

*Status: Point in time view as at 04/01/2024.*

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## STATUTORY INSTRUMENTS

# 2008 No. 346

## FINANCIAL SERVICES AND MARKETS

### The Regulated Covered Bonds Regulations 2008

<i>Made</i>	- - - -	<i>13th February 2008</i>
<i>Laid before Parliament</i>		<i>14th February 2008</i>
<i>Coming into force</i>	- -	<i>6th March 2008</i>

The Treasury are a government department designated for the purposes of section 2(2) of the European Communities Act 1972<sup>M1</sup> in relation to—

- (a) credit and financial institutions and the taking of deposits or other repayable funds from the public<sup>M2</sup>; and
- (b) measures relating to securities and rights in securities<sup>M3</sup>.

#### **Modifications etc. (not altering text)**

- C1** Regulations applied (with modifications) (21.2.2009) by [The Banking Act 2009 \(Parts 2 and 3 Consequential Amendments\) Order 2009 \(S.I. 2009/317\)](#), arts. 1, 3, **Sch.**
- C2** Regulations applied (with modifications) (8.2.2011) by [The Investment Bank Special Administration Regulations 2011 \(S.I. 2011/245\)](#), reg. 1, **Sch. 6 Pt. 1** (with reg. 27(a))
- C3** Regulations: functions modified (20.2.2013) by [The Financial Services Act 2012 \(Transitional Provisions\) \(Rules and Miscellaneous Provisions\) Order 2013 \(S.I. 2013/161\)](#), arts. 5, **6(1)(c)(i)**
- C4** Regulations applied (with modifications) (8.7.2021) by [The Payment and Electronic Money Institution Insolvency Regulations 2021 \(S.I. 2021/716\)](#), reg. 2, Sch. 3 paras. 2, **3** (with reg. 5) (as amended (4.1.2024) by [The Payment and Electronic Money Institution Insolvency \(Amendment\) Regulations 2023 \(S.I. 2023/1399\)](#), regs. 1(2), **4**)
- C5** Regulations: power to modify conferred (11.7.2023) by [Financial Services and Markets Act 2023 \(c. 29\)](#), **ss. 3, 86(3)**, Sch. 1 Pt. 2; S.I. 2023/779, reg. 2(d)

#### **Marginal Citations**

- M1** 1972 c.68; section 2(2) was amended by the [Legislative and Regulatory Reform Act 2006 \(c. 51\)](#).
- M2** S.I. 2001/3495.
- M3** S.I. 2000/3057.

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# PART 1

## INTRODUCTION

### Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Regulated Covered Bonds Regulations 2008 and come into force on 6th March 2008.

(2) In these Regulations—

“the 1986 Act” means the Insolvency Act 1986 <sup>M4</sup>;

“the 2006 Act” means the Companies Act 2006 <sup>M5</sup>;

“the 1989 Order” means the Insolvency (Northern Ireland) Order 1989 <sup>M6</sup>;

“the Act” means the Financial Services and Markets Act 2000 <sup>M7</sup>;

“asset” means any property, right, entitlement or interest;

“asset pool” has the meaning given by regulation 3;

“the Authority” means the [<sup>F1</sup>Financial Conduct Authority];

<sup>F2</sup> .....

[<sup>F3</sup>“building society” means a building society incorporated (or deemed to be incorporated) under the Building Societies Act 1986;]

[<sup>F4</sup>“capital requirements regulation” means Regulation (EU) 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;]

“centre of main interests” has the same meaning as in Article 3(1) of [<sup>F5</sup>Regulation (EU) 2015/848 of the European Parliament and of the Council of 20 May 2015 on insolvency proceedings];

“connected person” has the meaning given by regulation 5;

“covered bond” means a bond in relation to which the claims attaching to that bond are guaranteed to be paid by an owner from an asset pool it owns;

[<sup>F6</sup>“deposit” has the meaning given in article 5(2) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001;]

“eligible property” has the meaning given by regulation 2;

[<sup>F6</sup>“government stock” means stock or bonds of any of the descriptions included in Part 1 of Schedule 11 to the Finance Act 1942;]

“hedging agreement” means an agreement entered into or asset held as protection against possible financial loss;

“issuer” means a person which issues a covered bond;

[<sup>F6</sup>“liquid assets” means—

(a) government stock or treasury bills issued by Her Majesty's Government in the United Kingdom and other specified government securities which comply with [<sup>F7</sup>Article 129(1) (a) or (b) of the capital requirements regulation];

(b) deposits in sterling or another specified currency in an account held in the name of the owner with the issuer or with a specified credit institution which comply with the requirements set out in [<sup>F8</sup>Article 129(1)(c) of the capital requirements regulation],

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and “specified” for the purposes of this definition means specified by the Authority in guidance issued under regulation 42;]

[<sup>F6</sup>“mixed asset class bond” means a mixed asset class regulated covered bond included in Part one of the register of regulated covered bonds;]

“owner” has the meaning given by regulation 4;

“programme” means issues, or series of issues, of covered bonds which have substantially similar terms and are subject to a framework contract or contracts;

[<sup>F6</sup>“reference rate” means a rate used to set the interest rates charged to borrowers in relation to a loan included in the asset pool;]

[<sup>F9</sup>“registered office” in relation to a building society means its principal office;]

“register of issuers” means the register maintained under regulation 7(1)(a);

“register of regulated covered bonds” means the register maintained under regulation 7(1)(b);

“regulated covered bond” means a covered bond or a programme of covered bonds, as the case may be, which is admitted to the register of regulated covered bonds;

“relevant asset pool” in relation to a regulated covered bond means the asset pool from which the claims attaching to that bond are guaranteed to be paid by the owner of that pool in the event of the failure of the issuer;

[<sup>F6</sup>“the relevant date” is the date on which the Regulated Covered Bonds (Amendment) Regulations 2011 come into force;]

“relevant persons” has the meaning given by regulation 27(2);

[<sup>F6</sup>“single asset class bond” means a single asset class regulated covered bond included in Part 2 of the register of regulated covered bonds;]

[<sup>F6</sup>“total principal amounts outstanding” means—

- (a) in relation to loans, the sum of the original amounts advanced on the loan and any further advances, less any repayments of principal made on the loan;
- (b) in relation to other assets, the total amount of principal which remains due to be repaid in relation to the asset.]

<sup>F10</sup> .....

(3) Unless otherwise defined, any expression used in these Regulations and in Article 22(4) of directive [85/611/EEC](#) of the Council of 20 December 1985 relating to undertakings for collective investment in transferable securities <sup>M8</sup> has the same meaning as in that Article of that Directive.

[<sup>F11</sup>(4) Any reference in these Regulations to any EU regulation, EU decision or EU tertiary legislation (within the meaning of section 20 of the European Union (Withdrawal) Act 2018) is, unless the contrary intention appears, to be treated as a reference to that EU regulation, EU decision or EU tertiary legislation as it [<sup>F12</sup>forms part of retained EU law].]

#### Textual Amendments

- F1** Words in reg. 1(2) substituted (1.4.2013) by [The Financial Services Act 2012 \(Consequential Amendments and Transitional Provisions\) Order 2013 \(S.I. 2013/472\)](#), **Sch. 2 para. 134(a)**
- F2** Words in reg. 1(2) omitted (1.1.2014) by virtue of [The Capital Requirements Regulations 2013 \(S.I. 2013/3115\)](#), reg. 1(2), **Sch. 2 para. 69(2)(a)**
- F3** Words in reg. 1(2) inserted (22.7.2008) by [The Regulated Covered Bonds \(Amendment\) Regulations 2008 \(S.I. 2008/1714\)](#), regs. 1, **2(2)(a)**

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- F4** Words in reg. 1(2) inserted (1.1.2014) by The Capital Requirements Regulations 2013 (S.I. 2013/3115), reg. 1(2), **Sch. 2 para. 69(2)(b)**
- F5** Words in reg. 1(2) substituted (8.12.2017) by The Insolvency (Miscellaneous Amendments) Regulations 2017 (S.I. 2017/1119), reg. 1(1), **Sch. 5 para. 2(2)**
- F6** Words in reg. 1(2) inserted (1.1.2013) by The Regulated Covered Bonds (Amendment) Regulations 2011 (S.I. 2011/2859), regs. 1, **2(2)**
- F7** Words in reg. 1(2) substituted (1.1.2014) by The Capital Requirements Regulations 2013 (S.I. 2013/3115), reg. 1(2), **Sch. 2 para. 69(2)(c)(i)**
- F8** Words in reg. 1(2) substituted (1.1.2014) by The Capital Requirements Regulations 2013 (S.I. 2013/3115), reg. 1(2), **Sch. 2 para. 69(2)(c)(ii)**
- F9** Words in reg. 1(2) substituted (22.7.2008) by The Regulated Covered Bonds (Amendment) Regulations 2008 (S.I. 2008/1714), regs. 1, **2(2)(b)**
- F10** Words in reg. 1(2) omitted (6.4.2010) by virtue of The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), art. 1(2)(f), **Sch. 3 para. 149**
- F11** Reg. 1(4) inserted (20.12.2018) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(2), **3**
- F12** Words in reg. 1(4) substituted (31.12.2020 immediately before IP completion day) by The Securities Financing Transactions, Securitisation and Miscellaneous Amendments (EU Exit) Regulations 2020 (S.I. 2020/1385), reg. 1(4), **Sch. para. 1(1)(2)(b)**

#### Marginal Citations

- M4** 1986 c.45.
- M5** 2006 c.46.
- M6** S.I. 1989/2405 (N.I. 19).
- M7** 2000 c.8.
- M8** O.J. No L 375, 31.12.85, p.3.

#### Eligible property

2.—(1) [<sup>F13</sup>In these Regulations, “eligible property” in relation to a mixed asset class bond or programme means any interest in— ]

- [<sup>F14</sup>(a) subject to paragraph (1B), eligible assets specified in and compliant with the requirements contained in [<sup>F15</sup>Article 129 of the capital requirements regulation];]
- (b) loans to a registered social landlord or, in Northern Ireland, to a registered housing association where the loans are secured—
- (i) over housing accommodation; or
- (ii) by rental income from housing accommodation;
- (c) loans to a person (“A”) which provides loans directly to a registered social landlord or, in Northern Ireland, to a registered housing association, where the loans to A are secured directly or indirectly—
- (i) over housing accommodation; or
- (ii) by rental income from housing accommodation;
- (d) loans to a project company of a project which is a public-private partnership project where the loans are secured by payments made by a public body with step-in rights;
- (e) loans to a person (“B”) which provides loans directly to a project company of a project which is a public-private partnership project where the loans to B are secured directly or indirectly by payments made by a public body with step-in rights;
- [<sup>F16</sup>(f) other liquid assets.]

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[<sup>F17</sup>(1A) In these Regulations, “eligible property” in relation to a single asset class bond or programme means, subject to paragraph (1B), any interest in eligible assets specified in and compliant with the requirements of one (and only one) of the following classes—

- (a) class 1 (public sector assets): eligible assets referred to in subparagraph (a) and (b) of [<sup>F18</sup>Article 129(1) of the capital requirements regulation], assets referred to in subparagraph (b), (c), (d) and (e) of paragraph (1) above and other liquid assets;
- (b) class 2 (residential mortgage assets): eligible assets referred to in [<sup>F19</sup>sub-paragraph (d) and (e) of Article 129(1) of the capital requirements regulation], and liquid assets;
- (c) class 3 (commercial mortgage assets): eligible assets referred to in [<sup>F20</sup>sub-paragraph (f) of Article 129(1) of the capital requirements regulation] and liquid assets.

(1B) Assets in the following categories—

- (a) exposures to a body which does not qualify for credit quality step 1 on the credit quality assessment scale set out in [<sup>F21</sup>Part Three, Title II, Chapter 2 of the capital requirements regulations]; <sup>F22</sup>...

<sup>F22</sup>(b) .....

shall not be eligible property for the purposes of paragraph (1)(a) or (1A).]

(2) Eligible property (and any relevant security) must be situated in an EEA state, [<sup>F23</sup>the United Kingdom,] Switzerland, the United States of America, Japan, Canada, Australia, New Zealand, the Channel Islands or the Isle of Man.

(3) In this regulation—

“the 1996 Act” means the Housing Act 1996 <sup>M9</sup>;

“the 2001 Act” means the Housing (Scotland) Act 2001 <sup>M10</sup>;

“housing accommodation”—

- (a) in England and Wales, has the meaning given by section 63 of the 1996 Act (minor modifications: Part 1);
- (b) in Scotland, has the meaning given by section 111 of the 2001 Act (interpretation); and
- (c) in Northern Ireland, has the meaning given by Article 2 of the Housing (Northern Ireland) Order 1981 <sup>M11</sup>;

“project company” has the meaning given by [<sup>F24</sup>paragraph 15 of Schedule ZA1 to the 1986 Act or, in Northern Ireland, paragraph 15 of Schedule ZA1 to the 1989 Order];

“public body” means a body which exercises public functions;

“public-private partnership project” has the meaning given by [<sup>F25</sup>paragraph 16 of Schedule ZA1 to the 1986 Act or, in Northern Ireland, paragraph 16 of Schedule ZA1 to the 1989 Order];

“registered housing association” means a body registered as a housing association under Chapter II of Part II of the Housing (Northern Ireland) Order 1992 <sup>M12</sup>;

“registered social landlord”—

- (a) in England and Wales, means [<sup>F26</sup>a private registered provider of social housing or] a body registered as a social landlord under Part 1 of the 1996 Act; and
- (b) in Scotland, means a body registered as a social landlord under [<sup>F27</sup>Part 2 of the Housing (Scotland) Act 2010];

“step-in rights” has the meaning given by [<sup>F28</sup>paragraph 17 of Schedule ZA1 to the 1986 Act or, in Northern Ireland, paragraph 17 of Schedule ZA1 to the 1989 Order].

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(4) Unless otherwise defined, any expression used in this regulation and the [F<sup>29</sup> capital requirements regulation has the same meaning as in that regulation].

#### Textual Amendments

- F13** Words in reg. 2(1) substituted (1.1.2013) by The Regulated Covered Bonds (Amendment) Regulations 2011 (S.I. 2011/2859), regs. 1, **2(3)(a)(i)**
- F14** Reg. 2(1)(a) substituted (1.1.2013) by The Regulated Covered Bonds (Amendment) Regulations 2011 (S.I. 2011/2859), regs. 1, **2(3)(a)(ii)**
- F15** Words in reg. 2(1)(a) substituted (1.1.2014) by The Capital Requirements Regulations 2013 (S.I. 2013/3115), reg. 1(2), **Sch. 2 para. 69(3)(a)**
- F16** Reg. 2(1)(f) inserted (1.1.2013) by The Regulated Covered Bonds (Amendment) Regulations 2011 (S.I. 2011/2859), regs. 1, **2(3)(a)(iii)**
- F17** Reg. 2(1A)(1B) inserted (1.1.2013) by The Regulated Covered Bonds (Amendment) Regulations 2011 (S.I. 2011/2859), regs. 1, **2(3)(b)**
- F18** Words in reg. 2(1A)(a) substituted (1.1.2014) by The Capital Requirements Regulations 2013 (S.I. 2013/3115), reg. 1(2), **Sch. 2 para. 69(3)(b)**
- F19** Words in reg. 2(1A)(b) substituted (1.1.2014) by The Capital Requirements Regulations 2013 (S.I. 2013/3115), reg. 1(2), **Sch. 2 para. 69(3)(c)**
- F20** Words in reg. 2(1A)(c) substituted (1.1.2014) by The Capital Requirements Regulations 2013 (S.I. 2013/3115), reg. 1(2), **Sch. 2 para. 69(3)(d)**
- F21** Words in reg. 2(1B)(a) substituted (1.1.2014) by The Capital Requirements Regulations 2013 (S.I. 2013/3115), reg. 1(2), **Sch. 2 para. 69(3)(e)**
- F22** Reg. 2(1B)(b) and word omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **8(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F23** Words in reg. 2(2) inserted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **8(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F24** Words in reg. 2(3) substituted (18.7.2020) by The Co-operative and Community Benefit Societies and Credit Unions (Arrangements, Reconstructions and Administration) (Amendment) and Consequential Amendments Order 2020 (S.I. 2020/744), arts. 1, **17(2)(a)**
- F25** Words in reg. 2(3) substituted (18.7.2020) by The Co-operative and Community Benefit Societies and Credit Unions (Arrangements, Reconstructions and Administration) (Amendment) and Consequential Amendments Order 2020 (S.I. 2020/744), arts. 1, **17(2)(b)**
- F26** Words in reg. 2(3) inserted (1.4.2010) by The Housing and Regeneration Act 2008 (Consequential Provisions) (No. 2) Order 2010 (S.I. 2010/671), art. 1(2), **Sch. 1 para. 68** (with Sch. 2); S.I. 2010/862, art. 2
- F27** Words in reg. 2(3) substituted (1.4.2012) by The Housing (Scotland) Act 2010 (Consequential Provisions and Modifications) Order 2012 (S.I. 2012/700), art. 1(3), **Sch. para. 18**
- F28** Words in reg. 2(3) substituted (18.7.2020) by The Co-operative and Community Benefit Societies and Credit Unions (Arrangements, Reconstructions and Administration) (Amendment) and Consequential Amendments Order 2020 (S.I. 2020/744), arts. 1, **17(2)(c)**
- F29** Words in reg. 2(4) substituted (1.1.2014) by The Capital Requirements Regulations 2013 (S.I. 2013/3115), reg. 1(2), **Sch. 2 para. 69(3)(g)**

#### Marginal Citations

- M9** 1996 c.52.
- M10** 2001 ASP 10.
- M11** S.I. 1981/156 (N.I. 3).
- M12** S.I. 1992/1725 (N.I. 15).

## Asset Pool

3.—(1) Subject to paragraph (2), in these Regulations an “asset pool” comprises the following assets—

- (a) sums derived from the issue of regulated covered bonds and lent to the owner in accordance with regulation 16;
- (b) eligible property which is acquired by the owner using sums lent to it in accordance with regulation 22;
- (c) eligible property transferred to the asset pool by the issuer or a connected person to enable the issuer or owner, as the case may be, to comply with—
  - (i) the requirements specified in regulation 17(2);
  - (ii) a direction of the Authority under regulation 30; or
  - (iii) an order of the court under regulation 33;
- (d) eligible property transferred to the asset pool by the issuer or a connected person for the purpose of over collateralisation;
- (e) contracts relating to the asset pool or to a regulated covered bond;
- (f) eligible property acquired by the owner using sums derived from any of the assets referred to in sub-paragraph (b), (c), (d) or (e);
- (g) sums derived from any of the assets referred to in sub-paragraph (b), (c), (d), (e) or (f); and
- (h) sums lent by persons (other than the issuer) to the owner to enable it to comply with the requirements specified in regulation 24(1)(a).

(2) Any of the assets referred to in sub-paragraphs (a) to (f) and (h) of paragraph (1) may only form part of an asset pool at any time if they are recorded at that time, pursuant to arrangements made in accordance with regulation 17, 23 or 24, as being in that pool.

(3) In paragraph (1), “over collateralisation” means the provision of additional assets that assist the payment from the relevant asset pool of claims attaching to a regulated covered bond in the event of the failure of the issuer.

## Owner

4. In these Regulations “owner” means a person which —

- (a) owns an asset pool; and
- (b) issues a guarantee to pay from that asset pool claims attaching to a regulated covered bond in the event of a failure of the issuer of that bond.

## Connected person

5.—(1) In these Regulations “connected person” in relation to an issuer means a person which—

- (a) is—
  - (i) a parent undertaking of the issuer;
  - (ii) a subsidiary undertaking of the issuer; or
  - (iii) a subsidiary undertaking of a parent undertaking of the issuer;
- (b) has its registered office in the United Kingdom; and
- (c) either—
  - (i) has its centre of main interests in the United Kingdom; or

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(ii) is authorised under Part 4 of the Act (permission to carry on regulated activities) to carry on the regulated activity referred to in article 5 (accepting deposits) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 <sup>M13</sup>.

(2) In paragraph (1) “parent undertaking” and “subsidiary undertaking” have the meanings given by section 1162 of the 2006 Act (parent and subsidiary undertakings).

#### Marginal Citations

**M13** [S.I. 2001/544](#) as amended by the [Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2002 \(S.I. 2002/682\)](#).

## PART 2

### THE AUTHORITY

#### Functions of the Authority

- 6.—(1) The Authority is to have the functions conferred on it by these Regulations.
- (2) The Authority's general functions are—
- (a) its functions in relation to the giving of guidance under regulation 42; and
  - (b) its function of determining the general policy and principles by reference to which it performs particular functions under these Regulations.
- (3) In discharging its general functions the Authority must have regard to—
- (a) the need to preserve investor confidence in, and the desirability of maintaining the good reputation of, the regulated covered bonds sector in the United Kingdom by the issuance of high quality regulated covered bonds;
  - (b) the international character of financial services and markets and the desirability of maintaining the competitive position of the United Kingdom;
  - (c) the need to use its resources in the most efficient and economic way;
  - (d) the principle that a burden or restriction which is imposed on a person, or on the carrying on of an activity, should be proportionate to the benefits, considered in general terms, which are expected to result from the imposition of that burden or restriction;
  - (e) the need to minimise the adverse effects on competition that may arise from anything done in the discharge of those functions;
  - (f) the desirability of facilitating competition in relation to regulated covered bonds.

## PART 3

### REGISTRATION

#### Registers

- 7.—(1) The Authority must maintain—
- (a) a register of issuers; and
  - (b) a register of regulated covered bonds.

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- [<sup>F30</sup>(1A) The register of regulated covered bonds shall be divided into two parts.
- (1B) Part one shall be a register of mixed asset class regulated covered bonds.
- (1C) Part two shall be a register of single asset class regulated covered bonds.
- (1D) Any covered bonds or programme of covered bonds included on the register of regulated covered bonds immediately before the relevant date—
- (a) shall be included in part two of the register of regulated covered bonds if the issuer certifies to the Authority at least three weeks before the relevant date—
- (i) that the eligible property (other than liquid assets) in the asset pool for the covered bond or programme of covered bonds in question all falls within one and only one of the classes specified in regulation 2(1A); and
- (ii) that the issuer wishes the regulated covered bond or bonds in question to be single-asset class regulated covered bonds;
- (b) shall otherwise be included in part one of the register of regulated covered bonds.
- (1E) Where a regulated covered bond is included in part two of the register of regulated covered bonds, the Authority shall record on the register which class of eligible property is contained in the asset pool for that covered bond or programme of covered bonds.]
- (2) The Authority must publish the registers in such manner and at such times as it may determine.

#### Textual Amendments

**F30** Reg. 7(1A)-(1E) inserted (1.1.2013) by [The Regulated Covered Bonds \(Amendment\) Regulations 2011 \(S.I. 2011/2859\)](#), regs. 1, **2(4)** (as amended (1.1.2013) by [The Regulated Covered Bonds \(Amendment\) Regulations 2012 \(S.I. 2012/2977\)](#), regs. 1(1), 2(2))

#### Applications for registration

- 8.** A person who proposes to issue a covered bond or a programme of covered bonds may apply to the Authority, in such manner as the Authority may direct—
- (a) for admission to the register of issuers; or
- [<sup>F31</sup>(b) for the covered bond or the programme of covered bonds to be admitted to—
- (i) part one of the register of regulated covered bonds, or
- (ii) part two of the register of regulated covered bonds.]

#### Textual Amendments

**F31** Reg. 8(b) substituted (1.1.2013) by [The Regulated Covered Bonds \(Amendment\) Regulations 2011 \(S.I. 2011/2859\)](#), regs. 1, **2(5)**

#### Applications for admission to the register of issuers

- 9.** Subject to regulation 11, the Authority must grant an application under regulation 8(a) if it is satisfied that the applicant—
- (a) has its registered office in the United Kingdom;
- (b) is authorised under Part 4 of the Act (permission to carry on regulated activities) to carry on the regulated activity referred to in article 5 (accepting deposits) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001;

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- (c) will comply with the requirements imposed upon issuers by or under these Regulations; and
- (d) complies with any other requirements imposed by the Authority in relation to the application.

### Applications for admission to the register of regulated covered bonds

**10.**—(1) The Authority may not entertain an application under [<sup>F32</sup>regulation 8(b)(i) or (ii)] in respect of a covered bond or programme of covered bonds unless it knows—

- (a) the identity of the owner of the relevant asset pool;
- (b) the assets intended to be included in that asset pool; and
- (c) the arrangements to be made under regulation 17.

(2) The Authority may grant an application under regulation 8(b) if it is satisfied that—

- (a) the applicant is an issuer which is admitted to the register of issuers;
- (b) the applicant and the owner of the relevant asset pool will comply with the requirements imposed upon them by or under these Regulations; and
- (c) the applicant complies with any other requirements imposed by the Authority in relation to the application.

[<sup>F33</sup>(3) The Authority may only grant an application under regulation 8(b)(ii) if it is satisfied that the eligible property (other than liquid assets) in the asset pool all falls within one and only one of the classes specified in regulation 2(1A).]

#### Textual Amendments

**F32** Words in [reg. 10\(1\)](#) substituted (1.1.2013) by [The Regulated Covered Bonds \(Amendment\) Regulations 2011 \(S.I. 2011/2859\)](#), [regs. 1, 2\(6\)\(a\)](#)

**F33** [Reg. 10\(3\)](#) inserted (1.1.2013) by [The Regulated Covered Bonds \(Amendment\) Regulations 2011 \(S.I. 2011/2859\)](#), [regs. 1, 2\(6\)\(b\)](#)

### Refusal of applications for registration

**11.** An application under regulation 8 may be refused if, for any reason relating to—

- (a) in the case of an application under regulation 8(a), the applicant; or
- (b) in the case of an application under regulation 8(b), the issuer, the owner of the relevant asset pool or the quality of that asset pool,

the Authority considers that granting it would be detrimental to the interests of investors in regulated covered bonds or to the maintenance of the good reputation of the regulated covered bond sector in the United Kingdom.

### Applications: supplementary

**12.**—(1) The applicant must provide any information which the Authority requires in connection with an application under regulation 8 in such form, and verified in such manner, as the Authority may direct.

(2) At any time after receiving an application under regulation 8 and before determining it, the Authority may require the applicant to provide such further information as it reasonably considers necessary to enable it to determine the application.

(3) Different directions may be given, or requirements imposed, by the Authority with respect to different applications or categories of application.

### Decision on the application

**13.—**(1) The Authority must notify the applicant of its decision on an application under regulation 8—

- (a) before the end of the period of six months beginning with the date on which the application is received; or
- (b) if within that period the Authority has required the applicant to provide further information in connection with the application, before the end of the period of six months beginning with the date on which that information is provided.

(2) The applicant may withdraw its application by giving the Authority written notice at any time before the Authority determines it.

(3) If the Authority decides to grant an application under regulation 8, it must give the applicant written notice of its decision.

(4) If the Authority proposes to refuse an application under regulation 8, it must give the applicant a warning notice.

(5) The Authority must, having considered any representations made in response to the warning notice—

- (a) if it decides to refuse the application under regulation 8, give the applicant a decision notice; or
- (b) if it grants the application, give the applicant written notice of its decision.

(6) If the Authority decides to refuse an application under regulation 8, the applicant may refer the matter to the [<sup>F34</sup>Upper Tribunal].

#### Textual Amendments

**F34** Words in [reg. 13\(6\)](#) substituted (6.4.2010) by [The Transfer of Tribunal Functions Order 2010 \(S.I. 2010/22\)](#), art. 1(2)(f), [Sch. 3 para. 150](#)

### Admission to the registers

**14.—**(1) If the Authority decides to grant an application under regulation 8 it must, within seven days of the date on which it gave written notice under regulation 13(3) or (5)(b), admit—

- (a) the applicant to the register of issuers; or
- [<sup>F35</sup>(b) the covered bond or the programme of covered bonds to—
  - (i) part one of the register of regulated covered bonds, in the case of an application under regulation 8(b)(i); or
  - (ii) part two of the register of regulated covered bonds in the case of an application under regulation 8(b)(ii).]

(2) The Authority may remove a regulated covered bond from the register of regulated covered bonds only after the expiry of the whole period of validity of that bond.

**Status:** Point in time view as at 04/01/2024.

**Changes to legislation:** The Regulated Covered Bonds Regulations 2008 is up to date with all changes known to be in force on or before 24 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

#### Textual Amendments

**F35** Reg. 14(1)(b) substituted (1.1.2013) by [The Regulated Covered Bonds \(Amendment\) Regulations 2011 \(S.I. 2011/2859\)](#), regs. 1, **2(7)**

## PART 4

### ISSUERS

#### Acting without registration

**15.**—(1) A person may not issue, or purport to issue, a regulated covered bond unless—

(a) it is admitted to the register of issuers; and

[<sup>F36</sup>(b) the bond is admitted to part one or part two of the register of regulated covered bonds.]

(2) A person which has been removed from the register of issuers may not make any further issue under a programme of covered bonds which has been admitted to the register of regulated covered bonds.

(3) Contravention of the prohibition in paragraph (1) or (2) by a person is a contravention of a requirement imposed on it by these Regulations, but does not—

(a) make any transaction void or unenforceable; or

(b) give rise to any right of action for breach of statutory duty.

#### Textual Amendments

**F36** Reg. 15(1)(b) substituted (1.1.2013) by [The Regulated Covered Bonds \(Amendment\) Regulations 2011 \(S.I. 2011/2859\)](#), regs. 1, **2(8)**

#### Sums derived from the issue of regulated covered bonds

**16.** An issuer must lend sums derived from the issue of a regulated covered bond to the owner of the relevant asset pool.

#### General requirements

**17.**—(1) An issuer of a regulated covered bond must enter into arrangements with the owner of the relevant asset pool for the maintenance and administration of that pool.

(2) The arrangements must provide for the following requirements—

(a) a record is kept of each asset in the asset pool;

(b) the asset pool is, during the whole period of validity of the regulated covered bond, capable of covering—

(i) claims attaching to the bond; and

(ii) sums required for the maintenance, administration and winding up of the asset pool;

(c) there is timely payment of claims attaching to the bond to the regulated covered bond holder; <sup>F37</sup> ...

*Changes to legislation: The Regulated Covered Bonds Regulations 2008 is up to date with all changes known to be in force on or before 24 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (d) the asset pool is of sufficient quality to give investors confidence that in the event of the failure of the issuer there will be a low risk of default in the timely payment by the owner of claims attaching to the bond;
- [<sup>F38</sup>(e) the eligible property in the asset pool of a single asset class bond consists only of eligible property of the same class as the eligible property included in the asset pool of the regulated covered bond when it was registered;
- (g) the total amount of interest payable in the period of twelve months following any given date in respect of eligible property in the asset pool is not less than the interest which would be payable in relation to the regulated covered bonds issued under the programme in that period, assuming that the reference rates applicable on the given date do not change in that period.
- (f) the total principal amounts outstanding in respect of eligible property in the asset pool is more than 108% of the total principal amounts outstanding in relation to the bonds to which the asset pool relates; and]

[<sup>F39</sup>(2A) In determining whether the requirement in subparagraph (e) of paragraph (2) is satisfied, no account shall be taken of eligible property which is liquid assets.

(2B) Subject to paragraph (2C), in determining whether the requirement in subparagraph (f) of paragraph (2) is satisfied, the total principal amounts outstanding in respect of eligible property which is liquid assets shall not exceed an amount which is the sum of—

- (a) 8% of the total principal amounts outstanding in relation to bonds with a maturity of one year or more, and
- (b) 100% of the total principal amounts outstanding in relation to bonds with a maturity of less than one year.

(2C) In applying paragraph (2B) in relation to the asset pool of a single asset class bond which is comprised only of assets within class 1 as specified in regulation 2(1A)(a), no account shall be taken of eligible property which is within paragraph (a) of the definition of “liquid assets” in regulation 1(2).

(2D) In ensuring that the arrangements satisfy the requirements in subparagraphs (f) and (g) of paragraph (2), the issuer may take account of any hedging agreements which it has entered into in relation to the assets in the asset pool and the regulated covered bonds.

(2E) Nothing in this regulation shall prevent the Authority directing an issuer to observe additional requirements in relation to its asset pool.]

- (3) This regulation does not apply in the event of the insolvency of the issuer.

#### Textual Amendments

- F37** Word in reg. 17(2)(c) omitted (1.1.2013) by virtue of [The Regulated Covered Bonds \(Amendment\) Regulations 2011 \(S.I. 2011/2859\)](#), regs. 1, **2(9)(a)**
- F38** Reg. 17(2)(e)-(g) inserted (1.1.2013) by [The Regulated Covered Bonds \(Amendment\) Regulations 2011 \(S.I. 2011/2859\)](#), regs. 1, **2(9)(b)**
- F39** Reg. 17(2A)-(2C) inserted (1.1.2013) by [The Regulated Covered Bonds \(Amendment\) Regulations 2011 \(S.I. 2011/2859\)](#), regs. 1, **2(9)(c)** (as amended (1.1.2013) by [The Regulated Covered Bonds \(Amendment\) Regulations 2012 \(S.I. 2012/2977\)](#), regs. 1(1), 2(3))

#### [<sup>F40</sup>Asset pool monitor

**17A.—(1)** An issuer of a regulated covered bond must appoint an asset pool monitor for each asset pool maintained for the regulated covered bonds it has issued.

**Status:** Point in time view as at 04/01/2024.

**Changes to legislation:** The Regulated Covered Bonds Regulations 2008 is up to date with all changes known to be in force on or before 24 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (2) The person appointed as asset pool monitor must—
  - (a) be eligible for appointment as a statutory auditor of the issuer under Part 42 of the Companies Act 2006; and
  - (b) not be disqualified from acting as a statutory auditor of the issuer by section 1214 of that Act (independence requirement).
- (3) The asset pool monitor shall—
  - (a) inspect the compliance of the issuer with the requirements in regulations 16 and 17, and in particular—
    - (i) the extent to which the asset pool satisfies the conditions set out in regulation 17(2); and
    - (ii) the accuracy of the records kept in relation to each asset in the asset pool, once every twelve months; and
  - (b) prepare an annual report in accordance with guidance issued by the Authority on the steps the issuer has taken to comply with regulations 16 and 17, and on the quality of the assets in the asset pool.
- (4) Guidance issued to the asset pool monitor of an individual issuer under paragraph (3)(b) may identify particular issues to be addressed in the report for that issuer.
- (5) A copy of the report prepared by the asset pool monitor shall be delivered to the Authority at such time as the Authority may direct.
- (6) If it appears to the asset pool monitor that the issuer has failed to comply with the requirements set out in regulation 17, or that the issuer has not provided the monitor with all the information and explanations to which the monitor is entitled under this regulation, the asset pool monitor shall report in writing on that fact to the Authority as soon as possible.
- (7) The asset pool monitor—
  - (a) has a right of access at all times to all books, accounts and vouchers of the issuer and of the owner of the relevant asset pool which are related to that asset pool, in whatever form they are held, and
  - (b) may require any of the persons referred to in paragraph (8) to provide such information and explanations as the asset pool monitor thinks necessary for the performance of the monitor's duties under this regulation.
- (8) The persons referred to in paragraph (7)(b) are—
  - (a) any officer or employee of the issuer or the owner;
  - (b) any person holding or accountable for any of the books, accounts or vouchers of the issuer or the owner;
  - (c) any person who fell within either sub-paragraph (a) or (b) at a time to which the information or explanations required by the asset pool monitor relates or relate.
- (9) A statement made by a person in response to a requirement under this regulation may not be used in evidence against him in criminal proceedings, except proceedings for an offence under section 398 of the Act in connection with the giving of information pursuant to requirements imposed by or under these Regulations.
- (10) On the insolvency of the issuer of a regulated covered bond—
  - (a) the asset pool monitor appointed by the issuer shall continue to act as asset pool monitor for the owner of the relevant asset pool;
  - (b) any subsequent appointment of an asset pool monitor required under paragraph (1) of this regulation shall be made by the owner of the relevant asset pool;

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- (c) references in paragraphs (2), (3), (4) and (6) to the issuer shall be understood as references to the owner of the relevant asset pool; and
- (d) references in paragraph (3) to regulations 16 and 17 shall be understood as references to regulation 24.]

#### Textual Amendments

**F40** Reg. 17A inserted (1.1.2013) by [The Regulated Covered Bonds \(Amendment\) Regulations 2011 \(S.I. 2011/2859\)](#), regs. 1, **2(10)**

#### Notification requirements

**18.**—(1) An issuer must give the Authority such information in respect of—

- (a) any regulated covered bond it issues;
- (b) any series of covered bonds issued or proposed to be issued under a regulated covered bond;
- (c) the assets in the relevant asset pool;
- (d) the steps it has taken to comply with regulation 16 or 17;

as the Authority may direct.

(2) The issuer of a regulated covered bond must inform the Authority if at any time any of the requirements specified in regulation 17(2) are not, or are not likely to be, satisfied in respect of the relevant asset pool.

(3) The information required under paragraphs (1) and (2) must be given at such times, in such form and verified in such manner, as the Authority may direct.

[<sup>F41</sup>(4) Any information required under paragraphs (1) and (2), or any part of that information, must, if the Authority so directs, be published as directed by the Authority.

(5) Nothing in paragraph (4) entitles the Authority to direct publication of information which the issuer would be entitled to refuse to disclose in court proceedings on grounds of legal professional privilege.]

#### Textual Amendments

**F41** Reg. 18(4)(5) inserted (1.1.2013) by [The Regulated Covered Bonds \(Amendment\) Regulations 2011 \(S.I. 2011/2859\)](#), regs. 1, **2(11)**

#### Change of issuer

**19.**—(1) An issuer of a regulated covered bond may transfer the benefits and obligations accruing to or falling upon it under all contracts relating to the relevant asset pool to another person only if that person has been admitted to the register of issuers.

(2) Where a transfer takes place in accordance with paragraph (1), that person shall be an issuer of that regulated covered bond for the purposes of these Regulations.

#### Material changes to the regulated covered bond

**20.**—(1) Where an issuer of a regulated covered bond proposes to make a material change to the contractual terms of the bond, it must give the Authority such—

**Status:** Point in time view as at 04/01/2024.

**Changes to legislation:** The Regulated Covered Bonds Regulations 2008 is up to date with all changes known to be in force on or before 24 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (a) notice of the proposed change; and
- (b) information in respect of the proposed change;

as the Authority may direct.

(2) The information required under paragraph (1) must be given at such time, in such form and verified in such manner, as the Authority may direct.

(3) If it appears to the Authority that the proposed change will not prevent the issuer and owner of the relevant asset pool from continuing to comply with the requirements imposed on them by or under these Regulations, it must give the issuer written notice of its decision to approve the change before the end of a period of 3 months beginning with the date on which the information required under paragraph (1) is provided.

(4) If it appears to the Authority that the proposed change may prevent the issuer or the owner of the relevant asset pool from complying with the requirements imposed upon them by or under these Regulations, it may decide not to approve the change and give the issuer a decision notice.

(5) If the Authority proposes to give a decision notice under paragraph (4), it must give the issuer a warning notice before the end of a period of 3 months beginning with the date on which the information required under paragraph (1) is provided.

(6) The Authority must, having considered any representations made in response to the warning notice—

- (a) if it decides to do so, give a decision notice under paragraph (4); or
- (b) if it decides not to give a decision notice, give the issuer a notice of discontinuance and written notice of its decision to approve the change.

(7) If the Authority gives a decision notice under paragraph (4), the issuer may refer the matter to the [F42Upper Tribunal].

(8) The issuer may not make the proposed change before it has received a written notice from the Authority approving the change.

#### Textual Amendments

**F42** Words in reg. 20(7) substituted (6.4.2010) by [The Transfer of Tribunal Functions Order 2010 \(S.I. 2010/22\)](#), art. 1(2)(f), [Sch. 3 para. 151](#)

## PART 5

### OWNERS

#### Prohibition

**21.**—(1) A person may not be an owner unless it—

- (a) is a company or limited liability partnership; and
- (b) has its registered office and centre of main interests in the United Kingdom.

(2) Regulation 15(3) applies to a contravention of the prohibition in paragraph (1) as it applies to a contravention of the prohibition in regulation 15(1) or (2).

[F43(3) In paragraph (1)—

“company” has the meaning given by section 735 of the Companies Act 1985 (“company” etc) and article 3 of the Companies (Northern Ireland) Order 1986 (“company” etc) until the

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coming into force of section 1 of the 2006 Act (companies) when it will have the meaning given by that section;

“limited liability partnership” has the meaning given —

- (a) in relation to Great Britain, by section 1 of the Limited Liability Partnerships Act 2000 (limited liability partnerships); and
- (b) in relation to Northern Ireland, by section 1 of the Limited Liability Partnerships Act (Northern Ireland) 2002 (limited liability partnerships) until the coming into force of section 1286 of the 2006 Act (extension of GB enactments relating to certain other forms of business organisation), when it will have the meaning given by section 1 of the Limited Liability Partnerships Act 2000.]

#### Textual Amendments

**F43** Reg. 21(3) substituted (22.7.2008) by [The Regulated Covered Bonds \(Amendment\) Regulations 2008 \(S.I. 2008/1714\)](#), regs. 1, **2(3)**

#### Sums derived from the issue of regulated covered bonds

[<sup>F44</sup>22.—[<sup>F45</sup>(1)] The owner of the relevant asset pool must, so far as necessary for the purpose of complying with arrangements made pursuant to regulation 23 or 24(1)(a), use the sums lent to it by the issuer of a regulated covered bond to acquire eligible property.

[<sup>F46</sup>(2) Any eligible property acquired for the asset pool of a single asset class bond under paragraph (1) must be eligible property of the same class as the eligible property included in the asset pool of the regulated covered bond when it was registered.]]

#### Textual Amendments

**F44** Reg. 22 substituted (22.7.2008) by [The Regulated Covered Bonds \(Amendment\) Regulations 2008 \(S.I. 2008/1714\)](#), regs. 1, **2(4)**

**F45** Reg. 22(1): reg. 22 renumbered as reg. 22(1) (1.1.2013) by [The Regulated Covered Bonds \(Amendment\) Regulations 2011 \(S.I. 2011/2859\)](#), regs. 1, **2(12)(a)**

**F46** Reg. 22(2) inserted (1.1.2013) by [The Regulated Covered Bonds \(Amendment\) Regulations 2011 \(S.I. 2011/2859\)](#), regs. 1, **2(12)(b)**

#### Requirements relating to the asset pool

**23.—**(1) The owner of the relevant asset pool must enter into arrangements with the issuer of a regulated covered bond for the maintenance and administration of the asset pool.

(2) The arrangements must provide for the requirements specified in regulation 17(2).

**24.—**(1) On the insolvency of the issuer of a regulated covered bond, the owner of the relevant asset pool must—

- (a) make arrangements for the maintenance and administration of the asset pool which provide for the following requirements—
  - (i) a record is kept of each asset in the asset pool;
  - (ii) the asset pool is capable of covering—
    - (aa) claims attaching to the bond; and

**Status:** Point in time view as at 04/01/2024.

**Changes to legislation:** The Regulated Covered Bonds Regulations 2008 is up to date with all changes known to be in force on or before 24 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (bb) sums required for the maintenance, administration and winding up of the asset pool;
  - (iii) there is timely payment of claims attaching to the bond to the regulated covered bond holder;
  - [<sup>F47</sup>(iv) the asset pool of a single asset class bond consists only of eligible property of the same class as the assets included in the asset pool of the regulated covered bond when it was registered.]
  - (b) give the Authority such information in respect of—
    - (i) the composition of the asset pool; and
    - (ii) the steps it has taken to comply with sub-paragraph (a);
 as the Authority may direct; and
  - (c) inform the Authority if at any time any of the requirements set out in sub-paragraph (a) (ii) or (iii) are not, or are not likely to be, satisfied.
- (2) The information required under paragraph (1)(b) and (c) must be given at such times, in such form and verified in such manner, as the Authority may direct.
- [<sup>F48</sup>(2A) In determining whether the requirement in paragraph (1)(a)(iv) is satisfied, no account shall be taken of eligible property which is liquid assets.
- (2B) Nothing in this regulation shall prevent the Authority directing the owner to observe additional requirements in relation to its asset pool.]

#### Textual Amendments

- F47** Reg. 24(1)(a)(iv) inserted (1.1.2013) by [The Regulated Covered Bonds \(Amendment\) Regulations 2011 \(S.I. 2011/2859\)](#), regs. 1, **2(13)(a)**
- F48** Reg. 24(2A)(2B) inserted (1.1.2013) by [The Regulated Covered Bonds \(Amendment\) Regulations 2011 \(S.I. 2011/2859\)](#), regs. 1, **2(13)(b)**

#### Change of owner

**25.**—(1) Where a regulated covered bond has been issued and the owner of the relevant asset pool proposes to transfer ownership of the asset pool and the benefits and obligations accruing to or falling upon it under all contracts relating to the asset pool to another person, it must make arrangements to give the Authority such—

- (a) notice of the proposed change of ownership; and
- (b) information in respect of the proposed new owner;

as the Authority may direct.

(2) The information required under paragraph (1) must be given at such time, in such form and verified in such manner, as the Authority may direct.

(3) If it appears to the Authority that the proposed owner will comply with the requirements imposed by arrangements made pursuant to regulation 23 or, as the case may be, 24(1)(a) it must give the owner written notice of its decision to approve the change before the end of a period of 3 months beginning with the date on which the information required under paragraph (1) is provided.

(4) If it appears to the Authority that the proposed owner will be unable to comply with any of those requirements it may decide not to approve the change and give the owner a decision notice.

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(5) If the Authority proposes to give a decision notice under paragraph (4), it must give the owner a warning notice before the end of a period of 3 months beginning with the date on which the information required under paragraph (1) is provided.

(6) The Authority must, having considered any representations made in response to the warning notice—

- (a) if it decides to do so, give a decision notice under paragraph (4); or
- (b) if it decides not to give a decision notice, give the owner a notice of discontinuance and written notice of its decision to approve the change.

(7) If the Authority gives a decision notice under paragraph (4), the owner may refer the matter to the [<sup>F49</sup>Upper Tribunal].

(8) The owner may not transfer the asset pool to a proposed new owner before it has received a written notice from the Authority approving the change.

#### Textual Amendments

**F49** Words in [reg. 25\(7\)](#) substituted (6.4.2010) by [The Transfer of Tribunal Functions Order 2010 \(S.I. 2010/22\)](#), art. 1(2)(f), [Sch. 3 para. 152](#)

### Transfer of title

**26.** Where an issuer of a regulated covered bond or a connected person holds any interest in an asset in the relevant asset pool on behalf of the owner, a liquidator or administrator appointed to wind up that issuer or connected person must, as soon as reasonably practicable, transfer or assist in the transfer of that interest to the owner.

## PART 6

### PRIORITY OF PAYMENT

#### Priority in a winding up

**27.**—(1) Subject to—

- (a) section 115 of the 1986 Act (expenses of voluntary winding up) or, in Northern Ireland, article 100 of the 1989 Order (expenses of voluntary winding up); and
- (b) the priority of the expenses of the winding up in a compulsory liquidation;

where an owner is wound up, the claims of relevant persons shall be paid from the relevant asset pool in priority to all other creditors.

(2) “Relevant persons” are—

- (a) regulated covered bond holders;
- (b) persons providing services for the benefit of those bond holders;
- (c) the counter-parties to hedging instruments which are incidental to the maintenance and administration of the asset pool or to the terms of the regulated covered bond; and
- (d) persons (other than the issuer) providing a loan to the owner to enable it to satisfy the claims of the persons mentioned in sub-paragraph (a), (b) or (c).

(3) The claims of the persons mentioned in paragraph (2)(b), (c) and (d) may rank equally with, but not in priority to, the claims of the persons mentioned in paragraph (2)(a).

**Status:** Point in time view as at 04/01/2024.

**Changes to legislation:** The Regulated Covered Bonds Regulations 2008 is up to date with all changes known to be in force on or before 24 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

## Realisation of a charge

28.—(1) Subject to regulation 29, if—

- (a) any asset comprised in the asset pool is charged as security for claims in priority to any charge over that asset granted to secure the claims of relevant persons; and
- (b) the charge which has priority is realised at any time when the owner is not in the course of being wound up;

the proceeds of the realisation of that charge must, after payment of the expenses referred to in regulation 29 and any other expenses relating to that charge, be first applied to satisfy the claims of relevant persons at such time as those claims fall due for payment.

(2) Subject to regulation 29, if—

- (a) any asset comprised in the asset pool is charged as security for several claims;
- (b) any agreement between the creditors of that charge gives priority to the claims of any person above the claims of the relevant persons; and
- (c) that charge is realised at any time when the owner is not in the course of being wound up;

the proceeds of the realisation of that charge must, after payment of the expenses referred to in regulation 29 and any other expenses relating to that charge, be first applied to satisfy the claims of the relevant persons at such time as those claims fall due for payment.

[<sup>F50</sup>(3) For the purposes of paragraphs (1) and (2) the claims of the persons mentioned in regulation 27(2)(b), (c) and (d) may rank equally with, but not in priority to, the claims of the persons mentioned in regulation 27(2)(a).]

### Textual Amendments

**F50** Reg. 28(3) inserted (22.7.2008) by [The Regulated Covered Bonds \(Amendment\) Regulations 2008 \(S.I. 2008/1714\)](#), regs. 1, 2(5)

## Expenses

[<sup>F51</sup>29.—(1) Disbursements made by a liquidator, provisional liquidator, administrator, administrative receiver, receiver or manager of the owner in respect of costs which—

- (a) are incurred after the commencement of any winding up, administration, administrative receivership or receivership; and
- (b) relate to any of the persons mentioned in paragraph (2);

shall be expenses of the winding up, administration, administrative receivership or receivership, as the case may be, and shall rank equally among themselves in priority to all other expenses.

(2) The persons referred to in paragraph (1)(b) are—

- (a) persons providing services for the benefit of regulated covered bond holders;
- (b) the counter-parties to hedging instruments which are incidental to the maintenance and administration of the asset pool or to the terms of the regulated covered bonds; and
- (c) persons (other than the issuer) providing a loan to the owner to enable it to meet the claims of regulated covered bond holders or pay costs which relate to persons falling within sub-paragraph (a) or (b).]

### Textual Amendments

**F51** Reg. 29 substituted (22.7.2008) by [The Regulated Covered Bonds \(Amendment\) Regulations 2008](#) (S.I. 2008/1714), regs. 1, **2(6)**

## PART 7

### ENFORCEMENT

#### Authority's power to give directions

**30.**—(1) If it appears to the Authority that a person has failed, or is likely to fail, to comply with any requirement imposed on it by or under these Regulations, the Authority may direct that person to take specified steps for the purpose of securing its compliance with any such requirement.

(2) If it appears to the Authority that an owner has failed, or is likely to fail, to comply with any requirement imposed on it by or under these Regulations, the Authority may direct the winding up of that person.

(3) A direction under this regulation is enforceable, on the application of the Authority, by an injunction or, in Scotland, by an order for specific performance under section 45 of the Court of Session Act 1988 <sup>M14</sup>(restoration of possession and specific performance).

### Marginal Citations

**M14** 1988 c.36.

#### Removal from the register

**31.**—(1) The Authority may remove an issuer from the register of issuers—

- (a) at the issuer's request;
- (b) with its consent; or
- (c) if it appears to the Authority that the issuer is failing, or has failed, to comply with any requirement imposed on it by or under these Regulations.

(2) But these Regulations (apart from regulation 15(2)) apply to a person which has been removed from the register of issuers as if it were still a person which is admitted to the register.

#### Directions and revocation: procedure

**32.**—(1) Before—

- (a) giving a direction under regulation 30; or
- (b) removing an issuer from the register of issuers under regulation 31(1)(c),

the Authority must give a warning notice to the person concerned.

(2) If, having considered any representations, the Authority decides to—

- (a) make the direction; or
- (b) remove the issuer from the register of issuers,

the Authority must give that person a decision notice.

**Status:** Point in time view as at 04/01/2024.

**Changes to legislation:** The Regulated Covered Bonds Regulations 2008 is up to date with all changes known to be in force on or before 24 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (3) If the Authority decides not to—
- (a) make a direction; or
  - (b) remove the issuer from the register of issuers,

it must give that person written notice of its decision.

- (4) If the Authority decides to—
- (a) make a direction; or
  - (b) remove the issuer from the register of issuers,

the person concerned may refer the matter to the [<sup>F52</sup>Upper Tribunal].

#### Textual Amendments

**F52** Words in reg. 32(4) substituted (6.4.2010) by [The Transfer of Tribunal Functions Order 2010 \(S.I. 2010/22\)](#), art. 1(2)(f), [Sch. 3 para. 153](#)

#### Powers of the court

- 33.**—(1) If, on the application of the Authority, the court is satisfied that—
- (a) there is a reasonable likelihood that a person will contravene a requirement imposed on it by or under these Regulations; or
  - (b) a person has contravened any such requirement and there is a reasonable likelihood that the contravention will continue or be repeated,

the court may make an order restraining (or in Scotland an interdict prohibiting) the contravention.

- (2) If, on the application of the Authority, the court is satisfied that—
- (a) a person has contravened a requirement imposed on it by or under these Regulations; and
  - (b) there are steps which could be taken for remedying the contravention;

the court may make an order requiring that person, and any other person who appears to have been knowingly concerned in the contravention, to take such steps as the court may direct to remedy it.

(3) The jurisdiction conferred by this regulation is exercisable by the High Court, the Court of Session and the Northern Ireland High Court.

(4) In paragraph (2), references to remedying a contravention include references to mitigating its effect.

#### Financial penalties

**34.**—(1) The Authority may impose a penalty of such amount as it considers appropriate on a person which has contravened a requirement imposed on it by or under these Regulations.

(2) A penalty imposed under this regulation is payable to the Authority.

(3) The Authority may not take action against a person under this regulation after the end of the period of two years beginning with the first day on which it knew of the contravention unless proceedings against that person, in respect of the contravention, were begun before the end of that period.

- (4) For the purposes of paragraph (3)—
- (a) the Authority is to be treated as knowing of a contravention if it has information from which the contravention can reasonably be inferred; and

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- (b) proceedings against a person in respect of a contravention are to be treated as begun when a warning notice is given to it under regulation 35.

**35.**—(1) Where the Authority proposes to impose a penalty under regulation 34, it must give the person concerned a warning notice.

(2) The warning notice must state the amount of the proposed penalty and the Authority's reasons for imposing it.

(3) If, having considered any representations made in response to the warning notice, the Authority decides to impose a penalty under regulation 34, it must without delay give the person concerned a decision notice.

(4) The decision notice must state the amount of the penalty.

(5) If the Authority decides to impose a penalty on a person under regulation 34, that person may refer the matter to the [<sup>F53</sup>Upper Tribunal].

**36.** Sections 210 (statements of policy) and 211 (statements of policy: procedure) of the Act are to apply in respect of the imposition of penalties under these Regulations and the amount of such penalties as they apply in respect of the imposition of penalties under Part 14 of the Act (disciplinary measures) and the amount of penalties under that Part of that Act.

[<sup>F54</sup>**36A.**—(1) The Authority must in respect of each of its financial years pay to the Treasury any amounts received by it during the year by way of penalties imposed under regulation 34.

(2) The Treasury may give directions to the Authority as to how the Authority is to comply with its duty under paragraph (1).

(3) The directions may in particular—

(a) specify the time when any payment is required to be made to the Treasury, or

(b) require the Authority to provide the Treasury at specified times with information relating to penalties that the Authority has imposed under regulation 34.

(4) The Treasury must pay into the Consolidated Fund any sums received by them under this regulation.]

[<sup>F55</sup>**37.** Paragraph 19 (penalties) of Schedule 1ZA applies for the purposes of these Regulations as it applies for the purposes of the Act but as if for “this Act” there were substituted “the Regulated Covered Bonds Regulations 2008.”]

#### Textual Amendments

**F53** Words in reg. 35(5) substituted (6.4.2010) by [The Transfer of Tribunal Functions Order 2010 \(S.I. 2010/22\)](#), art. 1(2)(f), [Sch. 3 para. 154](#)

**F54** Reg. 36A inserted (1.4.2013) by [The Payment to Treasury of Penalties Regulations 2013 \(S.I. 2013/429\)](#), regs. 1, [2\(3\)](#)

**F55** Reg. 37 substituted (1.4.2013) by [The Financial Services Act 2012 \(Consequential Amendments and Transitional Provisions\) Order 2013 \(S.I. 2013/472\)](#), [Sch. 2 para. 134\(b\)](#)

#### Offence of misleading the Authority

**38.**—(1) Subsections (1) and (3) of section 398 [<sup>F56</sup>(misleading FCA or PRA)] of the Act are to apply in respect of requirements imposed by or under these Regulations as they apply in respect of requirements imposed by or under the Act.

**Status:** Point in time view as at 04/01/2024.

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[<sup>F57</sup>(1A) For the purposes of section 398 of the Act, as applied to requirements imposed by or under these Regulations, information provided to the asset pool monitor in response to a requirement under regulation 17A(7) shall be treated as being given to the Authority.]

(2) Section 400 (offences by bodies corporate etc) and subsections (2), (3), (5) and (6) of section 401 (proceedings for offences) of the Act are to apply for the purposes of paragraph (1) as they apply for the purposes of the Act.

**Textual Amendments**

- F56** Words in reg. 38(1) substituted (1.4.2013) by [The Financial Services Act 2012 \(Consequential Amendments and Transitional Provisions\) Order 2013 \(S.I. 2013/472\)](#), **Sch. 2 para. 134(c)**
- F57** Reg. 38(1A) inserted (1.1.2013) by [The Regulated Covered Bonds \(Amendment\) Regulations 2011 \(S.I. 2011/2859\)](#), regs. 1, **2(14)**

## PART 8

### THE [<sup>F58</sup>UPPER TRIBUNAL]

**Textual Amendments**

- F58** Words in Pt. 8 heading substituted (6.4.2010) by [The Transfer of Tribunal Functions Order 2010 \(S.I. 2010/22\)](#), art. 1(2)(f), **Sch. 3 para. 155**

#### Functions of the [<sup>F59</sup>Upper Tribunal]

**39.** The [<sup>F59</sup>Upper Tribunal] is to have the functions conferred on it by these Regulations.

**Textual Amendments**

- F59** Words in reg. 39 substituted (6.4.2010) by [The Transfer of Tribunal Functions Order 2010 \(S.I. 2010/22\)](#), art. 1(2)(f), **Sch. 3 para. 156**

#### Hearings and appeals

<sup>F60</sup>**40.** . . . . .

**Textual Amendments**

- F60** Reg. 40 omitted (6.4.2010) by virtue of [The Transfer of Tribunal Functions Order 2010 \(S.I. 2010/22\)](#), art. 1(2)(f), **Sch. 3 para. 157**

## PART 9

### MISCELLANEOUS

#### Notification of the Commission

<sup>F61</sup>41. ....

#### Textual Amendments

**F61** Reg. 41 omitted (31.12.2020) by virtue of [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1401\)](#), regs. 1(3), 9 (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

#### Guidance

42.—(1) The Authority may give guidance consisting of such information and advice as it considers appropriate—

- (a) with respect to the operation of these Regulations;
- (b) with respect to any matters relating to functions of the Authority under these Regulations;
- (c) with respect to any other matters about which it appears to the Authority to be desirable to give information or advice.

[<sup>F62</sup>(2) The Authority must give guidance consisting of—

- (a) information as to which government securities, credit institutions and currencies are specified for the purposes of the definition of “liquid assets” in regulation 1(2);
- (b) information and advice about the quality of an asset pool for the purposes of the requirement specified in regulation 17(2)(d) and the manner in which it will assess the issuer's and owner's compliance with that requirement;
- (c) information and advice about the contents of the annual report required for the purposes of regulation 17A(3)(b).]

(3) Guidance given under paragraph (2) must include information and advice on the factors which the Authority will take into account, such as—

- (a) fluctuations in the value of assets and the income from assets;
- (b) fluctuations in the value of interest and exchange rates;
- (c) geographical concentration and diversification of assets in the asset pool;
- (d) the risk of loss if a person fails to perform its obligations, or fails to perform them in a timely manner; and
- (e) counterparty credit risk, in particular, in relation to any interest rate, currency or other hedging instruments relating to the asset pool.

[<sup>F63</sup>(4) Subject to paragraph (5) and the modification in paragraph (4A), if the Authority proposes to give guidance under this regulation to issuers or owners generally, or to a class of issuer or owner, subsections (1)(b), (2)(e) and (3) of section 138I of the Act (consultation by the FCA) apply to the proposed guidance as they apply to proposed rules made under the Act, unless the Authority considers that the delay in complying with them would be prejudicial to the interests of regulated covered bond holders.

(4A) For the purpose of paragraph (4) section 138I of the Act is to be treated as if in subsection (1) (b) “after doing so” were omitted.]

**Status:** Point in time view as at 04/01/2024.

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- (5) Paragraph (4) shall not apply to the first guidance given pursuant to paragraph (2).
- (6) The Authority may—
- (a) publish its guidance;
  - (b) offer copies of its published guidance for sale at a reasonable price; and
  - (c) if it gives guidance in response to a request made by any person, make a reasonable charge for that guidance.

#### Textual Amendments

- F62** Reg. 42(2) substituted (1.1.2013) by [The Regulated Covered Bonds \(Amendment\) Regulations 2011 \(S.I. 2011/2859\)](#), regs. 1, **2(15)**
- F63** Reg. 42(4)(4A) substituted for reg. 42(4) (1.4.2013) by [The Financial Services Act 2012 \(Consequential Amendments and Transitional Provisions\) Order 2013 \(S.I. 2013/472\)](#), **Sch. 2 para. 134(d)**

#### Disclosure of information

**43.**—(1) Sections 348 (restrictions on disclosure of confidential information by [<sup>F64</sup>FCA, PRA]), 349 (exceptions from section 348) and 352 (offences) of the Act apply to confidential information disclosed under these Regulations as they apply to confidential information under the Act.

(2) In paragraph (1) “confidential information” has the meaning given by section 348 of the Act.

#### Textual Amendments

- F64** Words in [reg. 43\(1\)](#) substituted (1.4.2013) by [The Financial Services Act 2012 \(Consequential Amendments and Transitional Provisions\) Order 2013 \(S.I. 2013/472\)](#), **Sch. 2 para. 134(e)**

#### Warning notices and decision notices

**44.** Part 26 of the Act (notices) is to apply for the purposes of these Regulations as it applies for the purposes of the Act.

#### Authority's exemption from liability in damages

**45.** The functions of the Authority under these Regulations are to be treated for the purposes of [<sup>F65</sup>paragraph 25 (exemption from liability in damages) of Part 4 of Schedule 1ZA] to the Act as functions conferred on the Authority under that Act.

#### Textual Amendments

- F65** Words in [reg. 45](#) substituted (1.4.2013) by [The Financial Services Act 2012 \(Consequential Amendments and Transitional Provisions\) Order 2013 \(S.I. 2013/472\)](#), **Sch. 2 para. 134(f)**

#### Modifications of primary and secondary legislation

**46.** The Schedule (which modifies primary and secondary legislation) has effect.

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**Status:** Point in time view as at 04/01/2024.

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*Dave Watts*  
*Steve McCabe*  
Two of the Lords Commissioners of Her  
Majesty's Treasury

**Status:** Point in time view as at 04/01/2024.

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## SCHEDULE

Regulation 46

### MODIFICATIONS TO PRIMARY AND SECONDARY LEGISLATION

## PART 1

### PRIMARY LEGISLATION

#### Modification of the Companies Act 1985

1. Section 196 (payment of debts out of assets subject to floating charge (England and Wales)) of the Companies Act 1985 shall not apply to an owner.

#### Modifications of the 1986 Act

2.—(1) Sections 40 (payment of debts out of assets subject to floating charge) and 43 (power to dispose of charged property) of the 1986 Act shall not apply to an owner.

(2) Section 107 of the 1986 Act (distribution of company's property) shall apply only after payment has been made of the claims of relevant persons.

(3) Section 156 of the 1986 Act (payment of expenses of winding up) shall apply only after payment has been made of the expenses referred to in regulation 29.

(4) Section 175 (preferential debts (general provision)) and 176A (share of assets for unsecured creditors) of the 1986 Act shall not apply to an owner.

(5) Paragraphs 65(1) and 66 of Schedule B1 (distributions) to the 1986 Act shall apply only after payment has been made of the claims of relevant persons.

#### Modifications of the Act

3. Section 165 ([<sup>F66</sup>Regulator's] power to require information) of the Act is to apply for the purposes of these Regulations as it applies for the purposes of the Act but with the modification that for references to “an authorised person” there is substituted references to “ a person to whom the Regulated Covered Bonds Regulations 2008 apply ”>.

#### Textual Amendments

**F66** Word in Sch. para. 3 substituted (1.4.2013) by [The Financial Services Act 2012 \(Consequential Amendments and Transitional Provisions\) Order 2013 \(S.I. 2013/472\)](#), **Sch. 2 para. 134(g)(i)**

4. Section 166 (reports by skilled persons) of the Act is to apply for the purposes of these Regulations as it applies for the purposes of the Act but with the modification that for the reference in subsection (2)(a) to “an authorised person” there is substituted a reference to “ a person to whom the Regulated Covered Bond Regulations 2008 apply ”.

[<sup>F67</sup>4A. Section 166A (appointment of skilled person to collect and update information) of the Act is to apply for the purposes of these Regulations as it applies for the purposes of the Act but with the following modifications—

(a) omit subsection (10);

(b) for references in other subsections of section 166A to “authorised person” there is substituted references to “person to whom the Regulated Covered Bond Regulations 2008 apply.”]

**Status:** Point in time view as at 04/01/2024.

**Changes to legislation:** The Regulated Covered Bonds Regulations 2008 is up to date with all changes known to be in force on or before 24 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

#### Textual Amendments

**F67** Sch. para. 4A inserted (1.4.2013) by [The Financial Services Act 2012 \(Consequential Amendments and Transitional Provisions\) Order 2013 \(S.I. 2013/472\)](#), **Sch. 2 para. 134(g)(ii)**

[<sup>F68</sup>5. Paragraph 23 of Schedule 1ZA to the Act (fees) is to apply for the purposes of these Regulations as it applies for the purposes of the Act, but with the following modifications—

- (a) in sub-paragraph (1)—
  - (i) for the reference to “this Act” there is substituted a reference to “the Regulated Covered Bonds Regulations 2008”;
  - (ii) omit paragraphs (b) and (c);
- (b) for sub-paragraph (2) substitute—

“(2) The “qualifying functions” of the FCA are its functions under the Regulated Covered Bonds Regulations 2008.”;
- (c) omit sub-paragraphs (3), (4), (5) and (6);
- (d) for the reference in sub-paragraph (7) to “penalties imposed by it under this Act” there is substituted a reference to “penalties imposed by it under the Regulated Covered Bonds Regulations 2008.]

#### Textual Amendments

**F68** Sch. para. 5 substituted (1.4.2013) by [The Financial Services Act 2012 \(Consequential Amendments and Transitional Provisions\) Order 2013 \(S.I. 2013/472\)](#), **Sch. 2 para. 134(g)(iii)**

### Modification of the 2006 Act

6. Where an owner is wound up, section 754 of the 2006 Act (priorities where debentures secured by floating charge) shall apply only after payment has been made of the claims of relevant persons.

## PART 2

### SECONDARY LEGISLATION

#### Modifications of the [<sup>F69</sup>Insolvency (England and Wales) Rules 2016]

7.—(1) [<sup>F70</sup>Rule 14.12 of the Insolvency (England and Wales) Rules 2016 (administration and winding up by the court: debts of insolvent company to rank equally), so far as it applies in a winding up by the court,] shall apply only after payment has been made of the claims of relevant persons.

(2) [<sup>F71</sup>Rules 3.51, 6.42, 7.108 and 7.109 of the Insolvency (England and Wales) Rules 2016] (priority of expenses) shall apply to an owner subject to the provisions of regulation 29.

#### Textual Amendments

**F69** Words in Sch. para. 7 heading substituted (23.4.2019) by [The Financial Services and Markets \(Insolvency\) \(Amendment of Miscellaneous Enactments\) Regulations 2019 \(S.I. 2019/755\)](#), regs. 1, **7(2)(c)**

**Status:** Point in time view as at 04/01/2024.

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- F70** Words in Sch. para. 7(1) substituted (23.4.2019) by [The Financial Services and Markets \(Insolvency\) \(Amendment of Miscellaneous Enactments\) Regulations 2019 \(S.I. 2019/755\)](#), regs. 1, **7(2)(a)**
- F71** Words in Sch. para. 7(2) substituted (23.4.2019) by [The Financial Services and Markets \(Insolvency\) \(Amendment of Miscellaneous Enactments\) Regulations 2019 \(S.I. 2019/755\)](#), regs. 1, **7(2)(b)**

### **[<sup>F72</sup>Modification of the Insolvency (Scotland) (Company Voluntary Arrangements and Administration) Rules 2018 and the Insolvency (Scotland) (Receivership and Winding up) Rules 2018]**

[<sup>F73</sup>8. [<sup>F74</sup>Rule 3.51 (order of priority) of the Insolvency (Scotland) (Company Voluntary Arrangements and Administration) Rules 2018 and rule 7.28 (order of priority of expenses of liquidation) of the Insolvency (Scotland) (Receivership and Winding up) Rules 2018] shall apply to an owner subject to the provisions of regulation 29.]

#### **Textual Amendments**

- F72** Sch. para. 8 heading substituted (23.4.2019) by [The Financial Services and Markets \(Insolvency\) \(Amendment of Miscellaneous Enactments\) Regulations 2019 \(S.I. 2019/755\)](#), regs. 1, **7(3)(b)**
- F73** Sch. para. 8 substituted (22.7.2008) by [The Regulated Covered Bonds \(Amendment\) Regulations 2008 \(S.I. 2008/1714\)](#), regs. 1, **2(7)(a)**
- F74** Words in Sch. para. 8 substituted (23.4.2019) by [The Financial Services and Markets \(Insolvency\) \(Amendment of Miscellaneous Enactments\) Regulations 2019 \(S.I. 2019/755\)](#), regs. 1, **7(3)(a)**

### **Modifications of the 1989 Order**

9.—(1) Article 50 (payment of debts out of assets subject to floating charge) [<sup>F75</sup>and article 53 (power to dispose of charged property)] of the 1989 Order shall not apply to an owner.

[<sup>F76</sup>(2) Article 93 of and paragraphs 66(1) and 67 of Schedule B1 to the 1989 Order (distribution of company's property) shall apply only after payment has been made of the claims of relevant persons.

(3) Article 134 of the 1989 Order (payment of expenses) shall apply only after payment has been made of the expenses referred to in regulation 29.

(4) Articles 149 (preferential debts (general provision)) and 150A (share of assets for unsecured creditors) of the 1989 Order shall not apply to an owner.]

#### **Textual Amendments**

- F75** Words in Sch. para. 9(1) inserted (22.7.2008) by [The Regulated Covered Bonds \(Amendment\) Regulations 2008 \(S.I. 2008/1714\)](#), regs. 1, **2(7)(b)**
- F76** Sch. para. 9(2)-(4) substituted for Sch. para. 9(2) (22.7.2008) by [The Regulated Covered Bonds \(Amendment\) Regulations 2008 \(S.I. 2008/1714\)](#), regs. 1, **2(7)(c)**

### **Modifications of the Insolvency Rules (Northern Ireland) 1991**

10.—(1) Rule 4.190(1) of the Insolvency Rules (Northern Ireland) 1991 <sup>M15</sup> (debts of insolvent company to rank equally) shall apply only after payment has been made of the claims of relevant persons.

(2) Rules 2.068, 4.228 and 4.229 of the Insolvency Rules (Northern Ireland) 1991 (priority of expenses) shall apply to an owner subject to the provisions of regulation 29.

**Status:** Point in time view as at 04/01/2024.

**Changes to legislation:** The Regulated Covered Bonds Regulations 2008 is up to date with all changes known to be in force on or before 24 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

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**Marginal Citations**

**M15** S.R. [1991 No.364](#).

### **Modification of the Cross-Border Insolvency Regulations 2006**

**11.** The Cross-Border Insolvency Regulations 2006 <sup>M16</sup> shall not apply to an owner.

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**Marginal Citations**

**M16** S.I. [2006/1030](#).

### **Modification of the Cross-Border Insolvency (Northern Ireland) Regulations 2007**

**12.** The Cross-Border Insolvency (Northern Ireland) Regulations 2007 <sup>M17</sup> shall not apply to an owner.

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**Marginal Citations**

**M17** S.R. [2007 No. 115](#).

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## **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations provide a new legislative framework for covered bonds in the UK. The Regulations implement Article 22(4) of Council Directive [85/611/EC](#) of 20 December 1985 on the co-ordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (“UCITS Directive”) (as inserted by Directive [2001/108/EC](#) of 21 January 2002); Article 22(4) of Council Directive [92/49/EC](#) of 18 June 1992 on the co-ordination of laws, regulations and administrative provisions relating to direct insurance other than life assurance (“Third Non-Life Directive”); and Article 24(4) of Directive [2002/83/EC](#) of the European Parliament and of the Council concerning life assurance (“Consolidated Life Directive”). The relevant requirements of the UCITS Directive, the Third Non-Life Directive and the Consolidated Life Directive are in the same terms. These Regulations also implement paragraph 68 of Annex 6 to Directive [2006/48/EEC](#) of the European Parliament and of the Council relating to the taking up and pursuit of the business of credit institutions (“the Banking Consolidation Directive”).

A covered bond is a class of corporate bond, issued by credit institutions and backed by certain assets, normally mortgages or public sector loans. Interest and repayments of principal is payable out of ring-fenced assets (“an asset pool”) backing the bond. Covered bonds that comply with the UCITS Directive (and equivalent requirements in the other Directives referred to above) benefit from higher prudential investment limits under the UCITS Directive and lower risk weights under the Banking Consolidation Directive.

**Status:** Point in time view as at 04/01/2024.

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The Regulations establish a new regime supervised by the Financial Services Authority (the Authority) and take account of UK practice in relation to covered bonds. In the UK, covered bonds are issued by credit institutions. The issuer lends the sums derived from the bonds to a separate legal entity owned by another person (“the owner”). The owner uses the sums to purchase property which it holds in an asset pool. The owner agrees to guarantee the issuer's obligations to the covered bond holders. The loan is repaid once the bond holders' claims to the principal and accrued interest have been met.

Part 1 of the Regulations provides definitions. Part 2 sets out the functions of the Authority and provides for it to have regard to certain considerations, including the need to preserve investor confidence in regulated covered bonds in the UK. Part 3 requires the Authority to maintain a register of issuers and a register of regulated covered bonds and sets out the registration process. Part 4 imposes requirements on issuers and Part 5 imposes requirements on owners. In particular, the issuer and the owner must make arrangements for the maintenance and administration of the asset pool so that the claims of bond holders and other specified parties may be met. Part 6 establishes that regulated covered bond holders and other specified persons must be paid in priority to all other creditors, after the payment of expenses of the receivership or winding up etc. Part 6 also provides for certain expenses incurred by a receiver or liquidator etc. to rank above the payment of all other expenses. Part 7 sets out the enforcement powers of the Authority and the Courts. Part 8 confers functions on the Financial Services and Markets Act Tribunal and Part 9 (and Schedule 1) contain provision for notification of the European Commission, guidance to be issued by the Authority and various modifications of primary and secondary legislation.

A Transposition Table setting out how the elements of the above Directives will be transposed into UK law is available from the Financial Stability and Regulatory Policy Team, HM Treasury, 1 Horseguards Road, London, SW1A 2HQ. The Transposition Table is also available on HM Treasury's website ([www.hm-treasury.gov.uk](http://www.hm-treasury.gov.uk)).

A Regulatory Impact Assessment has been produced for this instrument and has been deposited in both Houses of Parliament. It is available either at the above address or on HM Treasury's website.

**Status:**

Point in time view as at 04/01/2024.

**Changes to legislation:**

The Regulated Covered Bonds Regulations 2008 is up to date with all changes known to be in force on or before 24 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.