
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 4

Amendment of Retained Direct EU Legislation

Regulation (EU) No. 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories

24.—(1) [Regulation \(EU\) No. 648/2012](#) of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories⁽¹⁾ is amended as follows.

(2) In Article 2 (definitions)⁽²⁾, after point (35) insert—

“(36) ‘PRA Rulebook’ means the rulebook published by the PRA containing rules made by that Authority under FSMA as that rulebook has effect on 1 January 2022.”.

(3) In Article 3 (intragroup transactions)⁽³⁾—

(a) in paragraph (3)—

(i) in point (b), after “Capital Requirements Regulation”, in both places it occurs, insert “or CRR rules”;

(ii) after point (b) insert—

“or

(c) belong to a group covered by rules made by the FCA under Part 9C of the FSMA (prudential regulation of FCA investment firms) or in relation to a group the parent undertaking of which has its head office in a third country, belong to a group subject to supervision by a third country competent authority verified as equivalent to Part 9C rules;”;

(b) at the end insert—

“4. In this Article:

‘CRR rules’ has the meaning given in section 144A of the FSMA;

‘Part 9C rules’ has the meaning given in section 143F(1) of the FSMA.”.

(4) In Article 50a(1), for “Article 308 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” substitute “Article 308 of Chapter 3 of the Counterparty Credit Risk (CRR) Part of the PRA Rulebook”.

⁽¹⁾ EUR 2012/648, as amended by [S.I. 2018/1184](#), [S.I. 2018/1318](#), [S.I. 2019/335](#), [S.I. 2019/1416](#) and [S.I. 2020/646](#).

⁽²⁾ Points (32) to (35) were inserted by [S.I. 2018/1184](#).

⁽³⁾ Article 3 was amended by [S.I. 2019/335](#) and [S.I. 2019/685](#).

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(5) For Article 50a(2) (calculation of K_{CCP}) substitute—

“2. A CCP shall calculate the hypothetical capital as follows:

$$K_{CCP} = \sum_i EAD_i \cdot RW \cdot \text{capital ratio}$$

where:

K_{CCP} = the hypothetical capital;

i = the index denoting the clearing member;

EAD_i = the exposure amount of the CCP to clearing member i, including the clearing member's own transactions with the CCP, the client transactions guaranteed by the clearing member, and all values of collateral held by the CCP, including the clearing member's pre-funded default fund contribution, against those transactions, relating to the valuation at the end of the regulatory reporting date before the margin called on the final margin call of that day is exchanged;

RW = a risk weight of 20%; and

capital ratio = 8%..”.

(6) For Article 50b (general rules for the calculation of K_{CCP}) substitute—

“Article 50b

General rules for the calculation of K_{CCP}

For the purpose of calculating K_{CCP} referred to in Article 50a(2), the following provisions shall apply:

(a) CCPs shall calculate the value of the exposures they have to their clearing members as follows:

(i) for exposures arising from contracts and transactions listed in points (a) or (c) of Article 301(1) of Chapter 3 of the Counterparty Credit Risk (CRR) Part of the PRA Rulebook, CCPs shall calculate the value in accordance with the method set out in Section 3 of Chapter 3 of the Counterparty Credit Risk (CRR) Part of the PRA Rulebook by using a margin period of risk of 10 business days;

(ii) for exposures arising from contracts and transactions listed in point (b) of Article 301(1) of Chapter 3 of the Counterparty Credit Risk (CRR) Part of the PRA Rulebook, CCPs shall calculate the value (EAD_i) in accordance with the following formula:

$$EAD_i = \max \{ EBRM_i - IM_i - DF_i; 0 \}$$

where:

EAD_i = the exposure value;

i = the index denoting the clearing member;

EBRM_i = the exposure value before risk mitigation that is equal to the exposure value of the CCP to clearing member i arising from all the contracts and transactions with that clearing member, calculated without taking into account the collateral posted by that clearing member;

IM_i = the initial margin posted with the CCP by clearing member i;

DF_i = the pre-funded default fund contribution of clearing member i.

All values in this formula shall relate to the valuation at the end of the day before the margin called on the final margin call of that day is exchanged;

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- (iii) for situations referred to in the third sentence of the second subparagraph of Article 301(1) of Chapter 3 of the Counterparty Credit Risk (CRR) Part of the PRA Rulebook, CCPs shall calculate the value of the transactions referred to in the first sentence of that subparagraph in accordance with the formula set out in point (a)(ii) of this Article, and shall determine $EBRM_i$ in accordance with Title V of Part Three of the Capital Requirements Regulation;
- (b) for institutions that fall under the scope of the Capital Requirements Regulation the netting sets are the same as those defined in point (4) of Article 272 of that Regulation;
- (c) a CCP that has exposures to one or more CCPs shall treat those exposures as if they were exposures to clearing members and include any margin or pre-funded contributions received from those CCPs in the calculation of K_{CCP} ;
- (d) a CCP that has in place a binding contractual arrangement with its clearing members that allows that CCP to use all or part of the initial margin received from its clearing members as if they were pre-funded contributions shall consider that initial margin as pre-funded contributions for the purposes of the calculation in paragraph 1 and not as initial margin;
- (e) where collateral is held against an account containing more than one of the types of contracts and transactions referred to in Article 301(1) of Chapter 3 of the Counterparty Credit Risk (CRR) Part of the PRA Rulebook, CCPs shall allocate the initial margin provided by their clearing members or clients, as applicable, in proportion to the EADs of the respective types of contracts and transactions calculated in accordance with point (a) of this paragraph, without taking into account initial margin in the calculation;
- (f) CCPs that have more than one default fund shall carry out the calculation for each default fund separately;
- (g) where a clearing member provides client clearing services, and the transactions and collateral of the clearing member's clients are held in sub-accounts which are separate from those of the clearing member's proprietary business, CCPs shall carry out the calculation of EAD_i for each sub-account separately and shall calculate the clearing member's total EAD_i as the sum of the EADs of the clients' sub-accounts and the EAD of the clearing member's proprietary business sub-account;
- (h) for the purposes of point (f), where DF_i is not split between the clients' sub-accounts and the clearing member's proprietary business sub-accounts, CCPs shall allocate DF_i per sub-account according to the respective fraction the initial margin of that sub-account has in relation to the total initial margin posted by the clearing member or for the account of the clearing member;
- (i) CCPs shall not carry out the calculation in accordance with Article 50a(2) where the default fund covers cash transactions only.

For the purposes of point (a)(ii) of this Article, the CCP shall use the method specified in Article 223 of the Capital Requirements Regulation with supervisory volatility adjustments set out in Article 224 of that Regulation to calculate the exposure value.”.

- (7) In Article 50c (reporting of information), in paragraph 1—
 - (a) in the opening words, for “[Regulation \(EU\) No 575/2013](#)” substitute “Chapter 3 of the Counterparty Credit Risk (CRR) Part of the PRA Rulebook”;
 - (b) omit points (d) and (e).
- (8) In Article 50d (calculation of specific items to be reported by the CCP), omit point (c).

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Commencement Information

II Reg. 24 in force at 1.1.2022, see [reg. 1\(3\)](#)

Capital Requirements Regulation

25.—(1) The Capital Requirements Regulation(4) is amended as follows.

(2) In Article 1 (scope)—

- (a) in point (a), for “operational risk, settlement risk and leverage” substitute “operational risk and settlement risk”;
- (b) omit points (b) to (e).

(3) Omit Article 4(1)(149) (definition of “financial report”).

(4) In Article 5 (definitions specific to capital requirements for credit risk), after “Part Three, Title II” insert “and Articles 132a to 132c of Chapter 3 of the Standardised Approach and Internal Ratings Based Approach to Credit Risk (CRR) Part of the PRA Rulebook”.

(5) In Article 46(4) (deduction of holdings of Common Equity Tier 1 instruments where an institution does not have a significant investment in a financial sector entity), after “Title II of Part Three” insert “, Articles 132a to 132c of Chapter 3 of the Standardised Approach and Internal Ratings Based Approach to Credit Risk (CRR) Part of the PRA Rulebook”.

(6) In Article 49(5) (requirement for deduction where consolidation or supplementary supervision is applied)—

- (a) in paragraph 4, after “Title II of Part Three” insert “and Articles 132a to 132c of Chapter 3 of the Standardised Approach and Internal Ratings Based Approach to Credit Risk (CRR) Part of the PRA Rulebook”;
- (b) in paragraph 5—
 - (i) omit “and Annex 1 of Chapter 3 of the FCA General Prudential sourcebook”;
 - (ii) for “Article 6 of and Annex I to that Directive” substitute “Chapter 3 and Annex 2 of the Financial Conglomerates Part of the PRA Rulebook”.

(7) In Article 60(4) (deduction of holdings of Additional Tier 1 instruments where an institution does not have a significant investment in a financial sector entity), after “Title II of Part Three” insert “, Articles 132a to 132c of Chapter 3 of the Standardised Approach and Internal Ratings Based Approach to Credit Risk (CRR) Part of the PRA Rulebook”.

(8) In Article 62(c) (tier 2 items), after “Title II of Part Three”, in each place it occurs, insert “and Articles 132a to 132c of Chapter 3 of the Standardised Approach and Internal Ratings Based Approach to Credit Risk (CRR) Part of the PRA Rulebook”.

(9) In Article 63 (tier 2 instruments)(6), in points (n) and (o)—

- (a) for “a Member State” in all places substitute “the United Kingdom”;
- (b) for “Union” in all places substitute “United Kingdom”.

(10) In Article 70(4) (deduction of Tier 2 instruments where an institution does not have a significant investment in a relevant entity), after “Title II of Part Three” insert “, Articles 132a to

(4) EUR 1313/575, 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, 2019/660, 2019/710, 2019/1232, 2020/1301, 2020/1385, 2020/1470 and 2021/558.

(5) Article 49 was amended by S.I. 2018/1401 and S.I. 2019/264.

(6) Article 63 was amended by S.I. 2019/264.

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132c of Chapter 3 of the Standardised Approach and Internal Ratings Based Approach to Credit Risk (CRR) Part of the PRA Rulebook”.

(11) In Article 72i(4) (deduction of eligible liabilities where the institution does not have a significant investment in G-SII entities), after “Title II of Part Three” insert “, Articles 132a to 132c of Chapter 3 of the Standardised Approach and Internal Ratings Based Approach to Credit Risk (CRR) Part of the PRA Rulebook”.

(12) In Article 74 (holdings of capital instruments issued by regulated financial sector entities that do not qualify as regulatory capital), after “Title II of Part Three” insert “and Articles 132a to 132c of Chapter 3 of the Standardised Approach and Internal Ratings Based Approach to Credit Risk (CRR) Part of the PRA Rulebook”.

(13) In Article 89(3)(a) (risk weighting and prohibition of qualifying holdings outside the financial sector)(7), after “Part Three” insert “and Articles 132a to 132c of Chapter 3 of the Standardised Approach and Internal Ratings Based Approach to Credit Risk (CRR) Part of the PRA Rulebook”.

(14) In Article 92(3) (own funds requirements)(8)—

- (a) in point (a), for “Title II and Article 379” substitute “Title II and Article 379 of this Regulation and Articles 132a to 132c of Chapter 3 of the Standardised Approach and Internal Ratings Based Approach to Credit Risk (CRR) Part of the PRA Rulebook”;
- (b) in point (b)(i), omit “, excluding the approaches set out in Chapters 1a and 1b of that Title”;
- (c) in point (b)(ii), for “Part Four” substitute “the Large Exposures (CRR) Part of the PRA Rulebook”;
- (d) in point (c), omit “, excluding the approaches set out in Chapters 1a and 1b of that Title,”;
- (e) in point (f), after “Title II” insert “and Chapter 3 of the Counterparty Credit Risk (CRR) Part of the PRA Rulebook”.

(15) In Article 111(2) (exposure value), after “Chapter 6”, in each place it occurs, insert “of this Regulation and Sections 3 to 5 of Chapter 3 of the Counterparty Credit Risk (CRR) Part of the PRA Rulebook”.

(16) In Article 124 (exposures secured by mortgages on immovable property)(9)—

- (a) in the first subparagraph of paragraph 2, after “Article 430a” insert “of Chapter 4 of the Reporting (CRR) Part of the PRA Rulebook”;
- (b) in paragraph 4, for “FCA and PRA may each” substitute “PRA may”.

(17) In Article 144(1)(g) (competent authorities’ assessment of an application to use an IRB approach)(10), after “Article 430” insert “of Chapter 4 of the Reporting (CRR) Part of the PRA Rulebook”.

(18) In Article 164(6) (loss given default)(11), after “Article 430a” insert “of Chapter 4 of the Reporting (CRR) Part of the PRA Rulebook”.

(19) In Article 166(5) and (7) (exposures to corporates, institutions, central governments and central banks and retail exposures), after “Chapter 6” insert “of this Regulation and Sections 3 to 5 of Chapter 3 of the Counterparty Credit Risk (CRR) Part of the PRA Rulebook”.

(20) In Article 176(1) (data maintenance), for “Part Eight” substitute “the Disclosure (CRR) Part of the PRA Rulebook”.

(7) Article 89 was amended by [S.I. 2018/1401](#).

(8) Article 92 is prospectively amended by paragraph 3 of Schedule 4 to the Financial Services Act 2021.

(9) Article 124 was amended by [S.I. 2020/1385](#).

(10) Article 144 was amended by [S.I. 2018/1401](#) and is prospectively amended by paragraph 5 of Schedule 4 to the Financial Services Act 2021.

(11) Article 164 was amended by [S.I. 2020/1385](#).

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(21) In Article 181(1)(g) (requirements specific to own-LGD estimates)(12), for “Chapter 6, Section 5 or 6” substitute “Chapter 6, Section 6 of this Regulation or Section 5 of Chapter 3 of the Counterparty Credit Risk (CRR) Part of the PRA Rulebook”.

(22) In Article 193(5)(b) and (6)(b) (principles for recognising the effect of credit risk mitigation techniques), after “Chapter 2” insert “of this Regulation and Articles 132a to 132c of Chapter 3 of the Standardised Approach and Internal Ratings Based Approach to Credit Risk (CRR) Part of the PRA Rulebook”.

(23) In Article 197(8)(b) (eligibility of collateral under all approaches and methods)(13), omit “in point (k) of Article 400(2), in point (e) of Article 416(3),”.

(24) In Article 222 (financial collateral simple method) —

(a) in paragraph (3), after “Chapter 2”, in each place it occurs, insert “of this Regulation and Articles 132a to 132c of Chapter 3 of the Standardised Approach and Internal Ratings Based Approach to Credit Risk (CRR) Part of the PRA Rulebook”;

(b) in paragraph (5), in the first sub-paragraph, after “Chapter 6” insert “of this Regulation and Sections 3 to 5 of Chapter 3 of the Counterparty Credit Risk (CRR) Part of the PRA Rulebook”.

(25) In Article 223(5A) (financial Collateral Comprehensive Method)(14), for “Chapter 6”, in each place it occurs, substitute “Chapter 3 of the Counterparty Credit Risk (CRR) Part of the PRA Rulebook”.

(26) In Article 235(1) (calculating risk-weighted exposure amounts under the Standardised Approach), after “Chapter 2”, in both places it occurs, insert “of this Regulation and Articles 132a to 132c of Chapter 3 of the Standardised Approach and Internal Ratings Based Approach to Credit Risk (CRR) Part of the PRA Rulebook”.

(27) In Article 249(2) (recognition of credit risk mitigation for securitisation positions)(15), after “Chapter 2” insert “of this Regulation and Articles 132a to 132c of Chapter 3 of the Standardised Approach and Internal Ratings Based Approach to Credit Risk (CRR) Part of the PRA Rulebook”.

(28) In Article 251(1) (originator institutions’ calculation of risk-weighted exposure amounts securitised in a synthetic securitisation), after “Chapter 2” insert “of this Regulation and Articles 132a to 132c of Chapter 3 of the Standardised Approach and Internal Ratings Based Approach to Credit Risk (CRR) Part of the PRA Rulebook”.

(29) In Article 255(6) (determination of K_{IRB} and K_{SA})(16), after “Chapter 2” insert “of this Regulation and Articles 132a to 132c of Chapter 3 of the Standardised Approach and Internal Ratings Based Approach to Credit Risk (CRR) Part of the PRA Rulebook”.

(30) In Article 267(2) (maximum risk weight for senior securitisation positions: look-through approach), for “Chapter 2 or 3” substitute “Chapter 2 of this Regulation and Articles 132a to 132c of Chapter 3 of the Standardised Approach and Internal Ratings Based Approach to Credit Risk (CRR) Part of the PRA Rulebook or Chapter 3”.

(31) In Article 268(1) (maximum capital requirements), for “Chapter 2 or 3” substitute “Chapter 2 of this Regulation and Articles 132a to 132c of Chapter 3 of the Standardised Approach and Internal Ratings Based Approach to Credit Risk (CRR) Part of the PRA Rulebook or Chapter 3 of this Regulation”.

(12) Article 181 was amended by [S.I. 2018/1401](#) and is prospectively amended by paragraph 47 of Schedule 1 to the Financial Services Act 2021.

(13) Article 197 was amended by [S.I. 2018/1401](#) and is prospectively amended by paragraph 47 of Schedule 1 to the Financial Services Act 2021.

(14) Paragraph (5A) of Article 223 is prospectively inserted by paragraph 7 of Schedule 4 to the Financial Services Act 2021.

(15) Article 249 was amended by [S.I. 2019/660](#).

(16) Article 255 was amended by [S.I. 2019/660](#) and is prospectively amended by paragraph 47 of Schedule 1 to the Financial Services Act 2021.

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(32) After Article 269 (re-securitisations) insert—

“Article 269a

NPE securitisations

1. The risk weight for a position in an NPE securitisation calculated in accordance with this Chapter is subject to the requirements laid down in the Non-Performing Exposures Securitisation (CRR) Part of the PRA Rulebook.

2. In this Article:

‘non-performing exposure’ means an exposure that meets any of the conditions set out in Article 47a(3);

‘NPE securitisation’ means a securitisation backed by a pool of non-performing exposures the nominal value of which makes up not less than 90% of the entire pool’s nominal value at the time of origination and at any later time where assets are added to or removed from the underlying pool due to replenishment or restructuring.”.

(33) In Article 283 (permission to use the internal model method)(17)—

- (a) in paragraph 1, in the last subparagraph, for “Sections 3 to 5” substitute “Sections 3 to 5 of Chapter 3 of the Counterparty Credit Risk (CRR) Part of the PRA Rulebook”;
- (b) in paragraph 3, for “Section 3 or Section 5” substitute “Sections 3 to 5 of Chapter 3 of the Counterparty Credit Risk (CRR) Part of the PRA Rulebook”;
- (c) in paragraph 4, for “Section 3” substitute “Section 3 of Chapter 3 of the Counterparty Credit Risk (CRR) Part of the PRA Rulebook”;
- (d) in paragraph 5, for “Section 3 or Section 5” substitute “Sections 3 to 5 of Chapter 3 of the Counterparty Credit Risk (CRR) Part of the PRA Rulebook”.

(34) In Article 291(5) (wrong-way risk), in point (d), after “Chapter 2” insert “of this Regulation and Articles 132a to 132c of Chapter 3 of the Standardised Approach and Internal Ratings Based Approach to Credit Risk (CRR) Part of the PRA Rulebook”.

(35) In Article 298 (effects of recognition of netting as risk-reducing)(18), for “Sections 3 to 6” substitute “Section 6 of this Chapter, and Sections 3 to 5 of Chapter 3 of the Counterparty Credit Risk (CRR) Part of the PRA Rulebook”.

(36) In Article 325 (approaches for calculating the own funds requirements for market risk)(19), omit paragraph 3 and paragraphs 5 to 9.

(37) Omit Article 325a (exemptions from specific reporting requirements for market risk).

(38) In Part Three (capital requirements), Title IV (own funds requirements for market risk)—

- (a) omit Chapter 1a (alternative standardised approach) (Articles 325c to 325ay);
- (b) omit Chapter 1b (alternative internal model approach) (Articles 325az to 325bp).

(39) In Article 350(4)(b) (specific methods for CIUs), omit “, provided that the CIU management company meets the criteria set out in Article 132(3)(a)”.

(40) In Article 353(2)(b) (foreign exchange risk of CIUs), omit “, provided that the CIU management company meets the criteria set out in point (a) of Article 132(3)”.

(17) Paragraph 4 of Article 283 is prospectively substituted by paragraph 8 of Schedule 4 to the Financial Services Act 2021.

(18) Article 298 was amended by [S.I. 2018/1401](#).

(19) Article 325 was amended by [S.I. 2019/1232](#) and is prospectively amended by paragraph 47 of Schedule 1 to the Financial Services Act 2021.

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(41) In Article 379(2) (free deliveries), after “Part Three, Title II, Chapter 2” insert “of this Regulation and Articles 132a to 132c of Chapter 3 of the Standardised Approach and Internal Ratings Based Approach to Credit Risk (CRR) Part of the PRA Rulebook”.

(42) In Article 381 (meaning of credit valuation adjustment), for “and Chapter 6 of Title II” substitute “, Chapter 6 of Title II of this Regulation and Sections 3 to 5 of Chapter 3 of the Counterparty Credit Risk (CRR) Part of the PRA Rulebook”.

(43) In Article 383(4) (advanced method)—

- (a) in the first paragraph, for “Section 3, Section 4 or Section 5 of Title II, Chapter 6”, in both places it occurs, substitute “Section 3, Section 4 or Section 5 of Chapter 3 of the Counterparty Credit Risk (CRR) Part of the PRA Rulebook”;
- (b) in point (b), for “Section 3, Section 4 or Section 5 of Title II, Chapter 6” substitute “Section 3, Section 4 or Section 5 of Chapter 3 of the Counterparty Credit Risk (CRR) Part of the PRA Rulebook”.

(44) In Article 384(1) (standardised method)(20)—

- (a) in the paragraph starting “Counterparty ‘i’”, in point (b), after “Title II, Chapter 2” insert “of this Regulation and Articles 132a to 132c of Chapter 3 of the Standardised Approach and Internal Ratings Based Approach to Credit Risk (CRR) Part of the PRA Rulebook”;
- (b) in the formula for “ EAD_i^{total} ”, for “Sections 3 to 6 of Chapter 6 of Title II” substitute “Sections 3 to 5 of Chapter 3 of the Counterparty Credit Risk (CRR) Part of the PRA Rulebook and Section 6 of this Chapter”.

(45) Omit Article 461a (alternative standardised approach for market risk).

(46) In Article 468(5) (temporary treatment in view of the COVID-19 pandemic), for “Part Eight” substitute “the Disclosure (CRR) Part of the PRA Rulebook”.

(47) Omit Article 470 (exemption from deduction from Common Equity Tier 1 items).

(48) Omit Article 472 (items not deducted from Common Equity Tier 1).

(49) In Article 473a(8) (introduction of IFRS 9), for “Part Eight” substitute “the Disclosure (CRR) Part of the PRA Rulebook”.

(50) Omit Article 475 (items not deducted from Additional Tier 1 items).

(51) Omit Article 477 (deductions from Tier 2 items).

(52) Omit Article 478 (applicable percentages for deduction from Common Equity Tier 1, Additional Tier 1 and Tier 2 items).

(53) Omit Article 481 (additional filters and deductions).

(54) Omit Article 495 (treatment of equity exposures under the IRB approach).

(55) In Article 501(1) (adjustment of risk-weighted non-defaulted SME exposures), after “Title II of Part Three” insert “of this Regulation and Articles 132a to 132c of Chapter 3 of the Standardised Approach and Internal Ratings Based Approach to Credit Risk (CRR) Part of the PRA Rulebook”.

(56) In Annex III (items subject to supplementary reporting of liquid assets)(21), after “Title II of Part Three”, in each place it occurs, insert “of this Regulation and Articles 132a to 132c of Chapter 3 of the Standardised Approach and Internal Ratings Based Approach to Credit Risk (CRR) Part of the PRA Rulebook”.

(20) Article 384 is prospectively amended by paragraph 11 of Schedule 4 to the Financial Services Act 2021.

(21) Annex III was amended by [S.I. 2018/1401](#) and is prospectively amended by paragraph 46 of Schedule 1 to the Financial Services Act 2021.

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Commencement Information

I2 Reg. 25 in force at 1.1.2022, see [reg. 1\(3\)](#)

Regulation (EU) No 909/2014 of the European Parliament and of the Council of 23 July 2014 on improving securities settlement in the European Union and on central securities depositories and amending Directives [98/26/EC](#) and [2014/65/EU](#) and Regulation (EU) No 236/2012

26.—(1) [Regulation \(EU\) No 909/2014](#) of the European Parliament and of the Council of 23 July 2014 on improving securities settlement in the European Union and on central securities depositories and amending Directives [98/26/EC](#) and [2014/65/EU](#) and [Regulation \(EU\) No 236/2012](#)(**22**) is amended as follows.

(2) In Article 2(1) (definitions)(**23**), after point (55) insert—

“(56) A reference to the PRA Rulebook is to the rulebook published by the PRA containing rules made by that Authority under FSMA as that rulebook has effect on 1 January 2022.”.

(3) In Article 46(1)(d) (investment policy)(**24**), for “and [Regulation \(EU\) No. 575/2013](#)” substitute “, [Regulation \(EU\) No. 575/2013](#) and CRR rules”.

(4) In Article 54 (authorisation and designation to provide banking-type ancillary services)(**25**)—

(a) in paragraph 3—

(i) in the first paragraph, in point (e), for “Part Eight of [Regulation \(EU\) No 575/2013](#)” substitute “the Disclosure (CRR) Part of the PRA Rulebook”;

(ii) in the second paragraph, after “[Regulation \(EU\) No 575/2013](#)” insert “, CRR rules”;

(b) in paragraph 4, in point (f), for “Part Eight of [Regulation \(EU\) No 575/2013](#)” substitute “the Disclosure (CRR) Part of the PRA Rulebook”.

Commencement Information

I3 Reg. 26 in force at 1.1.2022, see [reg. 1\(3\)](#)

Commission Delegated Regulation (EU) 2017/565 of 25 April 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council as regards organisational requirements and operating conditions for investment firms and defined terms for the purposes of that Directive

27.—(1) Commission Delegated Regulation (EU) 2017/565 of 25 April 2016 supplementing [Directive 2014/65/EU](#) of the European Parliament and of the Council as regards organisational requirements and operating conditions for investment firms and defined terms for the purposes of that Directive(**26**) is amended as follows.

(2) In Article 2 (definitions), after point (16)(**27**) insert—

(22) EUR 909/2014.

(23) Article 2 was amended by [S.I. 2018/1320](#).

(24) Article 46(1) was substituted by [S.I. 2018/1320](#).

(25) Article 54 was amended by [S.I. 2018/1320](#).

(26) EUR 2017/565 OJ L 87, 31.3.2017, p. 1–83.

(27) Point (16) was inserted by [S.I. 2018/1403](#).

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Financial Services Act 2021 (Prudential Regulation of Credit Institutions and Investment Firms) (Consequential Amendments and Miscellaneous Provisions) Regulations 2021. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

“(16A) “[Directive 2013/36/EU](#) UK law” means the law of the United Kingdom or any part of it, which was relied on by the United Kingdom immediately before IP completion day to implement [Directive 2013/36/EU](#)(28) and its implementing measures:

- (a) as it has effect on 1 January 2022, in the case of rules made by the PRA under FSMA; and
- (b) as amended from time to time, in all other cases.

(16B) “Part 9C rules” has the meaning given in section 143F(1) of FSMA.

(16C) “CRR rules” has the meaning given in section 144A of FSMA.”.

(3) In Article 41 (additional requirements in relation to advice, distribution and self-placement) (29), for paragraph 4 substitute—

“4. Investment firms which offer financial instruments that are issued by themselves or other group entities to their clients and that are included in the calculation of prudential requirements specified in [Regulation \(EU\) No 575/2013](#), CRR rules, [Directive 2013/36/EU](#) UK law, Part 9C rules, or the law of the United Kingdom or any part of the United Kingdom (“the UK law”) which was relied on by the United Kingdom immediately before IP completion day to implement [Directive 2014/49/EU](#) of the European Parliament and of the Council(30), must provide those clients with additional information explaining the differences between the financial instrument and bank deposits in terms of yield, risk, liquidity and any protection provided in accordance with the UK law which was relied on by the United Kingdom immediately before IP completion day to implement [Directive 2014/49/EU](#) of the European Parliament and of the Council.”.

Commencement Information

I4 Reg. 27 in force at 1.1.2022, see [reg. 1\(3\)](#)

Regulation (EU) 2017/1129 of the European Parliament and of the Council of 14 June 2017 on the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market

28.—(1) Regulation (EU) 2017/1129 of the European Parliament and of the Council of 14 June 2017 on the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market and repealing [Directive 2003/71/EC](#)(31) is amended as follows.

(2) In Article 1(5) (subject matter, scope and exemptions), in the second subparagraph, after point (c) insert—

“(ca) where the shares of an FCA investment firm result from the conversion of one class of instrument into another class of instrument because of rules made by the FCA under Part 9C of FSMA;”.

(3) In Article 2 (definitions), after point (zf) insert—

“(zg) ‘FCA investment firm’ has the meaning given in section 143A(1) of FSMA;”.

Commencement Information

I5 Reg. 28 in force at 1.1.2022, see [reg. 1\(3\)](#)

(28) EUR 2013/36.

(29) Article 41 was amended by [S.I. 2018/1403](#).

(30) EUR 2014/49/EU OJ L 173, 12.6.2014, p. 149–178.

(31) EUR 2017/1129, as amended by [S.I. 2019/107](#) and [2020/628](#).

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Regulation (EU) 2017/1131 of the European Parliament and of the Council of 14 June 2017 on money market funds

29.—(1) Regulation (EU) 2017/1131 of the European Parliament and of the Council of 14 June 2017 on money market funds⁽³²⁾ is amended as follows.

(2) In Article 2 (definitions), following the sentence after paragraph 40 insert—

“Any reference to the PRA Rulebook is to the rulebook published by the PRA containing rules made by that Authority under FSMA as that rulebook has effect on 1 January 2022.”.

(3) In Article 11(1)(a) (eligible securitisations and ABCPs), for “Article 13 of Commission Delegated Regulation (EU) 2015/61” substitute “Article 13 of Chapter 2 (Rules on standards for the liquidity coverage requirement for credit institutions) of the Liquidity Coverage Ratio (CRR) Part of the PRA Rulebook”.

(4) In Article 17(9) (diversification), for “point (f) of Article 10(1) or point (c) of Article 11(1) of Delegated Regulation (EU) 2015/61” substitute “point (f) of Article 10(1) or point (c) of Article 11(1) of Chapter 2 (Rules on standards for the liquidity coverage requirement for credit institutions) of the Liquidity Coverage Ratio (CRR) Part of the PRA Rulebook”.

Commencement Information

I6 Reg. 29 in force at 1.1.2022, see [reg. 1\(3\)](#)

Regulation (EU) 2017/2402 of the European Parliament and of the Council of 12 December 2017 laying down a general framework for securitisation and creating a specific framework for simple, transparent and standardised securitisation

30.—(1) Regulation (EU) 2017/2402 of the European Parliament and of the Council of 12 December 2017 laying down a general framework for securitisation⁽³³⁾ is amended as follows.

(2) In Article 2(12) (definitions), after point (g) insert—

“(h) an FCA investment firm as defined by Article 4(1)(2AB) of [Regulation \(EU\) No 575/2013](#)⁽³⁴⁾.”.

(3) In Article 6 (risk retention)—

(a) in paragraph 4—

(i) at the start of the second subparagraph, for “The first subparagraph shall apply” substitute “Subject to the modifications for FCA investment firms in the third subparagraph, the first subparagraph applies”;

(ii) after the second subparagraph insert—

“In the case of FCA investment firms, compliance with the requirements set out in Article 79(b) of [Directive 2013/36/EU](#) of the European Parliament and of the Council⁽³⁵⁾ are modified in accordance with this subparagraph—

(a) FCA investment firms must have internal methodologies that enable them to assess the credit risk of exposures to individual obligors, securities or securitisation positions and credit risk at the portfolio level;

⁽³²⁾ EUR 2017/1131, amended by [S.I. 2019/394](#).

⁽³³⁾ EUR 2017/2402, amended by [S.I. 2019/660](#).

⁽³⁴⁾ EUR 2013/575; point (2AB) is prospectively inserted by section 1(4) of the Financial Services Act 2021 (c. 22).

⁽³⁵⁾ [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 L 176, 27.6.2013, p. 338).

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- (b) the internal methodologies must not rely solely or mechanistically on external credit ratings; and
 - (c) where an FCA investment firm determines the amount of own funds that it should hold by reference to a rating by an external credit assessment institution or by reference to the fact that an exposure is unrated, this does not exempt the FCA investment firm from additionally considering other relevant information for assessing its allocation of internal capital.”;
- (iii) in the final subparagraph, in point (a), after ““credit institution”” insert “, ‘FCA investment firm’”;
- (b) in paragraph 5—
 - (i) in point (c), after “Part Three, Title II, Chapter 2 of [Regulation \(EU\) No 575/2013](#)” insert “and Articles 132a to 132c of Chapter 3 of the Standardised Approach and Internal Ratings Based Approach to Credit Risk (CRR) Part of the PRA Rulebook”;
 - (ii) after point (e) insert—

“In this paragraph ‘PRA Rulebook’ means the rulebook published by the PRA containing rules made by that Authority under the 2000 Act as that rulebook has effect on 1 January 2022.”.
- (4) In Article 29 (designation of competent authorities)—
 - (a) in paragraph 1, for point (e) substitute—
 - “(e) where the institutional investor is a CRR firm, by the PRA;
 - (f) where the institutional investor is an FCA investment firm, by the FCA.”;
 - (b) in paragraph 3, for “or a CRR firm” substitute “, a CRR firm or an FCA investment firm”;
 - (c) in paragraph 3B, after point (b) insert—
 - “(ba) ‘FCA investment firm’ has the meaning given by Article 4(1)(2AB) of [Regulation \(EU\) No 575/2013](#).”.
- (5) In Article 43 (transitionals)—
 - (a) in paragraph 5, in the second subparagraph, in point (a), for “regulation 30(3) of the Securitisation (Amendment) (EU Exit) Regulations 2019” substitute “paragraph 6”;
 - (b) in paragraph 6, in the first subparagraph, after “as defined by Article 4(1)(2A) of [Regulation \(EU\) No 575/2013](#)” insert “as that Regulation had effect on IP completion day”.

Commencement Information

I7 Reg. 30 in force at 1.1.2022, see [reg. 1\(3\)](#)

Changes to legislation:

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Changes and effects yet to be applied to :

- Regulations power to modify conferred by [2023 c. 29 s. 3Sch. 1 Pt. 2](#)
- Regulations revoked by [2023 c. 29 Sch. 1 Pt. 2](#)