

# SCHEDULES

## SCHEDULE 1

Section 1

### EXCLUSION OF CERTAIN INVESTMENT FIRMS FROM THE CAPITAL REQUIREMENTS REGULATION: CONSEQUENTIAL AMENDMENTS

#### PART 1

##### AMENDMENTS OF THE CAPITAL REQUIREMENTS REGULATION

- 1       The Capital Requirements Regulation is amended as follows.
- 2       (1) Article 4(1) (definitions) is amended as follows.
  - (2) Omit point (4) (definition of “local firm”).
  - (3) After point (22) insert—
    - “(22A) ‘*investment holding company*’ means a financial institution which is not a financial holding company and whose subsidiaries—
      - (a) are exclusively or mainly investment firms or financial institutions, and
      - (b) include at least one investment firm;”.
  - (4) In point (26) (definition of “financial institution”)—
    - (a) after “including” insert “an investment firm,”, and
    - (b) after “a mixed financial holding company,” insert “an investment holding company,”.
  - (5) For point (29a) substitute—
    - “(29a) ‘*UK parent investment firm*’ means a parent undertaking in the United Kingdom that is an investment firm;”.
  - (6) For point (51) substitute—
    - “(51) ‘*initial capital*’, in relation to an institution, means the amount and types of own funds specified in rule 12.1 of the Definition of Capital Part of the PRA rulebook;”.
  - (7) In point (60) (definition of “cash assimilated instrument”), after “institution” (in each place) insert “or investment firm”.
- 3       (1) Article 4A (definitions: regulators’ rules) is amended as follows.
  - (2) In paragraph 1(b) (references to FCA sourcebook), for “as the sourcebook has effect on IP completion day” substitute “as amended from time to time”.
  - (3) At the end insert—

“3. In this Regulation, “Part 9C rules” has the same meaning as in FSMA (see section 417 of that Act).”

4 For Article 4B substitute—

*“Article 4B*

***The consolidating supervisor***

The consolidating supervisor is the PRA.”

5 Before Article 11 (and the Section and Chapter headings before it) insert—

*“Article 10A*

***Application of prudential requirements on a consolidated basis where FCA investment firms are parent undertakings***

For the purposes of the application of this Chapter, FCA investment firms are to be considered to be UK parent financial holding companies where they are parent undertakings of an institution.”

6 Omit Article 15 (derogation from the application of own funds requirements on a consolidated basis for groups of investment firms).

7 Omit Article 16 (derogation from the application of the leverage ratio requirements on a consolidated basis for groups of investment firms).

8 Omit Article 17 (supervision of investment firms waived from the application of own funds requirements on a consolidated basis).

9 In Article 47c(5) (deduction for non-performing exposures), omit “and the FCA”.

10 In Article 49(6) (requirement for deduction where consolidation, supplementary supervision or institutional protection schemes are applied) omit “and Annex 1 of Chapter 3 of the FCA General Prudential sourcebook”.

11 (1) Article 81(1)(a) (minority interests that qualify for inclusion in consolidated Common Equity Tier 1 capital) is amended as follows.

(2) After point (ii) insert—

- “(iia) an intermediate financial holding company or intermediate mixed financial holding company that is subject to the requirements of this Regulation on a sub-consolidated basis;
- (iib) an intermediate investment holding company that is subject to the requirements of Part 9C rules on a consolidated basis;
- (iic) an FCA investment firm;”.

(3) In point (iii)—

- (a) after “subject to prudential requirements” insert “which are”,
- (b) for “where” substitute “which”, and
- (c) omit “that those prudential requirements”.

12 (1) Article 82(a) (Qualifying Additional Tier 1, Tier 1, Tier 2 capital and qualifying own funds) is amended as follows.

(2) After point (ii) insert—

- “(iia) an intermediate financial holding company or intermediate mixed financial holding company that is subject to the requirements of this Regulation on a sub-consolidated basis;
- (iib) an intermediate investment holding company that is subject to the requirements of Part 9C rules on a consolidated basis;
- (iic) an FCA investment firm;”.

(3) In point (iii)—

- (a) after “subject to prudential requirements” insert “which are”,
- (b) for “where” substitute “which”, and
- (c) omit “that those prudential requirements”.

13 (1) Article 84 (minority interests included in consolidated Common Equity Tier 1 capital) is amended as follows.

(2) In paragraph 1(a), for point (i) substitute—

“(i) the amount of Common Equity Tier 1 capital of that subsidiary required to meet the following:

- (A) the sum of the requirement laid down in point (a) of Article 92(1), the requirements referred to in Articles 458, 459 and 500, the specific own funds requirements referred to in regulation 34 of the Capital Requirements Regulations 2013, the combined buffer requirement defined in regulation 2 of the Capital Requirements (Capital Buffers and Macro-prudential Measures) Regulations 2014, and any additional local supervisory regulations in third countries insofar as those requirements are to be met by Common Equity Tier 1 capital, or
- (B) where the subsidiary is an FCA investment firm, the sum of the own funds requirements set out in Part 9C rules which apply to the subsidiary and any requirements set out in additional local supervisory regulations in third countries insofar as those requirements are to be met by Common Equity Tier 1 capital;”.

(3) In paragraph 3—

- (a) for “a competent authority” substitute “the PRA”, and
- (b) for “interest” substitute “interests”.

(4) After paragraph 3 insert—

“3A. Where Part 9C rules provide that, in relation to any subsidiaries which are FCA investment firms, the calculation referred to in paragraph 1 is to be undertaken on a consolidated basis so as to include those subsidiaries, minority interests within those subsidiaries shall not be recognised in own funds at the sub-consolidated or consolidated level, as applicable.”

14 (1) Article 85 (qualifying Tier 1 instruments included in consolidated Tier 1 capital) is amended as follows.

(2) In paragraph 1(a), for point (i) substitute—

“(i) the amount of Tier 1 capital of the subsidiary required to meet the following:

(A) the sum of the requirement laid down in point (b) of Article 92(1), the requirements referred to in Articles 458, 459 and 500, the specific own funds requirements referred to in regulation 34 of the Capital Requirements Regulations 2013, the combined buffer requirement defined in regulation 2 of the Capital Requirements (Capital Buffers and Macro-prudential Measures) Regulations 2014, and any additional local supervisory regulations in third countries insofar as those requirements are to be met by Tier 1 Capital, or

(B) where the subsidiary is an FCA investment firm, the sum of the own funds requirements set out in Part 9C rules which apply to the subsidiary and any requirements set out in additional local supervisory regulations in third countries insofar as those requirements are to be met by Tier 1 capital;”.

(3) In paragraph 3, for “a competent authority” substitute “the PRA”.

(4) After paragraph 3 insert—

“3A. Where Part 9C rules provide that, in relation to any subsidiaries which are FCA investment firms, the calculation referred to in paragraph 1 is to be undertaken on a consolidated basis so as to include those subsidiaries, Tier 1 instruments within those subsidiaries shall not be recognised in own funds at the sub-consolidated or consolidated level, as applicable.”

15 (1) Article 87 (qualifying own funds included in consolidated own funds) is amended as follows.

(2) In paragraph 1(a), for point (i) substitute—

“(i) the amount of own funds of the subsidiary required to meet the following—

(A) the sum of the requirement laid down in point (c) of Article 92(1), the requirements referred to in Articles 458, 459 and 500, the specific own funds requirements referred to in regulation 34 of the Capital Requirements Regulations 2013, the combined buffer requirement defined in regulation 2 of the Capital Requirements (Capital Buffers and Macro-prudential Measures) Regulations 2014, and any additional local supervisory regulations in third countries, or

(B) where the subsidiary is an FCA investment firm, the sum of the own funds requirements set out in Part 9C rules which apply to the subsidiary and any requirements set out in additional local supervisory regulations in third countries;”.

(3) In paragraph 3, for “a competent authority” substitute “the PRA”.

## (4) After paragraph 3 insert—

“3A. Where Part 9C rules provide that, in relation to any subsidiaries which are FCA investment firms, the calculation referred to in paragraph 1 is to be undertaken on a consolidated basis so as to include those subsidiaries, own funds instruments within those subsidiaries shall not be recognised in own funds at the sub-consolidated or consolidated level, as applicable.”

16 In Article 93 (initial capital requirement on going concern)—

- (a) omit paragraph 3,
- (b) in paragraphs 4 and 5, omit “or 3”, and
- (c) in paragraph 6, for “2 to 5” substitute “2, 4 and 5”.

17 Omit Article 95 (own funds requirements for investment firms with limited authorisation to provide investment services).

18 Omit Article 96 (own funds requirements for IFPRU 730k firms).

19 Omit Article 97 (own funds based on fixed overheads).

20 Omit Article 98 (own funds for investment firms on a consolidated basis).

21 In Article 100 (additional reporting requirements), in the second subparagraph, for “The FCA or the PRA (as the case may be)” substitute “The PRA”.

22 In Article 115(2) (exposures to regional governments or local authorities), in the second subparagraph, omit “and FCA”.

23 In Article 119 (exposures to institutions), after paragraph 5 insert—

“6. For the purposes of paragraph 5, the requirements laid down in Part 9C rules are to be treated as being comparable to those applied to institutions in terms of robustness.”

24 (1) Article 136 (mapping of ECAI’s credit assessments) is amended as follows.

(2) In paragraph 1, for “The FCA and the PRA may each” substitute “The PRA may”.

(3) In paragraph 2—

- (a) for “the FCA and the PRA”, in each place it occurs, substitute “the PRA”, and
- (b) in point (e), for “have” substitute “has”.

(4) In paragraph 3, for “The FCA and the PRA may each” substitute “The PRA may”.

25 In Article 162(3) (maturity), in the second subparagraph, in point (a), after “institutions” insert “or investment firms”.

26 (1) Article 197 (eligibility of collateral under all approaches and methods) is amended as follows.

(2) In paragraph 1(c), after “issued by institutions” insert “or investment firms”.

(3) In paragraph 4, after “other institutions” insert “or investment firms”.

27 In Article 199(8) (additional eligibility for collateral under the IRB Approach), omit “and the FCA”.

28 In Article 200 (other funded credit protection), for point (c) substitute—

- “(c) instruments issued by a third party institution, or an investment firm, which will be repurchased by that institution, or that investment firm, on request.”
- 29 In Article 202 (eligibility of protection providers under the IRB Approach which qualify for Article 153(3) treatment), after “institutions,” insert “investment firms,”.
- 30 In Article 224(6) (supervisory volatility adjustment under Financial Collateral Comprehensive Method), after “institutions”, in the first place it occurs, insert “or investment firms”.
- 31 In Article 227(3) (conditions for applying 0% volatility adjustment under Financial Collateral Comprehensive Method), after point (b) insert—  
     “(ba) investment firms;”.
- 32 In Article 243(1) (criteria for STS securitisations qualifying for differentiated capital treatment), in the second subparagraph, after “an institution,” insert “an investment firm,”.
- 33 (1) Article 270e (securitisation mapping) is amended as follows.  
     (2) For “The FCA and the PRA may each” substitute “The PRA may”.
- 34 (3) For the words from “For” to “shall” substitute “For the purposes of this Article, the PRA shall”.
- 34 In Article 290(3) (stress testing), for the words from “the relevant regulatory rules” to the end substitute “rule 6.1 of the Internal Capital Adequacy Part of the PRA rulebook”.
- 35 (1) Article 304(5) (treatment of clearing members’ exposure to clients) is amended as follows.  
     (2) In the first subparagraph, for “The FCA and the PRA may each” substitute “The PRA may”.
- 36 (3) In the second subparagraph, for “the FCA or the PRA (as the case may be)” substitute “the PRA”.
- 36 (1) Article 325u(5) (own funds requirements for residual risks) is amended as follows.  
     (2) In the first subparagraph, for “The FCA and PRA may each” substitute “The PRA may”.
- 37 (3) In the second subparagraph, for “the FCA and PRA” substitute “the PRA”.
- 37 (1) Article 325az (alternative internal model approach and permission to use alternative internal models) is amended as follows.  
     (2) In paragraph 8, for “The FCA and PRA may each” substitute “The PRA may”.
- 38 (3) In paragraph 9—  
     (a) for “The FCA and the PRA may each” substitute “The PRA may”, and  
     (b) for “they” substitute “it”.
- 38 (1) Article 325bk(3) (calculation of stress scenario risk measure) is amended as follows.  
     (2) In the first subparagraph, for “The FCA and PRA may each” substitute “The PRA may”.

- (3) In the second subparagraph, for “the FCA and PRA” substitute “the PRA”.
- 39 In Article 382(4) (scope of own funds requirements for CVA risk), in point (b), for “institutions” substitute “entities”.
- 40 (1) Article 441(2) (indicators of global systemic importance) is amended as follows.
- (2) For “The FCA and the PRA may each” substitute “The PRA may”.
- (3) For “the FCA or the PRA (as the case may be)” substitute “the PRA”.
- 41 In Article 450(1)(d) (remuneration policy) omit “19A.3.44R to 44DR and”.
- 42 In Article 456(1) (regulations modifying this Regulation) omit points (f) and (g).
- 43 (1) Article 464B (power to make technical standards) is amended as follows.
- (2) Omit paragraph 1.
- (3) In paragraph 2, for “the PRA and FCA may both” substitute “the PRA may”.
- (4) In paragraph 3 omit “alone”.
- 44 In Article 522(1)(b) (savings provisions: pre-exit decisions)—
- (a) omit “and FCA”, and
- (b) omit the words from “in relation to” to “other person”.
- 45 In Annex 1 (classification of off-balance sheet items), in point 1(d), at the end insert “or an investment firm”.
- 46 (1) Annex 3 (items subject to supplementary reporting of liquid assets) is amended as follows.
- (2) In point 3(b), for “of an institution or any of its affiliated entities” substitute “of, or of an affiliated entity of, an institution or an investment firm”.
- (3) In point 5(b), for “of an institution or any of its affiliated entities” substitute “of, or of an affiliated entity of, an institution or an investment firm”.
- (4) In point 6(a), for “on an SSPE, an institution or any of its affiliated entities” substitute “on, or on an affiliated entity of, an SSPE, an institution or an investment firm”.
- (5) In point 7, for “on an SSPE, an institution or any of its affiliated entities” substitute “on, or on an affiliated entity of, an SSPE, an institution or an investment firm”.
- (6) In point 11, for “by an institution or any of its affiliates” substitute “by, or by an affiliate of, an institution or an investment firm”.
- 47 In the following provisions, for “FCA and PRA may each” or “FCA and the PRA may each” (as appropriate) substitute “PRA may”—
- Article 4(4);
- Article 18(9);
- Article 26(4);
- Article 27(2);
- Article 28(5);
- Article 29(6);
- Article 32(2);
- Article 33(4);

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

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Article 36(2), (3) and (4);  
Article 41(2);  
Article 52(2);  
Article 73(7);  
Article 76(4);  
Article 78(5);  
Article 79(2);  
Article 83(2);  
Article 84(4);  
Article 99(5), first subparagraph;  
Article 99(6), second subparagraph;  
Article 101(4);  
Article 105(14);  
Article 110(4);  
Article 132a(4);  
Article 143(5);  
Article 144(2);  
Article 148(6);  
Article 150(3);  
Article 152(5);  
Article 153(9);  
Article 164(8);  
Article 173(3);  
Article 178(6);  
Article 180(3);  
Article 181(3);  
Article 182(4);  
Article 183(6);  
Article 194(10);  
Article 197(8);  
Article 221(9);  
Article 248(1), second subparagraph;  
Article 255(9);  
Article 270a(2);  
Article 277(5);  
Article 279a(3);  
Article 312(4);  
Article 314(5);  
Article 316(3);  
Article 318(3);  
Article 325(9);  
Article 325w(8);  
Article 325ap(3);  
Article 325bd(7);  
Article 325be(3);



Article 325bf(9);  
 Article 325bg(4);  
 Article 325bp(12);  
 Article 329(3);  
 Article 341(3);  
 Article 344(1);  
 Article 352(6);  
 Article 354(3);  
 Article 358(4), first subparagraph;  
 Article 363(4);  
 Article 382(5);  
 Article 383(7);  
 Article 430b(6);  
 Article 434a, first subparagraph;  
 Article 437(2);  
 Article 440(2);  
 Article 443;  
 Article 451(2);  
 Article 487(3);  
 Article 492(5).

## PART 2

### AMENDMENTS OF THE CAPITAL REQUIREMENTS (COUNTRY-BY-COUNTRY REPORTING) REGULATIONS 2013

- 48 The Capital Requirements (Country-by-Country Reporting) Regulations 2013 ([S.I. 2013/3118](#)) are amended as follows.
- 49 (1) Regulation 1(2) (interpretation) is amended as follows.
- (2) For the definition of “capital requirements regulation” substitute—
- ““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](#),”.
- (3) After that definition insert—
- ““FCA investment firm” has the same meaning as in Part 9C of the 2000 Act;
- “financial institution” has the meaning given in Article 4(1)(26) of the capital requirements regulation,”.
- (4) After the definition of “period of account” insert—
- ““Regulated Activities Order” means the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 ([S.I. 2001/544](#));
- “relevant FCA investment firm” has the meaning given in paragraph (2A);

“small and non-interconnected firm” has the meaning given in rules made by the Financial Conduct Authority for the purposes of Part 9C of the 2000 Act.”.

50 In regulation 1, after paragraph (2) insert—

“(2A) For the purposes of these Regulations, an FCA investment firm is “relevant” if—

- (a) it has a branch or subsidiary in a country or territory outside the United Kingdom that is a financial institution, and
- (b) it is not a small and non-interconnected firm,

subject to paragraphs (2B) and (2C).

(2B) Where an FCA investment firm which has not been a small and non-interconnected firm for a period becomes a small and non-interconnected firm, it only ceases to be a relevant FCA investment firm once—

- (a) it has been a small and non-interconnected firm for a continuous period of six months, and
- (b) it has notified the Financial Conduct Authority.

(2C) Where an FCA investment firm which has been a small and non-interconnected firm for a period determines that it is no longer a small and non-interconnected firm—

- (a) it must notify the Financial Conduct Authority, and
- (b) it does not become a relevant FCA investment firm until—
  - (i) the end of the period of 12 months beginning with the day on which it made the determination, or
  - (ii) if the notification specifies an earlier date, that date.”

51 In regulation 1(3) (interpretation of references to EU legislation), for “any EU regulation,” substitute “any EU regulation other than the capital requirements regulation or to any”.

52 (1) Regulation 2 (ongoing reporting obligation) is amended as follows.

(2) In paragraph (1), after “Institutions” insert “and relevant FCA investment firms”.

(3) In paragraph (2), after “institution” insert “or relevant FCA investment firm”.

(4) In paragraph (3), for “institution’s period of account” substitute “period of account for the institution or relevant FCA investment firm”.

(5) In paragraph (4)—

- (a) in the opening words, after “institution” insert “or relevant FCA investment firm”, and
- (b) in sub-paragraph (a), after “institution” insert “or relevant FCA investment firm”.

(6) In paragraph (8), after “institution” insert “or relevant FCA investment firm”.

53 In regulation 3(1) (interim reporting obligation), after “Institutions” insert “and relevant FCA investment firms”.

54 (1) Regulation 4 (group disclosure) is amended as follows.

(2) In paragraph (1), after “institution” insert “or relevant FCA investment firm”.

- (3) In paragraph (2), after “institution” insert “or relevant FCA investment firm”.
- 55 (1) Regulation 5 (prior disclosure: prevention of duplication) is amended as follows.
- (2) In paragraph (3)—
- (a) after “an institution” insert “or relevant FCA investment firm”, and
  - (b) after “the institution” (in both places) insert “or firm”.
- (3) In paragraph (4)—
- (a) after “an institution” insert “or relevant FCA investment firm”, and
  - (b) after “the institution” (in both places) insert “or firm”.
- 56 In regulation 6(2) (enforcement)—
- (a) in sub-paragraph (a) omit “which is a PRA-authorised person within the meaning of section 2B(5) of the 2000 Act”, and
  - (b) in sub-paragraph (b), for “any other institution” substitute “a relevant FCA investment firm”.