

EXPLANATORY MEMORANDUM TO
THE CAPITAL BUFFERS AND MACRO-PRUDENTIAL MEASURES
REGULATIONS 2025

2025 No. 653

1. Introduction

1.1 This explanatory memorandum has been prepared by HM Treasury and is laid before Parliament by Command of His Majesty.

2. Declaration

2.1 Emma Reynolds, Economic Secretary to the Treasury and City Minister, confirms that this Explanatory Memorandum meets the required standard.

2.2 James Fairburn, Deputy Director for the Financial Stability Strategy and Analysis team at HM Treasury confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Nandita Padki at HM Treasury (nandita.padki@hmtreasury.gov.uk) can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 Following the UK's withdrawal from the European Union, a large body of detailed and technical financial services regulation remains in legislation as assimilated law. This approach does not align well with the UK's regulatory framework, known as the FSMA model, established under the Financial Services and Markets Act 2000 (FSMA 2000). Under this model, detailed regulatory requirements are designed and maintained by expert, independent regulators, within an overall policy framework set by government and Parliament. The Financial Services and Markets Act 2023 (FSMA 2023) facilitates the repeal of assimilated law and implements a Smarter Regulatory Framework (SRF) tailored to the UK's needs.

4.2 This instrument re-states relevant provisions of the Capital Requirements (Capital Buffers and Macro-prudential Measures) Regulations 2014 (S.I. 2014/894) ("the 2014 Capital Buffers Regulations") on 31st July 2025. The 2014 Capital Buffers Regulations are revoked by FSMA 2023 with effect from 31st July 2025.

4.3 The restatement includes technical modifications to improve the effectiveness of the overall capital buffer framework, which are detailed below.

Where does the legislation extend to, and apply?

4.4 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is the United Kingdom.

4.5 The territorial application of this instrument (that is, where the instrument produces a practical effect) is the United Kingdom.

5. Policy Context

What is being done and why?

- 5.1 Capital buffers are capital requirements that banks are required to hold in addition to minimum capital requirements. They ensure that banks have sufficient capacity to absorb losses while continuing to lend to the economy, even in times of stress.
- 5.2 The 2014 Capital Buffers Regulations are revoked by virtue of the Financial Services and Markets Act 2023 (Commencement No 9) Regulations 2025 (S.I. 2025/572 (C. 25) and partly restated by the Capital Buffers and Macro-prudential Measures Regulations 2025 with technical modifications to improve the effectiveness of the overall capital buffer framework.
- 5.3 This approach will remove two capital buffers from legislation (the Capital Conservation Buffer (CCoB) and Globally Systemically Important Institutions (G-SII) buffer) and responsibility for setting these buffers will be transferred to the Prudential Regulation Authority (PRA), providing additional flexibility. Other regulations will be restated, with some technical modifications, where they relate to capital buffers that are set by the Bank of England's Financial Policy Committee (FPC) (the Countercyclical Capital Buffer (CCyB) and the Other Systemically Important Institutions (O-SII) buffer). This is because the FPC does not have broad rulemaking powers like the PRA, and the regulations that underpin the use of its tools must be set out in legislation. The revocation and restatement take effect on 31st July 2025.

What was the previous policy, how is this different?

- 5.4 The revocation of the 2014 Capital Buffers Regulations and their re-statement via this instrument implements HM Treasury's approach to the assimilated law for capital buffers under the Smarter Regulatory Framework (SRF).¹
- 5.5 Technical modifications include:
 - Changing the review frequency of the Countercyclical Capital Buffer (CCyB) so that it is set "at least on a quarterly basis" rather than "on a quarterly basis", to enable the Bank of England's Financial Policy Committee (FPC) to set the CCyB off-cycle, if needed (e.g., in response to a severe stress in the financial system).
 - Removing the requirement for the FPC to publish a quarterly 'buffer guide' for the CCyB based on credit-to-GDP ratio, which should inform the setting of the CCyB rate. This isn't currently used as the FPC's judgement is that other measures of the macroeconomic risk environment are more pertinent to the CCyB rate setting.
 - Updating the threshold at which firms are subject to the O-SII buffer to match the Smarter Ring-Fencing Regime deposit threshold, to preserve the original policy intent of the buffer.
 - Removing "edge case" provisions that cap the maximum combined buffer for firms that are subject to both an O-SII and G-SII buffer for simplification. These provisions have never been used and are very unlikely to ever be needed.

¹ <https://www.gov.uk/government/collections/a-smarter-regulatory-framework-for-financial-services>

- Changing the mandated review frequency of the O-SII buffer from every two years to every three years, which both HM Treasury and the PRA judge to be more proportionate.
- Not restating the regulations relating to the Systemic Risk Buffer (SRB), thereby removing it as policy tool, as it is an EU legacy tool that has never been used.

6. Legislative and Legal Context

How has the law changed?

- 6.1 The 2014 Capital Buffers Regulations, among other things, implemented provisions relating to capital buffers (the CCoB, the CCyB, the G-SII buffer and the O-SII buffer) in the Capital Requirements Directive. Section 1 of, and Schedule 1 to, FSMA 2023 revokes the 2014 Capital Buffers Regulations on 31st July 2025 by virtue of regulation 3 of the Financial Services and Markets Act 2023 (Commencement No. 9) Regulations 2025.
- 6.2 This instrument re-states certain provisions of the 2014 Capital Buffers Regulations with effect from 31st July 2025: in particular, it re-states the CCyB, O-SII buffers and related provisions. Among other things, the restatement includes:
- the duty of the FPC to set a CCyB rate for the UK (regulation 5);
 - the power of the FPC to set or recognise buffer rates for exposures held by UK institutions and located outside the UK (regulation 9);
 - the duty of the PRA to identify O-SIIs (regulation 15);
 - the duty of the FPC to establish a framework for O-SII buffer rates in the UK (regulation 17).
- 6.3 This instrument must be seen in the broader context of the PRA’s powers under FSMA 2000 which are relevant to capital buffers. In particular, the PRA can set O-SII buffers and G-SII buffers under sections 55M and 192C of FSMA 2000. Firms are required to calculate the CCyB in accordance with rules made by the PRA under FSMA 2000. In some cases, this instrument restates provisions of the 2014 Capital Buffers Regulations by using different wording although no substantive change is intended (e.g., regulation 15).

Why was this approach taken to change the law?

- 6.4 This is the only possible approach to make the necessary changes. This instrument is made under section 4 of FSMA 2023, which enables HM Treasury to restate the revoked 2014 Capital Buffers Regulations.

7. Consultation

Summary of consultation outcome and methodology

- 7.1 HM Treasury published a “policy update” in September 2024 that detailed the intention to revoke The 2014 Capital Buffers Regulations and re-state relevant provisions.² Policy officials also conducted industry engagement meetings with the Building Societies Association (BSA) and UK Finance.

² <https://www.gov.uk/government/publications/applying-the-fsma-2000-model-of-regulation-to-the-capital-requirements-regulation>

7.2 There were no objections raised to the proposed changes.

8. Applicable Guidance

8.1 There is no applicable guidance.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 This instrument does not require an Impact Assessment as the revocation and restatement of the 2014 Capital Buffers Regulations implement the regulatory approach under FSMA 23. Furthermore, restated provisions do not make any substantive policy changes.

Impact on businesses, charities and voluntary bodies

9.2 There is no impact on business, charities or voluntary bodies.

9.3 The legislation does not impact small or micro businesses.

9.4 There is no impact on the public sector.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 HM Treasury will keep the effectiveness of the broader reforms to the capital buffer framework under review, engaging with industry and the PRA as necessary.

10.2 The instrument does not include a statutory review clause and, in line with the requirements of the Small Business, Enterprise and Employment Act 2015, the Economic Secretary to the Treasury, Emma Reynolds MP, has made the following statement:

“It is not proportionate to include a statutory review clause in this instrument because it does not introduce new ongoing regulatory burdens on businesses.”

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 None.

12. European Convention on Human Rights

12.1 The Economic Secretary to the Treasury, Emma Reynolds MP, has made the following statement regarding Human Rights:

“In my view the provisions of the Capital Buffers and Macro-prudential Measures Regulations 2025 are compatible with the Convention rights.”

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023.