 (supervisory powers)
64. Article 4(1) (definitions)
65. Article 4(2) (definitions)
66. Article 4A and 4B (insertion of new paragraphs)
67. Article 6 (general principles)
68. Article 7 (derogation from the application of prudential requirements on an individual basis)
69. Article 8 (derogation from the application of liquidity requirements on an individual basis)
70. Article 9 (individual consolidation method)
71. Article 10 (waiver for credit institutions permanently affiliated to a central body)
72. Article 11 (general treatment)
73. Article 13 (application of disclosure requirements on a consolidated basis)
74. Article 14 (application of requirements of Part Five on a consolidated basis)
75. Article 15 (derogation from the application of own funds requirements on a consolidated basis for groups of investment firms)
76. Article 17 (supervision of investment firms waived from the application of own funds requirements on a consolidated basis)
77. Article 18 (methods for prudential consolidation)
78. Article 19 (entities excluded from the scope of prudential consolidation)
79. Article 20 (joint decisions on prudential requirements)

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

80. Article 21 (joint decisions on the level of application of liquidity requirements)
81. Article 23 (undertakings in third countries)
82. Article 26 (Common Equity Tier 1 items)
83. Article 27 (capital instruments of mutual, cooperative societies, savings institutions or similar institutions in Common Equity Tier 1 items)
84. Article 28 (Common Equity Tier 1 instruments)
85. Article 29 (capital instruments issued by mutuals, cooperative societies, savings institutions and similar institutions)
86. Article 31 (capital instruments subscribed by public authorities in emergency situations)
87. Article 33 (cash flow hedges and changes in the value of own liabilities)
88. Article 36 (deductions from Common Equity Tier 1 items)
89. Article 38 (deduction of deferred tax assets that rely on future profitability)
90. Article 39 (tax overpayments, tax loss carry backs and deferred tax assets that do not rely on future profitability)
91. Article 49 (requirement for deduction where consolidation, supplementary supervision or institutional protection schemes are applied)
92. Article 52 (additional Tier 1 instruments)
93. Article 77 (conditions for reducing own funds)
94. Article 78 (supervisory permission for reducing own funds)
95. Article 80 (continuing review of quality of own funds)
96. Article 81 (minority interests that qualify for inclusion in consolidated Common Equity Tier 1 capital)
97. Article 82 (qualifying Additional Tier 1, Tier 1, Tier 2 capital and qualifying own funds)
98. Article 84 (minority interests included in consolidated Common Equity Tier 1 capital)
99. Article 85 (qualifying Tier 1 instruments included in consolidated Tier 1 capital)
100. Article 87 (qualifying own funds included in consolidated own funds)
101. Article 89 (risk weighting and prohibition of qualifying holdings outside the financial sector)
102. Article 91 (exceptions)
103. Article 95 (own funds requirements for investment first with limited authorisation to provide investment services)
104. Article 96 (own funds requirements for investment firms which hold initial capital)
105. Article 97 (own funds based on fixed overheads)
106. Article 98 (own funds for investment firms on a consolidated basis)
107. Article 99 (reporting on own funds requirements and financial information)
108. Article 100 (additional reporting requirements)
109. Article 101 (specific reporting requirements)
110. Article 107 (approaches to credit risk)
111. Article 113 (calculation of risk weighted exposure amounts)
112. Article 114 (exposures to central governments or central banks)
113. Article 115 (exposures to regional governments or local authorities)
114. Article 116 (exposures to public sector entities)
115. Article 117 (exposures to multilateral development banks)
116. Article 118 (exposures to international organisations)
117. Article 119 (exposures to institutions)
118. Article 123 (retain exposures)
119. Article 124 (exposures secured by mortgages on immovable property)

120. Article 125 (exposures fully and completely secured by mortgages on residential property)
121. Article 126 (exposures fully and completely secured by mortgages on commercial immovable property)
122. Article 128 (items associated with particular high risk)
123. Article 129 (exposures in the form of covered bonds)
124. Article 132 (exposures in the form of units or shares in CIUs)
125. Article 134 (other items)
126. Article 135 (use of credit assessments by ECAIs)
127. Article 138 (general requirements)
128. Article 142 (definitions)
129. Article 150 (conditions for permanent partial use)
130. Article 154 (risk weighted exposure amounts for retail exposures)
131. Article 160 (probability of default)
132. Article 162 (maturity)
133. Article 164 (loss given default)
134. Article 178 (default of an obligor)
135. Article 192 (definitions)
136. Article 197 (eligibility of collateral under all approaches and methods)
137. Article 199 (additional eligibility for collateral under the IRB Approach)
138. Article 201 (eligibility of protection providers under all approaches)
139. Article 202 (eligibility of protection providers under the IRB Approach which qualify for the treatment set out in Article 153(3))
140. Article 212 (requirements for other funded credit protection)
141. Article 224 (supervisory volatility adjustment under the Financial Collateral Comprehensive Method)
142. Article 227 (conditions for applying a 0% volatility adjustment under the Financial Collateral Comprehensive Method)
143. Article 229 (valuation principles for other eligible collateral under the IRB approach)
144. Article 230 (calculating risk-weighted exposures amounts and expected loss amounts for other eligible collateral under the IRB Approach)
145. Article 277 (transactions with a linear risk profile)
146. Article 290 (stress testing)
147. Article 292 (integrity of the modelling process)
148. Article 295 (recognition of contractual netting as risk-reducing)
149. Article 296 (recognition of contractual netting agreements)
150. Article 299 (items in the trading book)
151. Article 311 (own funds requirements for exposures to CCPs that cease to meet certain conditions)
152. Article 312 (permission and notification)
153. Article 315 (own funds requirement)
154. Article 316 (relevant indicator)
155. Article 317 (own funds requirement)
156. Article 323 (impact of insurance and other risk transfer mechanisms)
157. Article 325 (allowances for consolidated requirements)
158. Article 327 (netting)
159. Article 329 (options and warrants)
160. Article 336 (own funds requirements for non-securitisation debt instruments)
161. Article 340 (duration-based calculation of general risk)
162. Article 344 (stock indices)
163. Article 349 (general criteria for CIUs)

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

164. Article 354 (closely correlated currencies)
165. Article 365 (VaR and stressed VaR calculation)
166. Article 372 (requirement to have an internal IRC model)
167. Article 377 (requirements for an internal model for correlation trading)
168. Article 382 (scope)
169. Article 383 (advanced method)
170. Article 391 (definition of an institution for large exposures purposes)
171. Article 395 (limits to large exposures)
172. Article 396 (compliance with large exposures requirements)
173. Article 400 (exemptions)
174. Article 402 (exposures arising from mortgage lending)
175. Article 411 (definitions)
176. Article 412 (liquidity coverage requirements)
177. Article 413 (stable funding)
178. Article 415 (reporting obligation and reporting format)
179. Article 416 (reporting on liquid assets)
180. Article 419 (currencies with constraints on the availability of liquid assets)
181. Article 420 (liquidity outflows)
182. Article 421 (outflows on retail deposits)
183. Article 422 (outflows on other liabilities)
184. Article 424 (outflows from credit and liquidity facilities)
185. Article 425 (inflows)
186. Article 427 (items providing stable funding)
187. Article 428 (items requiring stable funding)
188. Article 429 (calculation of the leverage ratio)
189. Article 430 (reporting requirement)
190. Article 432 (non-material, proprietary or confidential information)
191. Article 433 (frequency of disclosure)
192. Article 436 (scope of application)
193. Article 438 (capital requirements)
194. Article 440 (capital buffers)
195. Article 441 (indicators of global systemic importance)
196. Article 443 (unencumbered assets)
197. Article 444 (use of ECAs)
198. Article 450 (remuneration policy)
199. Article 452 (use of the IRB Approach to credit risk)
200. Heading of Part 9
201. Article 458 (macroprudential or systemic risk identified at the level of a Member State)
202. Article 462 (exercise of the delegation)
203. Article 463 (objections to regulatory technical standards)
204. Article 464 (European Banking Committee)
205. Article 464A and 464B (insertion of new paragraphs)
206. Article 473a (introduction of IFRS 9)
207. Article 483 (grandfathering of State aid instruments)
208. Article 484 (eligibility for grandfathering of items)
209. Article 485 (eligibility for inclusion in Common Equity Tier 1)
210. Article 493 (transitional provisions for large exposures)
211. Article 497 (own funds requirements for exposures to CCPs)
212. Article 498 (exemption for Commodities dealers)
213. Article 501 (capital requirements deduction for credit risk on exposures to SMEs)
214. Article 502 to 519 (reports and reviews)

- 215. Article 521 (entry into force and date of application)
- 216. Article 522 (insertion of new paragraph)
- 217. Annex I (classification of off-balance sheet items)
- 218. Annex II (types of derivative)
- 219. Annex III (items subject to supplementary reporting of liquid assets)

CHAPTER 2

Amendment of Capital Requirements Regulation to transfer powers to the Treasury

- 220. General transfer of powers to the Treasury
- 221. Specific transfer of powers to the Treasury

CHAPTER 3

Amendment of Capital Requirements Regulation to transfer powers to the FCA and PRA

- 222. European Supervisory Authorities' functions in the Capital Requirements Regulation transferred to both the FCA and PRA
- 223. European Supervisory Authorities' functions in the Capital Requirements Regulation transferred to only the PRA
- 224. Other functions transferred
- 225. Amendment to use of term "competent authorities"

CHAPTER 4

Amendment of Liquidity Commission Delegated Regulation

- 226. Amendments to the Liquidity Commission Delegated Regulation
- 227. Article 2 (scope and application)
- 228. Article 3 (definitions)
- 229. Article 4 (the liquidity coverage ratio)
- 230. Article 7 (general requirements for liquid assets)
- 231. Article 8 (operational requirements)
- 232. Article 10 (level 1 assets)
- 233. Article 11 (level 2A assets)
- 234. Article 12 (level 2B assets)
- 235. Article 16 (deposits and other funding in cooperative networks and institutional protection schemes)
- 236. Article 19 (alternative liquidity approaches)
- 237. Article 23 (additional liquidity outflows for other products and services)
- 238. Article 24 (outflows from stable retail deposits)
- 239. Article 25 (outflows from other retail deposits)
- 240. Article 26 (outflows with inter-dependent inflows)
- 241. Article 27 (outflows from operational deposits)
- 242. Article 28 (outflows from other liabilities)
- 243. Article 29 (outflows within a group or an institutional protection scheme)
- 244. Article 30 (additional outflows)
- 245. Article 31 (outflows from credit and liquidity facilities)
- 246. Article 32 (inflows)
- 247. Article 33 (cap on inflows)
- 248. Article 34 (inflows within a group or an institutional protection scheme)
- 249. Article 35 (grandfathering of Member State-guaranteed bank assets)

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

- 250. Article 36 (transitional provision for Member State-sponsored impaired asset management agencies)
- 251. Final provision

CHAPTER 5

Amendment of G-SII Commission Delegated Regulation

- 252. Amendments to the G-SII Commission Delegated Regulation
- 253. Article 3 (common parameters for the methodology)
- 254. Final provision
 - Signature
 - Explanatory Note