
STATUTORY INSTRUMENTS

2022 No. 838

The Financial Services Act 2021 (Prudential Regulation of Credit Institutions and Investment Firms) (Consequential Amendments and Miscellaneous Provisions) Regulations 2022

PART 2

Amendment of Primary Legislation, Scottish Legislation and Northern Ireland Legislation

Insolvency (Northern Ireland) Order 1989

2.—(1) Schedule 4 to the Insolvency (Northern Ireland) Order 1989⁽¹⁾ (the categories of preferential debts) is amended as follows.

(2) In paragraph 20 (category 8: other deposits)—

(a) in sub-paragraph (a)—

(i) for “non-EEA” substitute “non-UK”;

(ii) for “an EEA state” substitute “the United Kingdom”;

(b) in sub-paragraph (b), for “an EEA” substitute “a UK”.

(3) In paragraph 21 (interpretation for categories 6A, 7 and 8)—

(a) in sub-paragraph (3), for paragraph (b) substitute—

“(b) any micro, small or medium-sized enterprise, as defined with regard to the annual turnover criterion referred to in Article 2(1) of the Annex to Commission Recommendation 2003/361/EC.”;

(b) in sub-paragraph (4), for paragraphs (b) and (c) substitute—

“(b) “non-UK branch” means a branch, as defined in Article 4(1)(17) of the capital requirements regulation, which is established outside the United Kingdom;

(c) “UK branch” means a branch, as so defined, which is established in the United Kingdom.”;

(c) for the words after sub-paragraph (4)(c) substitute—

“and for this purpose “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](#).”.

⁽¹⁾ [S.I. 1989/2405 \(N.I. 19\)](#); paragraphs 20 and 21 of Schedule 4 were inserted by [S.I. 2014/3486](#) and paragraph 21 was amended by [S.I. 2015/486](#). There are other amendments to this paragraph which are not relevant.

Financial Services and Markets Act 2000

3. In section 192C(3) (power to direct qualifying parent undertaking) of the Financial Services and Markets Act 2000(2)—

- (a) at the end of sub-paragraph (a)(i)(bb), omit “or”;
- (b) at the end of sub-paragraph (a)(ii), omit “and”;
- (c) after sub-paragraph (a)(ii), insert—
 - “(iii) Part 9C rules;
 - (iv) CRR rules; or
 - (v) rules made under section 192XA, and”.

Terrorism Act 2000

4.—(1) The Terrorism Act 2000(3) is amended as follows.

(2) In Schedule 3A (4) (business in the regulated sector)—

- (a) in paragraph 1(1)(b)(5), in the opening words, for “Annex 1 to the Capital Requirements Directive”, in both places where those words appear, substitute “Schedule 2 to the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017(6)”;
- (b) in paragraph 3(1), omit the definition of “the Capital Requirements Directive”;
- (c) in paragraph 3(3)—
 - (i) omit “, the Capital Requirements Directive”;
 - (ii) for “those Directives” substitute “that Directive”.

(3) In paragraph 6(1) of Schedule 6(7) (financial institution)—

- (a) omit sub-paragraph (g);
- (b) in sub-paragraph (h), for “any of points 1 to 12, 14 and 15 of Annex 1 to [Directive 2013/36/EU](#) of the European Parliament and of the Council of 26 June 2013” substitute “the points in Schedule 2 to the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017”.

Proceeds of Crime Act 2002

5.—(1) Schedule 9 to the Proceeds of Crime Act 2002(8) is amended as follows.

(2) In paragraph 1(1)(b)(9) (business in the regulated sector), for “Annex 1 to the Capital Requirements Directive”, in both places where it appears, substitute “Schedule 2 to the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017”.

(2) [2000 c. 8](#); section 192C was inserted by the Financial Services Act [2012 \(c. 21\)](#) and amended by [S.I. 2019/632](#).

(3) [2000 c. 11](#).

(4) Schedule 3A was inserted by section 3 and paragraphs 5(1) and (6) of Part 3 of Schedule 2 to the Anti-terrorism, Crime and Security Act [2001 \(c. 24\)](#).

(5) Paragraph (1) of Schedule 3A was amended by [S.I. 2013/3115](#). There are other amendments to this section which are not relevant.

(6) [S.I. 2017/692](#). Schedule 2 was amended by these Regulations.

(7) Paragraph 6 of Schedule 6 was amended by [S.I. 2000/2952](#), [S.I. 2011/99](#) and [S.I. 2013/3115](#). There are other amendments to this paragraph which are not relevant.

(8) [2002 c. 29](#).

(9) Schedule 9 was amended by [S.I. 2017/692](#).

- (3) In paragraph 3(10) (interpretation)—
 - (a) in sub-paragraph (1), omit the definition of “the Capital Requirements Directive”;
 - (b) in sub-paragraph (3)—
 - (i) omit “, the Capital Requirements Directive”;
 - (ii) for “those Directives” substitute “that Directive”.

Counter-Terrorism Act 2008

- 6.—(1) Schedule 7 to the Counter-Terrorism Act 2008(11) is amended as follows.
 - (2) In paragraph 5(2)(a)(12) (meaning of “credit institution” and “financial institution”), for “Annex 1 to the capital requirements directive”, in both places where it appears, substitute “Schedule 2 to the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017”.
 - (3) In paragraph 7(13) (interpretation of Part 2), omit the definition of “the capital requirements directive”.
 - (4) In paragraph 46(14) (index of defined expressions), omit the entry for “the capital requirements directive”.

Banking Act 2009

- 7.—(1) The Banking Act 2009 is amended as follows.
 - (2) In section 48D(1)(15) (general interpretation of section 48B)—
 - (a) omit the definition of “investment firm”;
 - (b) in the definition of “credit institution”, for “(23)” substitute “(24)”.
 - (3) After section 48D(2) insert—
 - “(2A) The definition of “investment firm” in section 258A(16) applies for the purposes of section 48B but for these purposes—
 - (a) any exclusions made under the power conferred by subsection (2)(b) of section 258A are to be ignored; and
 - (b) an institution is to be treated as falling within the definition only if it has permission to carry on the investment services and activities in point 3 or 6 of Part 3 of Schedule 2 to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001(17).”.
 - (4) In section 89JA(18) (resolution of UK branches of third-country institutions), in the table of further modifications in subsection (11), in the entry in column 2 relating to section 60(3)(c), for “third country” substitute “country or territory outside the United Kingdom”.

(10) Paragraph 3 of Schedule 9 was amended by [S.I. 2017/692](#). There are other amendments to this paragraph which are not relevant.

(11) [2008 c. 28](#).

(12) Paragraph 5 of Schedule 7 was amended by [S.I. 2011/99](#) and [S.I. 2013/3115](#). There are other amendments to this paragraph which are not relevant.

(13) Paragraph 7 of Schedule 7 was amended by [S.I. 2013/3115](#). There are other amendments to this paragraph which are not relevant.

(14) Paragraph 46 of Schedule 7 was amended by [S.I. 2013/3115](#). There are other amendments to this paragraph which are not relevant.

(15) Section 48D was inserted by paragraph 4 of Schedule 2 to the Financial Services (Banking Reform) Act 2013 and amended by [S.I. 2014/3329](#) and [S.I. 2018/1394](#). There are other amendments to this section which are not relevant.

(16) Section 258A was inserted by section 101 of the Financial Services Act 2012 (c. 21) and amended by [S.I. 2013/3115](#), [S.I. 2018/1394](#) and [S.I. 2020/1385](#).

(17) [S.I. 2001/544](#); Schedule 2 was substituted by [S.I. 2006/3384](#). There are amendments to this Schedule which are not relevant.

(18) Section 89JA was inserted by [S.I. 2016/1239](#) and amended by [S.I. 2018/1394](#).

Bankruptcy (Scotland) Act 2016

8.—(1) Schedule 3 to the Bankruptcy (Scotland) Act 2016(**19**) is amended as follows.

(2) In paragraph 8 (other deposits)—

(a) in sub-paragraph (a)—

(i) for “non-EEA” substitute “non-UK”;

(ii) for “an EEA state” substitute “the United Kingdom”;

(b) in sub-paragraph (b) for “an EEA” substitute “a UK”.

(3) In paragraph 13 (meaning of “eligible deposit”)—

(a) for sub-paragraph (3)(b) substitute—

“(b) any micro, small or medium-sized enterprise, as defined with regard to the annual turnover criterion referred to in Article 2(1) of the Annex to Commission Recommendation 2003/361/EC.”;

(b) for sub-paragraphs (4)(b) and (c) substitute—

“(b) “UK branch” means a branch, as defined in Article 4(1)(17) of the capital requirements regulation, which is established in the United Kingdom, and

(c) “non-UK branch” means a branch, as so defined, which is established outside the United Kingdom.”;

(c) for sub-paragraph (5) substitute—

“(5) In sub-paragraph (4)(a) and (b), “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](#).”.