
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 8

Savings and transitional provision

Saving for amendment of existing technical standards instruments made by the Financial Conduct Authority

34. Notwithstanding the amendment of Article 124(4) of the Capital Requirements Regulation⁽¹⁾ by regulation [F125(16)] of these Regulations which removes the power of the FCA to make, modify, amend or revoke technical standards, the Financial Conduct Authority (“FCA”) retains the power to modify, amend or revoke any technical standards in force immediately before 1 January 2022 which were—

- (a) adopted by the European Commission before IP completion day, or
- (b) made by the FCA after IP completion day,

under those Articles.

F1 Word in reg. 34 substituted (17.8.2022) by [The Financial Services Act 2021 \(Prudential Regulation of Credit Institutions and Investment Firms\) \(Consequential Amendments and Miscellaneous Provisions\) Regulations 2022 \(S.I. 2022/838\)](#), regs. 1(2), **18**

Commencement Information

I1 Reg. 34 in force at 1.1.2022, see [reg. 1\(3\)](#)

Transitional provision in respect of Article 6(1) and (4) of Regulation (EU) 2017/2402

35.—(1) This regulation applies to securitisations the securities of which were issued or the initial securitisation positions of which were created before 1 January 2022.

(2) If the requirements set out in Article 6(1) of Regulation (EU) 2017/2402⁽²⁾ were met in the manner specified in Article 6(4) of that Regulation before 1 January 2022, and were it not for the prudential regulation changes, the requirements set out in Article 6(1) of Regulation (EU) 2017/2402 would continue to be met in the manner specified in Article 6(4) of that Regulation in respect of such a securitisation after 1 January 2022, then the requirements set out in Article 6(1) of that Regulation are deemed to be met in respect of that securitisation.

(1) “the Capital Requirements Regulation” is defined in section 47 of the Financial Services Act 2021 (c. 22).

(2) EUR 2017/2402; Article 6 was amended by S.I. 2019/660 and is amended by regulation 30 of this instrument.

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

Commencement Information

I2 Reg. 35 in force at 1.1.2022, see [reg. 1\(3\)](#)

Transitional provision in respect of Article 43(5) of Regulation (EU) 2017/2402

36.—(1) This regulation applies to securitisations to which Article 43(5) (transitional provisions) of Regulation (EU) 2017/2402 applies.

(2) For the purposes of Article 43(5) of Regulation (EU) 2017/2402, in Article 407 (additional risk weight) and Article 410 (uniform condition of application) of [Regulation \(EU\) No 575/2013](#), a reference to Article 405 (retained interest of the issuer) of [Regulation \(EU\) No 575/2013](#) is to be read as a reference to that Article in the version applicable on 31 December 2018 as modified by points (a) and (b) of Article 43(6) of Regulation (EU) 2017/2402 disregarding the effect of any of the prudential regulation changes on those modifications.

(3) In paragraph (2), references to Article 407 (additional risk weight) and Article 410 (uniform condition of application) of [Regulation \(EU\) No 575/2013](#) are references to those Articles in the version applicable on 31 December 2018 as modified by points (a) to (c) of Article 43(5) of Regulation (EU) 2017/2402.

Commencement Information

I3 Reg. 36 in force at 1.1.2022, see [reg. 1\(3\)](#)

Transitional provision in respect of Article 43(6) of Regulation (EU) 2017/2402

37.—(1) This regulation applies to securitisations to which Article 43(6) (transitional provisions) of Regulation (EU) 2017/2402 applies.

(2) If the requirements set out in Article 405 (retained interest of the issuer) of [Regulation \(EU\) No 575/2013](#) were met before 1 January 2022, and were it not for the effect of the prudential regulation changes on the modifications set out in points (a) and (b) of Article 43(6) of Regulation (EU) 2017/2402, the requirements set out in Article 405 of [Regulation \(EU\) No 575/2013](#) would continue to be met in respect of such a securitisation after 1 January 2022, then the requirements set out in Article 405 of [Regulation \(EU\) No 575/2013](#) are deemed to be met in respect of that securitisation.

(3) In paragraph (2), references to Article 405 of [Regulation \(EU\) No 575/2013](#) are references to that Article in the version applicable on 31 December 2018 as modified by points (a) and (b) of Article 43(6) of Regulation (EU) 2017/2402.

Commencement Information

I4 Reg. 37 in force at 1.1.2022, see [reg. 1\(3\)](#)

Application and interpretation of regulations 35 to 37

38.—(1) The transitional provisions in regulations 35 to 37 apply from the beginning of 1 January 2022 and cease to have effect on 1 January 2023.

(2) In regulations 35 to 37 and this regulation—

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- (a) “FCA Handbook” means the Handbook made by the Financial Conduct Authority under the Financial Services and Markets Act 2000⁽³⁾;
- (b) “prudential regulation changes” means any one or more of the following—
 - (i) changes made by sections 1 or 2 of, or Schedules 1 or 2 to, the Financial Services Act 2021⁽⁴⁾;
 - (ii) provision made by the Treasury under section 45 of the Financial Services Act 2021 (power to make consequential provision);
 - (iii) provision made by the Treasury under section 143B(2) of the Financial Services and Markets Act 2000 (other terms used in this Part)⁽⁵⁾;
 - (iv) the deletion of the Prudential sourcebook for Investment Firms (IFPRU) or the creation of the Prudential sourcebook for MiFID Investment Firms (MIFIDPRU) in the FCA Handbook;
- (c) “securitisation” has the meaning given in Article 2(1) of Regulation (EU) 2017/2402.

Commencement Information

I5 Reg. 38 in force at 1.1.2022, see [reg. 1\(3\)](#)

⁽³⁾ 2000 c. 8.

⁽⁴⁾ 2021 c. 22.

⁽⁵⁾ 2000 c. 8; section 143B(2) was inserted by paragraph 1 of Schedule 2 to the Financial Services Act 2021 (c. 22).

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](#)