
STATUTORY INSTRUMENTS

2018 No. 1401

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

PART 4

Amendment of retained direct EU legislation

CHAPTER 1

Amendment of the Capital Requirements Regulation

Article 464A and 464B (insertion of new paragraphs)

205. After Article 464 insert—

“Article 464A

Regulations: general provisions

1. Any power to make regulations conferred on the Treasury by this Regulation, is exercisable by statutory instrument.
2. Such regulations may—
 - (a) contain incidental, supplemental, consequential and transitional provision, and
 - (b) may make different provision for different purposes.
3. A statutory instrument containing regulations made under Article 456 of this Regulation may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
4. A statutory instrument containing regulations made under any other provision of this Regulation is subject to annulment in pursuance of a resolution of either House of Parliament.

Article 464B

Power to make technical standards

1. Where a power to make technical standards is conferred on both the FCA and PRA it is exercisable—
 - (a) by the PRA, in respect of PRA-authorized persons within the meaning of section 2B(5) of FSMA;
 - (b) by the FCA in respect of any other person.

2. In addition to the powers to make technical standards set out elsewhere in this Regulation, the PRA and FCA may both make technical standards for the following purposes—

- (a) to specify—
 - (i) the information to be provided to the relevant competent authority in the application for authorisation of a credit institution under Part 4A of FSMA;
 - (ii) the requirements applicable to shareholders and members with qualifying holdings; and
 - (iii) obstacles which may prevent effective exercise of the supervisory functions of the competent authority;
- (b) to define what is meant by ‘exposures to specific risk which are material in absolute terms’ and the thresholds for large numbers of material counterparties and positions in debt instruments of different issuers;
- (c) to specify—
 - (i) the procedure for sharing assessments of the quality of institutions’ internal approaches for calculating own funds requirements between competent authorities;
 - (ii) the standards for the assessment of the quality of institutions’ internal approaches for calculating own funds requirements by competent authorities;
- (d) to specify—
 - (i) the template, the definitions and the IT-solutions to be applied in the UK for institutions to report the results of the calculations of their internal approaches for their exposures or positions that are included in their benchmark portfolios;
 - (ii) the benchmark portfolio or portfolios which institutions must report;
- (e) to specify the classes of instruments that can be fully converted to Common Equity Tier 1 instruments or written down, and qualitative and appropriate quantitative criteria to identify categories of staff whose professional activities have a material impact on the institution’s risk profile;
- (f) to specify the method for the identification of the geographical location of an institution’s credit exposures for the purposes of calculating institution-specific countercyclical capital buffer rates.

3. In addition to the powers to make technical standards set out elsewhere in this Regulation, the PRA alone may make technical standards to specify—

- (a) the methodology in accordance with which the PRA shall identify a UK parent institution or UK parent financial holding company or UK parent mixed financial holding company as a global systemically important institution (‘G-SII’); and
- (b) the methodology for the definition of the sub-categories and the allocation of G-SIIs in sub-categories based on their systemic significance; taking into account any international agreed standards.”(1).

(1) The powers in paragraph 2(a) are transferred from Article 8(2) of [Directive 2013/36/EU](#), the powers in paragraph 2(b) are transferred from Article 77(4) of [Directive 2013/36/EU](#), the powers in paragraph 2(c) are transferred from Article 78(7) of [Directive 2013/36/EU](#), the powers in paragraph 2(d) are transferred from Article 78(8) of [Directive 2013/36/EU](#), the powers in paragraph 2(e) are transferred from Article 94(2) of [Directive 2013/36/EU](#), the powers in paragraph 2(f) are transferred from Article 140(7) of [Directive 2013/36/EU](#), and the powers in paragraph 3 are transferred from Article 131(18) of [Directive 2013/36/EU](#).

