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STATUTORY INSTRUMENTS

2013 No. 3118

FINANCIAL SERVICES AND MARKETS

The Capital Requirements (Country-by-Country Reporting) Regulations 2013

Made - - - - *9th December 2013*

Laid before Parliament *10th December 2013*

Coming into force - - *1st January 2014*

The Treasury are designated⁽¹⁾ for the purposes of section 2(2) of the European Communities Act 1972⁽²⁾ in relation to financial services.

The Treasury, in exercise of the powers conferred by section 2(2) of the European Communities Act 1972, make the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Capital Requirements (Country-by-Country Reporting) Regulations 2013 and come into force on 1st January 2014.

(2) In these Regulations—

“the 2000 Act” means the Financial Services and Markets Act 2000⁽³⁾;

“accepted accounting standards” means “international accounting standards” as defined in Article 2 of Regulation (EC) No 1606/2002 of the European Parliament and the Council of 19 July 2002 on the application of international accounting standards⁽⁴⁾ or “generally accepted accounting practice” as defined in section 1127 of the Corporation Tax Act 2010⁽⁵⁾;

“branch” has the same meaning as in Article 4(1)(17) of the capital requirements regulation;

(1) [S.I. 2012/1759](#).

(2) [1972 c.68](#). Section 2(2) was amended by section 27 of the Legislative and Regulatory Reform Act 2006 ([c. 51](#)) and by section 3 of, and the Schedule to, the European Union (Amendment) Act 2008 ([c. 7](#)). By virtue of the amendment of section 1(2) by section 1 of the European Economic Area Act 1993 ([c.51](#)) regulations may be made under section 2(2) of the European Communities Act to implement obligations of the United Kingdom created or arising by or under the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 (Cm 2073) and the Protocol adjusting the Agreement signed at Brussels on 17th March 1993 (Cm 2183).

(3) [2000 c.8](#).

(4) OJ no L243, 11/9/2002, p.1.

(5) [2010 c.4](#).

“corporation tax” means the tax charged on profits by section 2(1) of the Corporation Tax Act 2009⁽⁶⁾ and any similar tax charged on profits in any jurisdiction outside the United Kingdom;

“capital requirements directive” means Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC⁽⁷⁾;

“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⁽⁸⁾;

“Directive 2006/43/EC” means Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006 on statutory audits of annual accounts and consolidated accounts, amending Council Directives 78/660/EEC and 83/349/EEC and repealing Council Directive 84/253/EEC⁽⁹⁾;

“global systemically important institution” means a group identified as a global systemically important bank by the Financial Stability Board in Annex 1 to the “2013 update of group of global systemically important banks” published by the Financial Stability Board on 11 November 2013;

“institution” means an institution as defined in Article 4(1)(3) of the capital requirements regulation;

“period of account” has the same meaning as in section 1119 of the Corporation Tax Act 2010;

“subsidiary” has the same meaning as in Article 4(1)(16) of the capital requirements regulation.

Ongoing reporting obligation

2.—(1) Institutions shall publish information in accordance with paragraphs (2) to (7) on or before 31st December 2015 and on or before 31st December each year thereafter.

(2) The information shall be published in accordance with accepted accounting standards on a consolidated basis for each country in which the institution has a subsidiary or branch, or both.

(3) The information shall relate to the institution’s period of account ending immediately prior to the date of publication.

(4) The information in relation to the institution is—

- (a) the name, nature of activities and geographical location of the institution and any subsidiaries and branches;
- (b) turnover;
- (c) the average number of employees on a full time equivalent basis;
- (d) profit or loss before tax;
- (e) corporation tax paid; and
- (f) public subsidies received.

(5) For the purposes of paragraph (4)(c) the average number is determined by dividing the relevant annual number by the number of months in the period of account.

(6) For the purposes of paragraph (5) the relevant annual number is determined by ascertaining for each month in the period of account the number of persons employed on a full time equivalent basis in that month (whether throughout the month or not) and adding together all the monthly totals.

⁽⁶⁾ 2009 c.4.

⁽⁷⁾ OJ no L176, 27/6/2013, p.338. For corrigenda see OJ no L208, 2/8/2013, p.73.

⁽⁸⁾ OJ no L176, 27/6/2013, p.1. For corrigenda see OJ no L321, 30/11/2013, p.6.

⁽⁹⁾ OJ no L157, 9/6/2006, p.87.

(7) The information shall be audited in accordance with the standards required by Directive 2006/43/EC.

(8) An institution shall publish in its annual report how it has complied, or how it will comply, with this regulation.

Interim reporting obligation

3.—(1) Institutions shall publish information in accordance with regulation 2(2) to (6) on or before 1st July 2014 with the exception of the information in regulation 2(4)(d) to (f).

(2) Global systemically important institutions incorporated in the United Kingdom shall submit the information specified in regulation 2(4)(d) to (f) to the European Commission and to Her Majesty's Revenue and Customs on or before 1st July 2014.

(3) The information referred to in paragraph (2) shall be submitted in accordance with accepted accounting standards on a consolidated basis for each country in which the global systemically important institution has a subsidiary or branch or both and shall relate to that institution's period of account ending immediately prior to the date the information is submitted.

Group disclosure

4.—(1) Where an institution is a member of a group whose members include undertakings which are not subject to the obligations in regulations 2(1) or 3(1) it shall be treated as having met those obligations if the parent undertaking has published the information required by regulations 2(1) or 3(1) in accordance with accepted accounting standards on a consolidated basis for each country in which an undertaking which is a member of the group is situated, in respect of all the undertakings which are members of the group.

(2) For the purposes of this regulation "group", in relation to an institution, has the same meaning as "immediate group" in section 421ZA of the 2000 Act and "parent undertaking" has the same meaning as it has for the purposes of that section.

Prior disclosure: prevention of duplication

5.—(1) Where the information referred to in Article 89(1) of the capital requirements directive relating to an institution has already been published in another EEA State in accordance with that State's implementation of Article 89(1) of the capital requirements directive the institution shall be treated as having met the obligation in regulation 2(1) provided the institution publishes where that information can be obtained.

(2) Where the information referred to in Article 89(2) of the capital requirements directive relating to an institution has already been published in another EEA State in accordance with that State's implementation of Article 89(2) of the capital requirements directive the institution shall be treated as having met the obligation in regulation 3(1) provided the institution publishes where that information can be obtained.

(3) Where the information referred to in regulation 2(4) relating to an institution has already been published in the United Kingdom in accordance with regulation 2(2), (3) and (5) to (7) the institution shall be treated as having met the obligation in regulation 2(1) provided the institution publishes where that information can be obtained.

(4) Where the information referred to in regulation 2(4)(a) to (c) relating to an institution has already been published in the United Kingdom in accordance with regulation 2(2), (3), (5) and (6) the institution shall be treated as having met the obligation in regulation 3(1) provided the institution publishes where that information can be obtained.

Enforcement

6.—(1) Any obligation imposed under these regulations is to be treated as a relevant requirement under Part 14 of the 2000 Act (disciplinary measures).

(2) For the purposes of paragraph (1) the appropriate regulator for the purposes of Part 14 of the 2000 Act is—

- (a) the Prudential Regulation Authority in relation to an institution which is a PRA-authorised person within the meaning of section 2B(5) of the 2000 Act⁽¹⁰⁾;
- (b) The Financial Conduct Authority in relation to any other institution.

9th December 2013

David Evennett
Mark Lancaster
Two of the Lords Commissioners of Her
Majesty's Treasury

⁽¹⁰⁾ Section 2B was inserted by section 6 of the Financial Services Act 2012 (c.21).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations implement Article 89 of the Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive [2002/87/EC](#) and repealing Directives [2006/48/EC](#) and [2006/49/EC](#) (OJ no L176, 27/6/2013, p. 338; for corrigenda see OJ no L208, 2/8/2013, p.73).

Regulation 2 imposes obligations on institutions in the United Kingdom to annually publish information on a consolidated basis relating to their activities in the United Kingdom and those of their establishments in other countries.

Regulation 3 imposes an interim reporting obligation which must be met by 1 July 2014 which requires only part of the information to be reported. Additionally, under the interim reporting obligation global systemically important institutions must report certain information to the European Commission and Her Majesty's Revenue and Customs. For the purposes of these Regulations "global systemically important institutions" are those identified in the "2013 update of group of global systemically important banks" published by the Financial Stability Board on 1 November 2013, which can be found on the website http://www.financialstabilityboard.org/publications/r_131111.pdf. A hard copy may be obtained from the Secretariat to the Financial Stability Board, Bank for International Settlements, Centralbahnplatz 2, CH-4002 Basel, Switzerland.

Regulation 4 provides that where institutions are part of a group they may choose to meet their obligations to make information public by the parent undertaking publishing it for the entire group.

Regulation 5 provides that where an institution has already complied with Article 89 in another EEA State, or the information relating to it has been published in the United Kingdom for the purposes of these Regulations, it is to be treated as complying with these Regulations provided it publishes where the information can be obtained.

Regulation 6 provides that a breach of these Regulations will be enforced by the Prudential Regulation Authority in respect of institutions authorised by it and the Financial Conduct Authority in respect of all other institutions.

The Treasury has published guidance on these Regulations which is available at www.gov.uk/government/publications/capital-requirements-directive-4-country-by-country-reporting-guidance.

A transposition table setting out how Directive 2011/89/EU is transposed into United Kingdom law is available from HM Treasury, 1 Horseguards Road, London SW1A 2HQ and on HM Treasury's website (www.hm-treasury.gov.uk).

A Tax Information and Impact Note covering this instrument was published on 19 November 2013 alongside a summary of consultation responses and draft Regulations and it is available at <https://www.gov.uk/government/consultations/capital-requirements-directive-4-country-by-country-reporting>. It remains an accurate summary of the impacts that apply to this instrument.