
STATUTORY INSTRUMENTS

2021 No. 1376

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

PART 2

Amendment of Primary Legislation and Northern Ireland Legislation

Insolvency Act 1986

2.—(1) Section 387A (financial institutions and their non-preferential debts) of the Insolvency Act 1986⁽¹⁾ is amended as follows.

(2) In subsection (1)—

(a) after paragraph (d) insert—

“(da) an investment holding company,”;

(b) for paragraph (e) substitute—

“(e) a financial institution which is—

(i) a subsidiary of an entity referred to in paragraphs (a) to (da), and

(ii) covered by the supervision of that entity on a consolidated basis by the Financial Conduct Authority in accordance with Part 9C rules or by the Prudential Regulation Authority in accordance with 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⁽²⁾ or CRR rules, or,”.

(3) At the end of subsection (2) insert “, except for the definitions of “consolidated basis” and “consolidated situation””.

(4) After subsection (2) insert—

“(2A) For the purposes of subsection (1)—

“on a consolidated basis” means on the basis of the consolidated situation;

“consolidated situation” means the situation that results from an entity being treated, for the purposes of Part 9C rules, Regulation (EU) 575/2013 or CRR rules (as appropriate), as if that entity and one or more other entities formed a single entity;

“CRR rules” has the meaning given in section 144A of the Financial Services and Markets Act 2000⁽³⁾;

(1) 1986 c. 45; section 387A was inserted by [S.I. 2018/1244](#).

(2) EUR 2013/575, amended, or prospectively amended by, sections 1 and 7 of, and Schedules 1 and 4 to, the Financial Services Act 2021 (c. 22) and [S.I. 2018/1401](#), [2019/264](#), [660](#), [710](#) and [1232](#), [2020/1301](#), [1385](#) and [1470](#) and [2021/558](#).

(3) Section 144A was inserted by paragraph 1 of Schedule 3 to the Financial Services Act 2021.

Changes to legislation: The Financial Services Act 2021 (Prudential Regulation of Credit Institutions and Investment Firms) (Consequential Amendments and Miscellaneous Provisions) Regulations 2021, PART 2 is up to date with all changes known to be in force on or before 30 December 2023. 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) View outstanding changes

“Part 9C rules” has the meaning given in section 143F of the Financial Services and Markets Act 2000(4).”.

Commencement Information

I1 Reg. 2 in force at 1.1.2022, see [reg. 1\(3\)](#)

Insolvency (Northern Ireland) Order 1989

3.—(1) Article 347A (financial institutions and their non-preferential debts) of the Insolvency (Northern Ireland) Order 1989(5) is amended as follows.

(2) In paragraph (1)—

(a) after sub-paragraph (d) insert—

“(da) an investment holding company,”;

(b) for sub-paragraph (e) substitute—

“(e) a financial institution which is—

(i) a subsidiary of an entity referred to in sub-paragraphs (a) to (da), and

(ii) covered by the supervision of that entity on a consolidated basis by the Financial Conduct Authority in accordance with Part 9C rules or by the Prudential Regulation Authority in accordance with [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 or CRR rules, or,”.

(3) At the end of paragraph (2) insert “except for the definitions of “consolidated basis” and “consolidated situation””.

(4) After paragraph (2) insert—

“(2A) For the purposes of paragraph (1)—

“on a consolidated basis” means on the basis of the consolidated situation;

“consolidated situation” means the situation that results from an entity being treated, for the purposes of Part 9C rules, Regulation (EU) 575/2013 or CRR rules (as appropriate), as if that entity and one or more other entities formed a single entity;

“CRR rules” has the meaning given in section 144A of the Financial Services and Markets Act 2000;

“Part 9C rules” has the meaning given in section 143F of the Financial Services and Markets Act 2000.”.

Commencement Information

I2 Reg. 3 in force at 1.1.2022, see [reg. 1\(3\)](#)

Financial Services and Markets Act 2000

4.—(1) The Financial Services and Markets Act 2000(6) is amended as follows.

(4) Section 143F was inserted by paragraph 1 of Schedule 2 to the Financial Services Act 2021.

(5) [S.I. 1989/2405 \(N.I.19\)](#); article 347A was inserted by [S.I. 2018/1244](#) and modified by [S.I. 2020/1350](#).

(6) 2000 c. 8.

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- (2) In section 3M(1) (directions relating to consolidated supervision of groups)(7)—
- (a) at the end of paragraph (a), omit “or”;
 - (b) after paragraph (b) insert—
 - “(c) Part 9C rules;
 - (d) CRR rules; or
 - (e) rules made under section 192XA.”.
- (3) In section 55J(6A)(c) (variation or cancellation on initiative of regulator)(8), for the words from “the capital requirements regulation” to the end substitute “Part 9C rules”.
- (4) In section 55PB(6) (requirements relating to general meetings)(9), in the definition of “investment firm”, for “section 258A of the Banking Act 2009” substitute “Article 4(1)(2) of the capital requirements regulation(10)”.
- (5) In section 71I(1)(c) (sections 71B to 71H: interpretation)(11), for “section 258A of the Banking Act 2009” substitute “Article 4(1)(2) of the capital requirements regulation”.
- (6) In section 137J(6) (rules about recovery plans: duty to consult)(12), in the definition of “institution”, for paragraph (b) substitute—
- “(b) a designated investment firm as defined in Article 4(1)(2AA) of the capital requirements regulation(13);”.
- (7) In section 192JB(14) (rules requiring parent undertakings to facilitate resolution)—
- (a) in subsection (3)(c), for “consolidating supervisor of the qualifying parent undertaking” substitute “PRA”;
 - (b) omit subsection (4)(a).
- (8) In section 192O(15) (interpretation of Part 12B – approval of certain holding companies)—
- (a) in subsection (1)—
 - (i) omit the definition of “consolidated basis”;
 - (ii) before the definition of “designated investment firm” insert—
 - ““on a consolidated basis” means on the basis of the consolidated situation;
 - “consolidated situation” means the situation that results from an entity being treated, for the purposes of the capital requirements regulation or CRR rules (as appropriate), as if that entity and one or more other entities formed a single entity;”;
 - (iii) for the definition of “sub-consolidated basis” substitute—
 - ““on a sub-consolidated basis” means—

(7) Section 3M was inserted by the Financial Services Act 2012 (c. 21) and amended by S.I. 2019/632.

(8) Sections 55A to 55Z and 55Z1 to 55Z4 were substituted for Part IV (sections 40 to 55) by the Financial Services Act 2012 (c. 21) and section 55J(6A) was inserted by S.I. 2013/1773 and amended by S.I. 2013/3115 and 2019/632.

(9) Section 55PB was inserted by S.I. 2016/1239.

(10) Relevant amending instruments are S.I. 2018/1401 and section 1(2) of the Financial Services Act 2021 (c. 22).

(11) Section 71I was inserted by S.I. 2016/1239.

(12) Section 137J was inserted by section 24(1) of the Financial Services Act 2012 (c. 21) and subsection (6) was amended by S.I. 2019/632.

(13) Article 4(1)(2AA) is inserted by section 1(4) of the Financial Services Act 2021 and will come into force on 1st January 2022; see S.I. 2021/671 (C. 27).

(14) Section 192JB was inserted by section 133(1) of the Financial Services (Banking Reform) Act 2013 (c. 33) and subsection (4) was substituted by S.I. 2014/3329.

(15) Sections 190O, 192R and 192T were inserted by S.I. 2020/1406 and were amended by paragraphs 4, 14, 15 and 16 of Schedule 3 to the Financial Services Act 2021.

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- (a) on the basis of the consolidated situation of a parent institution, financial holding company or mixed financial holding company, excluding a sub-group of entities, or
- (b) on the basis of the consolidated situation of a parent institution, financial holding company or mixed financial holding company that is not the ultimate parent institution, financial holding company or mixed financial holding company;”;
- (b) in subsection (2)(b), after “capital requirements regulation” insert “, CRR rules”.
- (9) In section 192R(3)(a) (grant of approval), after “[Directive 2013/36/EU](#) UK law” insert “, CRR rules”.
- (10) In section 192T (measures)—
 - (a) in subsection (1)(b), after “[Directive 2013/36/ EU](#) UK law” insert “, CRR rules”;
 - (b) in subsection (2)(c), after “[Directive 2013/36/ EU](#) UK law” insert “, in CRR rules”.

Commencement Information

I3 Reg. 4 in force at 1.1.2022, see [reg. 1\(3\)](#)

Terrorism Act 2000

5. In paragraph 3(1) of Schedule 3A to the Terrorism Act 2000(**16**) (interpretation of Part 1 – regulated sector), for the definition of “the Capital Requirements Regulation” substitute—

““the Capital Requirements Regulation” means [Regulation \(EU\) No. 575/2013](#) of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms;”.

Commencement Information

I4 Reg. 5 in force at 1.1.2022, see [reg. 1\(3\)](#)

Proceeds of Crime Act 2002

6. In paragraph 3(1) of Schedule 9 to the Proceeds of Crime Act 2002(**17**) (interpretation of Part 1 – regulated sector), for the definition of “the Capital Requirements Regulation” substitute—

““the Capital Requirements Regulation” means [Regulation \(EU\) No. 575/2013](#) of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms;”.

Commencement Information

I5 Reg. 6 in force at 1.1.2022, see [reg. 1\(3\)](#)

(16) [2000 c. 11](#); Schedule 3A was inserted by section 3 and paragraphs 5(1) and (6) of Part 3 of Schedule 2 to the Anti-terrorism, Crime and Security Act 2001 ([c. 24](#)) and the definition of “Capital Requirements Regulation” in paragraph 3(1) of Schedule 3A was inserted by [S.I. 2013/3115](#).

(17) [2002 c. 29](#); Part 1 of Schedule 9 was substituted by article 2 of [S.I. 2007/3287](#); the definition of “Capital Requirements Regulation” was inserted by [S.I. 2013/3115](#) and amended by [S.I. 2017/692](#).

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Banking (Special Provisions) Act 2008

7.—(1) Section 15 (interpretation) of the Banking (Special Provisions) Act 2008(18) is amended as follows.

(2) In subsection (1), after the definition of “pension scheme” insert—

““PRA Rulebook” means the rulebook published by the Prudential Regulation Authority containing rules made by that Authority under FSMA 2000 as that rulebook has effect on 1 January 2022;”.

(3) In subsection (2), for “Title 1 of Part Two of Regulation (EU) No. 575/2013 of the European Parliament and of the Council” substitute “Title 1 of Part Two of 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 the Own Funds and Eligible Liabilities (CRR) Part of the PRA Rulebook”.

Commencement Information

I6 Reg. 7 in force at 1.1.2022, see [reg. 1\(3\)](#)

Counter-Terrorism Act 2008

8. In paragraph 7 of Schedule 7 to the Counter-Terrorism Act 2008(19) (interpretation of Part 2 – persons to whom a direction may be given), for the definition of “the capital requirements regulation” substitute—

““the capital requirements regulation” means Regulation (EU) No. 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms;”.

Commencement Information

I7 Reg. 8 in force at 1.1.2022, see [reg. 1\(3\)](#)

Banking Act 2009

9.—(1) The Banking Act 2009(20) is amended as follows.

(2) In section 3 (interpretation: other expressions)—

(a) in subsection (1)—

(i) after the definition of “the capital requirements regulation”(21) insert—

““CRR rules” has the meaning given in section 144A of the Financial Services and Markets Act 2000(22);”;

(ii) in the definition of “own funds requirements”, for “Articles 92 to 98 of the capital requirements regulation” substitute “Articles 92 to 93 of the capital requirements regulation and Article 94 of Chapter 3 of the Trading Book (CRR) Part of the PRA Rulebook”;

(18) 2008 c. 2; section 15(2) was amended by [S.I. 2013/3115](#).

(19) 2008 c. 28; paragraph 7 of Part 2 of Schedule 7 was amended by [S.I. 2013/3115](#).

(20) 2009 c. 1.

(21) The definition of “the capital requirements regulation” in section 3(1) was inserted by [S.I. 2014/3329](#) and amended by [S.I. 2018/1394](#) and [2020/1385](#).

(22) 2000 c. 8; section 144A was inserted by paragraph 1 of Schedule 3 to the Financial Services Act 2021.

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- (b) in subsection (4), for “IP completion day” substitute “1 January 2022”.
- (3) In section 6A (cases where mandatory write-down, conversion, etc applies)(23)—
 - (a) in subsection (8)(a), after “capital requirements regulation” insert “or CRR rules”;
 - (b) in subsection (9), for the definitions of “consolidated basis” and “consolidating supervisor” substitute—
 - ““on a consolidated basis” means on the basis of the consolidated situation,
 - “consolidated situation” means the situation that results from an entity being treated, for the purposes of the capital requirements regulation or CRR rules (as appropriate), as if that entity and one or more other entities formed a single entity,
 - “consolidating supervisor” means supervisor responsible for the exercise of supervision of an entity on a consolidated basis,”.

Commencement Information

I8 Reg. 9 in force at 1.1.2022, see [reg. 1\(3\)](#)

Bankruptcy (Scotland) Act 2016

10.—(1) Section 129A (interpretation of section 129 – priority in distribution) of the Bankruptcy (Scotland) Act 2016(24) is amended as follows.

- (2) In subsection (5)—
 - (a) after paragraph (d) insert—
 - “(da) an investment holding company,”;
 - (b) for paragraph (e) substitute—
 - “(e) a financial institution which is—
 - (i) a subsidiary of an entity referred to in paragraphs (a) to (da), and
 - (ii) covered by the supervision of that entity on a consolidated basis by the Financial Conduct Authority in accordance with Part 9C rules or by the Prudential Regulation Authority in accordance with [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 or CRR rules, or,”.
- (3) At the end of subsection (6) insert “except for the definitions of “consolidated basis” and “consolidated situation””.
- (4) After subsection (6) insert—
 - “(7) For the purposes of subsection (5)—
 - “on a consolidated basis” means on the basis of the consolidated situation;
 - “consolidated situation” means the situation that results from an entity being treated, for the purposes of Part 9C rules, Regulation (EU) 575/2013 or CRR rules (as appropriate), as if that entity and one or more other entities formed a single entity;
 - “CRR rules” has the meaning given in section 144A of the Financial Services and Markets Act 2000;

(23) Section 6A was inserted by [S.I. 2014/3329](#) and amended by [S.I. 2016/1239](#) and [2018/1394](#).

(24) [2016 asp 21](#); section 129A was inserted by [S.I. 2018/1244](#).

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“Part 9C rules” has the meaning given in section 143F of the Financial Services and Markets Act 2000.”.

Commencement Information

I9 Reg. 10 in force at 1.1.2022, see [reg. 1\(3\)](#)

Changes to legislation:

The Financial Services Act 2021 (Prudential Regulation of Credit Institutions and Investment Firms) (Consequential Amendments and Miscellaneous Provisions) Regulations 2021, PART 2 is up to date with all changes known to be in force on or before 30 December 2023. 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.

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Changes and effects yet to be applied to :

- Regulations revoked by [2023 c. 29 Sch. 1 Pt. 2](#)