

EU EXIT INSTRUMENT: THE TECHNICAL STANDARDS (CAPITAL REQUIREMENTS) (EU EXIT) (No. 4) INSTRUMENT 2020

Powers exercised

- A. The Prudential Regulatory Authority (the “PRA”), being the appropriate regulator within the meaning of the Financial Regulators’ Powers (Technical Standards etc.) (Amendment etc.) (EU Exit) Regulations 2018 (the “2018 Regulations”), having carried out the consultations required by regulation 5 of the 2018 Regulations and with the approval of the Treasury, makes this instrument in exercise of the powers conferred by regulation 3 of the 2018 Regulations.

Historic division and modification

- B. The PRA made the Technical Standards (Capital Requirements) (EU Exit) (No.3) Instrument 2019 on 9 April 2019. This will divide, with effect from IP completion day, various Capital Requirements EU Regulations, as they form part of domestic law by virtue of section 3 of the 2018 Act, into a Part 1 (FCA) and a Part 2 (PRA). This includes:
- a. Commission Delegated Regulation (EU) No 241/2014 of 7 January 2014 supplementing Regulation (EU) No 575/2013 of the European Parliament and of the Council with regard to regulatory technical standards for Own Funds requirements for institutions;
 - b. Commission Implementing Regulation (EU) No 680/2014 of 16 April 2014 laying down implementing technical standards with regard to supervisory reporting of institutions according to Regulation (EU) No 575/2013 of the European Parliament and of the Council;
 - c. Commission Implementing Regulation (EU) 2016/1799 of 7 October 2016 laying down implementing technical standards with regard to the mapping of credit assessments of external credit assessment institutions for credit risk in accordance with Articles 136(1) and 136(3) of Regulation EU No 575/2013 of the European Parliament and of the Council;
 - d. Commission Implementing Regulation (EU) 2016/1801 of 11 October 2016 laying down implementing technical standards with regard to the mapping of credit assessments of external credit assessment institutions for securitisation in accordance with Regulation (EU) No 575/2013 of the European Parliament and of the Council; and
 - e. Commission Implementing Regulation (EU) 2016/1646 of 13 September 2016 laying down implementing technical standards with regard to main indices and recognised exchanges in accordance with Regulation (EU) No 575/2013 of the European Parliament and of the Council
- C. The Technical Standards (Capital Requirements) (EU Exit) (No.3) Instrument 2019 also modifies, with effect from IP completion day, Part 2 (PRA) of various Capital Requirements EU Regulations, including each of those referred to in paragraph B.

Pre-conditions to making

- D. The PRA and the FCA are the appropriate regulators for the Capital Requirements EU Regulations.
- E. The PRA proposes to exercise the power in regulation 3 of the 2018 Regulations to modify the Capital Requirements EU Regulations and considers that (a) Condition A is satisfied and (b) the modifications to the Capital Requirements EU Regulations can most appropriately be made by using the procedure set out in regulation 4 of the Regulations.
- F. The PRA has consulted the FCA on a division of responsibility and on the modifications contained in the Technical Standards (Capital Requirements) (EU Exit) (No.3) Instrument 2019 (as amended by this instrument) in accordance with regulations 3 and 5 of the Regulations.
- G. A draft of this instrument has been approved by the Treasury, the Minister considering that it makes appropriate provision to prevent, remedy or mitigate any failure of retained EU law to

operate effectively, or any other deficiency in retained EU law, arising from the withdrawal of the United Kingdom from the European Union.

Interpretation

H. In this instrument –

- a. “the 2018 Act” means the European Union (Withdrawal) Act 2018;
- b. “the 2020 Act” means the European Union (Withdrawal Agreement) Act 2020;
- c. “the Capital Requirements EU Regulations” means the EU Regulations specified in Part 4 of the Schedule to the Regulations under the headings “Capital Requirements Directive” and “Capital Requirements Regulation” that are not deleted by the Technical Standards (Capital Requirements) (EU Exit) (No.1) Instrument 2019
- d. “Condition A” means the condition defined in regulation 4(2) of the Regulations;
- e. “the FCA” means the Financial Conduct Authority; and
- f. “IP completion day” has the meaning given in section 39 of the 2020 Act.

Amendments

- I. The PRA makes the modifications in the Annex to this instrument listed in column (2) below to the corresponding provisions of the Technical Standards (Capital Requirements) (EU Exit) (No.3) Instrument 2019 listed in column (1) below.

(1)	(2)
“Interpretation” and “Modifications to Part (2) PRA”	Annex A
Annex F	Annex B
Annex J	Annex C
Annex R	Annex D
Annex S	Annex E

- J. The PRA adds new Annexes U, V, W, X and Y to the Technical Standards (Capital Requirements) (EU Exit) (No.3) Instrument 2019, as set out in Annex F to this instrument.

Commencement

- K. This instrument comes into force immediately before IP completion day.

Citation

- L. This instrument may be cited as the Technical Standards (Capital Requirements) (EU Exit) (No. 4) Instrument 2020.

By order of the Prudential Regulation Committee

[Date]

Annex A

SCOPE OF THE TECHNICAL STANDARDS (CAPITAL REQUIREMENTS) (EU EXIT) (NO.3) INSTRUMENT 2019

1 MODIFICATIONS TO THE TECHNICAL STANDARDS (CAPITAL REQUIREMENTS) (EU EXIT) (NO.3) INSTRUMENT 2019

1.1 In this Annex new text is underlined and deleted text is struck through.

1.2 The Technical Standards (Capital Requirements) (EU Exit) (No.3) Instrument 2019 is amended as follows:

...

Interpretation

F. In this instrument –

...

- (b) “the Capital Requirements EU Regulations” means ~~the EU Regulations specified in Part 4 of the Schedule to the Regulations under the headings “Capital Requirements Directive” and “Capital Requirements Regulation” that are not deleted by the Technical Standards (Capital Requirements) (EU Exit) (No.1) Instrument 2019~~ the EU Regulations specified in Part 4 of the Schedule to the Regulations under the headings “Capital Requirements Directive” and “Capital Requirements Regulation” that are not deleted by the Technical Standards (Capital Requirements) (EU Exit) (No.1) Instrument 2019¹;

...

Modifications to Part (2) PRA

...

K. Additionally, the PRA makes the modifications in the Annex listed in column (2) below to the corresponding Capital Requirements EU Regulation (or part thereof) listed in column (1) below.

(1)	(2)
Part 2 (PRA) of Commission Delegated Regulation (EU) 527/2014	A
Part 2 (PRA) of Commission Delegated Regulation (EU) 604/2014	B
Part 2 (PRA) of Commission Delegated Regulation (EU) 1152/2014	C
Part 2 (PRA) of Commission Implementing Regulation (EU) 2016/2070	D
Part 2 (PRA) of Commission Delegated Regulation (EU) 2017/180	E
Part 2 (PRA) of Commission Delegated Regulation 241/2014	F

¹ Note: this substitution (of identical wording) is to reflect that relevant updates have been made to Part 4 of the Schedule to the Financial Regulators’ Powers (Technical Standards etc.) (Amendment etc.) (EU Exit) Regulations 2018).

Part 2 (PRA) of Commission Delegated Regulation 523/2014	G
Part 2 (PRA) of Commission Delegated Regulation 525/2014	H
Part 2 (PRA) of Commission Delegated Regulation 529/2014	I
Part 2 (PRA) of Commission Delegated Regulation 680/2014	J
Part 2 (PRA) of Commission Implementing Regulation 1030/2014	K
Part 2 (PRA) of Commission Delegated Regulation 1187/2014	L
Part 2 (PRA) of Commission Delegated Regulation 2015/1555	M
Part 2 (PRA) of Commission Delegated Regulation 2015/1556	N
Part 2 (PRA) of Commission Delegated Regulation 2018/171	O
Part 2 (PRA) of Commission Delegated Regulation 2018/728	P
Part 2 (PRA) of Commission Delegated Regulation 602/2014	Q
Part 2 (PRA) of Commission Delegated Regulation 625/2014 [Deleted]	R [Deleted]
Part 2 (PRA) of Commission Delegated Regulation 2016/1801	S
Part 2 (PRA) of Commission Delegated Regulation 2018/959	T
<u>Part 2 (PRA) of Commission Implementing Regulation (EU) 2016/1646</u>	<u>U</u>
<u>Part 2 (PRA) of Commission Implementing Regulation (EU) 2016/1799</u>	<u>V</u>
<u>Part 2 (PRA) of Commission Implementing Regulation (EU) 2020/....</u>	<u>W</u>
<u>Part 2 (PRA) of Commission Implementing Regulation (EU) 2020/....</u>	<u>X</u>
<u>Part 2 (PRA) of Commission Delegated Regulation (EU) 2020/....</u>	<u>Y</u>

...

Annex B

DEFINITION OF OWN FUNDS

[Note: for consultation purposes, modifications to the Technical Standards (Capital Requirements) (EU Exit) (No.3) Instrument 2019 in this Annex B are highlighted for the convenience of readers. This highlighting will not appear in any final instrument and will not form part of the legislative text.]

1 MODIFICATIONS TO ANNEX F TO THE TECHNICAL STANDARDS (CAPITAL REQUIREMENTS) (EU EXIT) (NO.3) INSTRUMENT 2019

- 1.1 Relevant provisions of the Annex F to the Technical Standards (Capital Requirements) (EU Exit) (No.3) Instrument 2019 (which modifies Part 2 (PRA) of Commission Delegated Regulation (EU) No 241/2014 of 7 January 2014 supplementing Regulation (EU) No 575/2013 of the European Parliament and of the Council with regard to regulatory technical standards for Own Funds requirements for institutions, as it forms part of domestic law by virtue of section 3 of the 2018 Act) are substituted as follows:

Article 4

Type of undertaking recognised under applicable national law as a cooperative society for the purposes of Article 27(1)(a)(ii) of Regulation (EU) No 575/2013

1. Competent authorities may determine that a type of undertaking recognised under the applicable law of the United Kingdom (or any part of it)~~applicable national law~~ qualifies as a cooperative society for the purpose of Part Two of Regulation (EU) No 575/2013, where all of the conditions in paragraphs 2, 3 and 4 are met.
2. To qualify as a cooperative society for the purposes of paragraph 1, ~~an institution's legal status shall fall within one of the following categories~~an institution must be a registered society within the meaning of the Co-operative and Community Benefit Societies Act 2014 or a society registered or treated as registered under the Co-operative and Community Benefit Societies Act (Northern Ireland) 1969.
 - ~~(a) in Austria: institutions registered as 'eingetragene Genossenschaft (e.Gen.)' or 'registrierte Genossenschaft' under the 'Gesetz über Erwerbs- und Wirtschaftsgenossenschaften (GenG)';~~
 - ~~(b) in Belgium: institutions registered as 'société coopérative/coöperatieve vennootschap' and approved in application of the Royal Decree of 8 January 1962 fixing the conditions of approval of the national groupings of cooperative societies and cooperative societies;~~
 - ~~(c) in Cyprus: institutions registered as 'Συνεργατικό Πιστωτικό Ίδρυμα ή ΣΠΠ' established by virtue of the Cooperative Societies Laws of 1985;~~
 - ~~(d) in the Czech Republic: institutions authorised as 'spořitelní a úvěrní družstvo' under 'zákon upravující činnost spořitelních a úvěrních družstev';~~
 - ~~(e) in Denmark: institutions registered as 'andelskasser' or 'sammenslutninger af andelskasser' under the Danish Financial Business Act;~~
 - ~~(f) in Finland: institutions registered as one of the following:~~

- (1) ~~‘Osuuspankki’ or ‘andelsbank’ under ‘laki osuuspankeista ja muista osuuskuntamuotoisista luottolaitoksista’ or ‘lag om andelsbanker och andra kreditinstitut i andelslagsform’;~~
 - (2) ~~‘Muu osuuskuntamuotoinen luottolaitos’ or ‘annat kreditinstitut i andelslagsform’ under ‘laki osuuspankeista ja muista osuuskuntamuotoisista luottolaitoksista’ or ‘lag om andelsbanker och andra kreditinstitut i andelslagsform’;~~
 - (3) ~~‘Keskusyhteisö’ or ‘centralinstitutet’ under ‘laki talletuspankkien yhteenliittymästä’ or ‘lag om en sammanslutning av inlåningsbanker’;~~
- (g) in France: institutions registered as ‘sociétés coopératives’ under the ‘Loi n°47-1775 du 10 septembre 1947 portant statut de la coopération’ and authorised as ‘banques mutualistes ou coopératives’ under the ‘Code monétaire et financier, partie législative, Livre V, titre Ier, chapitre II’;
- (h) in Germany: institutions registered as ‘eingetragene Genossenschaft (eG)’ under the ‘Gesetz betreffend die Erwerbs- und Wirtschaftsgenossenschaften (Genossenschaftsgesetz – GenG)’;
- (i) in Greece: institutions registered as ‘Πιστωτικοί Συνεταιρισμοί’ under the Cooperative Law 1667/1986 that operate as credit institutions and may be labeled as ‘Συνεταιριστική Τράπεζα’ according to the Banking Law 3601/2007;
- (j) in Hungary: institutions registered as ‘Szövetkezeti hitelintézet’ under Act CXII of 1996 on Credit Institutions and Financial Enterprises;
- (k) in Italy: institutions registered as on of the following:
- (1) ~~‘Banche popolari’ referred to in Legislative Decree 1 September 1993, no. 385;~~
 - (2) ~~‘Banche di credito cooperativo’ referred to in Legislative Decree 1 September 1993, no. 385;~~
 - (3) ~~‘Banche di garanzia collettiva dei fidi’ referred to in art. 13 of Decree Law 30 September 2003, no. 269, converted into Law 24 November 2003, no. 326;~~
- (l) in Luxembourg: institutions registered as ‘sociétés coopératives’ as defined in Section VI of the law of 10 August 1915 on commercial companies;
- (m) in the Netherlands: institutions registered as ‘coöperaties’ or ‘onderlinge waarborgmaatschappijen’ under ‘Title 3 of Book 2 Rechtspersonen of the Burgerlijk wetboek’;
- (n) in Poland: institutions registered as ‘bank spółdzielczy’ under the provisions of ‘Prawo bankowe’;
- (o) in Portugal: institutions registered as ‘Caixa de Crédito Agrícola Mútuo’ or as ‘Caixa Central de Crédito Agrícola Mútuo’ under the ‘Regime Jurídico do Crédito Agrícola Mútuo e das Cooperativas de Crédito Agrícola’ approved by Decreto-Lei n.º 24/91, de 11 de Janeiro;
- (p) in Romania: institutions registered as ‘Organizații cooperatiste de credit’ under the provisions of Government Emergency Ordinance no. 99/2006 on credit institutions and capital adequacy, approved with amendments and supplements by Law no. 227/2007;

- (q) ~~in Spain: institutions registered as ‘Cooperativas de Crédito’ under the ‘Ley 13/1989, de 26 de mayo, de Cooperativas de Crédito’;~~
 - (r) ~~in Sweden: institutions registered as ‘Medlemsbank’ under ‘Lag (1995:1570) om medlemsbanker’ or as ‘Kreditmarknadsförening’ under Lag (2004:297) om bank- och finansieringsrörelse;~~
 - (s) ~~in the United Kingdom: institutions registered as ‘cooperative societies’ under the Industrial and Provident Societies Act 1965 and under the Industrial and Provident Societies Act (Northern Ireland) 1969;~~
 - (t) ~~in Liechtenstein: institutions registered as ‘Genossenschaft’ under the ‘Personen- und Gesellschaftsrechts (PGR) vom 20. Januar 1926’;~~
 - (u) ~~in Norway: institutions authorised as ‘kredittforetak organisert som samvirkeforetak’ under the Act on Financial Undertakings and Financial Groups (‘lov 10. april 2015 nr. 17 om finansforetak og finanskonsern’).~~
3. With respect to Common Equity Tier 1 capital, to qualify as a cooperative society for the purposes of paragraph 1, the institution shall be able to issue, under the applicable law of the United Kingdom (or any part of it) ~~according to the national applicable law or company/the society’s statutes~~, at the level of the legal entity, only capital instruments referred to in Article 29 of Regulation (EU) No 575/2013.
4. To qualify as a cooperative society for the purposes of paragraph 1, when under the applicable law of the United Kingdom (or any part of it), the holders, of the Common Equity Tier 1 instruments referred to in paragraph (3) which may be members or non-members of the institution, have the ability to resign, ~~under the applicable national law~~, they may also have the right to put the capital instrument back to the institution, but only subject to the restrictions of the applicable law of the United Kingdom (or any part of it) ~~national law~~, ~~company its~~ statutes, of Regulation (EU) No 575/2013, and of this Regulation.
- This does not prevent the institution from issuing, under the applicable law of the United Kingdom (or any part of it), ~~or of a third country applicable national law~~, Common Equity Tier 1 instruments complying with Article 29 of Regulation (EU) No 575/2013 to members and non-members that do not grant a right to put the capital instrument back to the institution.

Article 5

Type of undertaking recognised under applicable national law as a savings institution for the purposes of Article 27(1)(a)(iii) of Regulation (EU) No 575/2013

- 1. Competent authorities may determine that a type of undertaking recognised under ~~applicable national law~~ the applicable law of the United Kingdom (or any part of it) qualifies as a savings institution for the purpose of Part Two of Regulation (EU) No 575/2013, where all the conditions in paragraphs 2, 3 and 4 are met.
- 2. ~~To qualify as a savings institution for the purposes of paragraph 1, the institution’s legal status shall fall within one of the following categories:~~
 - (a) ~~in Austria: institutions registered as ‘Sparkasse’ under para. 1 (1) of the ‘Bundesgesetz über die Ordnung des Sparkassenwesens (Sparkassengesetz – SpG)’;~~

- (b) in Denmark: institutions registered as ‘Sparekasser’ under the Danish Financial Business Act;
- (c) in Finland: institutions registered as ‘Säästöpankki’ or ‘Sparbank’ under ‘Säästöpankkilaki’ or ‘Sparbankslag’;
- (d) in Germany: institutions registered as ‘Sparkasse’ as follows:
 - (1) Sparkassengesetz für Baden-Württemberg (SpG)’;
 - (2) ‘Gesetz über die öffentlichen Sparkassen (Sparkassengesetz—SpkG) in Bayern’;
 - (3) ‘Gesetz über die Berliner Sparkasse und die Umwandlung der Landesbank Berlin—Girozentrale—in eine Aktiengesellschaft (Berliner Sparkassengesetz—SpkG)’;
 - (4) ‘Brandenburgisches Sparkassengesetz (BbgSpkG)’;
 - (5) ‘Sparkassengesetz für öffentlich-rechtliche Sparkassen im Lande—Bremen (Bremisches Sparkassengesetz)’;
 - (6) ‘Hessisches Sparkassengesetz’;
 - (7) ‘Sparkassengesetz des Landes Mecklenburg-Vorpommern (SpkG)’;
 - (8) ‘Niedersächsisches Sparkassengesetz (NSpG)’;
 - (9) ‘Sparkassengesetz Nordrhein-Westfalen (Sparkassengesetz—SpkG)’;
 - (10) ‘Sparkassengesetz (SpkG) für Rheinland-Pfalz’;
 - (11) ‘Saarländisches Sparkassengesetz (SSpG)’;
 - (12) ‘Gesetz über die öffentlich-rechtlichen Kreditinstitute im Freistaat—Sachsen und die—Sachsen-Finanzgruppe’;
 - (13) ‘Sparkassengesetz des Landes Sachsen-Anhalt (SpkG-LSA)’;
 - (14) ‘Sparkassengesetz für das Land Schleswig-Holstein (Sparkassengesetz—SpkG)’;
 - (15) ‘Thüringer Sparkassengesetz (ThürSpkG)’;
- (e) in Spain: institutions registered as ‘Cajas de Ahorros’ under ‘Real Decreto-Ley 2532/1929, de 21 de noviembre, sobre Régimen del Ahorro Popular’;
- (f) in Sweden: institutions registered as ‘Sparbank’ under ‘Sparbankslag (1987:619)’;
- (g) in Norway: institutions authorised as ‘sparebank’ under the Act on Financial Undertakings and Financial Groups (‘lov 10. april 2015 nr. 17 om finansforetak og finanskonsern’);
- (h) in Iceland: institutions registered as ‘sparisjóður’ under the Icelandic Act on Financial Undertakings.

3. With respect to Common Equity Tier 1 capital, to qualify as a savings institution for the purposes of paragraph 1, the institution has to be able to issue, under the applicable law of the United Kingdom (or any part of it) or its according to national applicable law or company-statutes, at the level of the legal entity, only capital instruments referred to in Article 29 of Regulation (EU) No 575/2013.

4. To qualify as a savings institution for the purposes of paragraph 1, the sum of capital, reserves and interim or year-end profits, shall not be allowed, under the applicable law of the United Kingdom (or any part of it)~~according to national applicable law~~, to be distributed to holders of Common Equity Tier 1 instruments. Such condition is deemed to be fulfilled even where the institution issues Common Equity Tier 1 instruments that grant the holders, on a going concern basis, a right to a part of the profits and reserves, where allowed by ~~the applicable national~~ such law, provided that this part is proportionate to their contribution to the capital and reserves or, where permitted by ~~the applicable national~~ such law, in accordance with an alternative arrangement. The institution may issue Common Equity Tier 1 instruments that grant the holders, in the case of insolvency or liquidation of the institution, the right to reserves which do not need to be proportionate to the contribution to capital and reserves provided that the conditions of paragraphs 4 and 5 of Article 29 of Regulation (EU) No 575/2013 are met.

Draft for consultation

Annex C

SUPERVISORY REPORTING

[Note: for consultation purposes, modifications to the Technical Standards (Capital Requirements) (EU Exit) (No.3) Instrument 2019 in this Annex C are highlighted for the convenience of readers. This highlighting will not appear in any final instrument and will not form part of the legislative text.]

1 MODIFICATIONS TO ANNEX J TO THE TECHNICAL STANDARDS (CAPITAL REQUIREMENTS) (EU EXIT) (NO.3) INSTRUMENT 2019

- 1.1 Relevant provisions of the Annex J to the Technical Standards (Capital Requirements) (EU Exit) (No.3) Instrument 2019 (which modifies Part 2 (PRA) of Commission Implementing Regulation (EU) No 680/2014 of 16 April 2014 laying down implementing technical standards with regard to supervisory reporting of institutions according to Regulation (EU) No 575/2013 of the European Parliament and of the Council, as it forms part of domestic law by virtue of section 3 of the 2018 Act) are substituted as follows:

Article 5

Format and frequency of reporting on own funds and on own funds requirements for institutions on an individual basis, except for investment firms subject to article 95 and 96 of Regulation (EU) No 575/2013

In order to report information on own funds and on own funds requirements according to Article 99 of Regulation (EU) No 575/2013 on an individual basis, institutions shall submit all the information listed in paragraphs (a) and (b).

- (a) Institutions shall submit the following information with a quarterly frequency:

...

- (4) the information on the geographical distribution of exposures by country as specified in template 9 of Annex I, according to the instructions in Part II point 3.4 of Annex II, where non-domestic original exposures in all 'non-domestic' countries in all exposures classes, as reported in row 850 of template 4 of Annex I, are equal or higher than 10 % of total domestic and non-domestic original exposures as reported in row 860 of template 4 of Annex I. For this purpose exposures shall be deemed to be domestic where they are exposures to counterparties located in the ~~Member State where the institution is located~~ United Kingdom. The entry and exit criteria of Article 4 shall apply;

...

- (b) Institutions shall submit the following information with a semi-annual frequency:

- (1) the information on all securitisation exposures as specified in templates 14 and 14.01 of Annex I, in accordance with the instructions in point 3.9 of Part II of Annex II;

Institutions shall be exempted from submitting those securitisation details where they are part of a group ~~in the same country in which they~~

are and subject to own funds requirements in the United Kingdom on a consolidated basis;

(2) the information on material losses stemming from operational risk events as follows:

...

(b) institutions which calculate the own funds requirements relating to operational risk in accordance with Chapter 3 of Title III of Part Three of Regulation (EU) No 575/2013 and that meet at least one of the following criteria shall report this information as specified in templates 17.01 and 17.02 of Annex I in accordance with the instructions in point 4.2 of Part II of Annex II:

(i) the ratio of the individual balance sheet total to the sum of individual balance sheet totals of all institutions within the ~~same Member State~~ United Kingdom is equal to or above 1 %, where balance sheet total figures are based on year-end figures for the year before the year preceding the reporting reference date;

(ii) the total value of the institution's assets exceeds EUR 30 billion;

(iii) the total value of the institution's assets exceeds both EUR 5 billion and 20 % of the GDP of the ~~Member State where it is established~~ United Kingdom;

(iv) the institution is one of the three largest institutions established in a ~~particular Member State~~ the United Kingdom measured by the total value of its assets;

(v) ~~the institution is the parent of subsidiaries, which are themselves credit institutions established in at least two Member States other than the Member State where the parent institution is authorised and where both of the following conditions are met:~~

- ~~- the value of the institution's consolidated total assets exceeds EUR 5 billion,~~
- ~~- more than 20 % of either the institution's consolidated total assets as defined in template 1.1 of Annex III or IV, as applicable, or the institution's consolidated total liabilities as defined in template 1.2 of Annex III or IV, as applicable, relates to activities with counterparties located in a Member State other than that where the parent institution is authorised;~~

...

Annex D

REQUIREMENTS RELATING TO EXPOSURES TO TRANSFERRED CREDIT RISK

1 DELETION OF ANNEX R TO THE TECHNICAL STANDARDS (CAPITAL REQUIREMENTS) (EU EXIT) (NO.3) INSTRUMENT 2019

- 1.1 Annex R to the Technical Standards (Capital Requirements) (EU Exit) (No.3) Instrument 2019 is deleted.

Draft for consultation

Annex E

MAPPING CREDIT ASSESSMENTS OF EXTERNAL CREDIT ASSESSMENT INSTITUTIONS FOR SECURITISATION

[Note: for consultation purposes, modifications to the Technical Standards (Capital Requirements) (EU Exit) (No.3) Instrument 2019 in this Annex E are highlighted for the convenience of readers. This highlighting will not appear in any final instrument and will not form part of the legislative text.]

1 MODIFICATIONS TO ANNEX S TO THE TECHNICAL STANDARDS (CAPITAL REQUIREMENTS) (EU EXIT) (NO.3) INSTRUMENT 2019

- 1.1 The following provisions are added to Annex S to the Technical Standards (Capital Requirements) (EU Exit) (No.3) Instrument 2019 (which modifies Part 2 (PRA) of Commission Implementing Regulation (EU) 2016/1801 of 11 October 2016 on laying down implementing technical standards with regard to the mapping of credit assessments of external credit assessment institutions for securitisation in accordance with Regulation (EU) No 575/2013 of the European Parliament and of the Council, as it forms part of domestic law by virtue of section 3 of the 2018 Act):
-

....

ANNEX I

Mapping table under the standardised approach as referred to in Article 1

...
<u>ARC Ratings SA and ARC Ratings (UK) Limited</u>
...
<u>Scope Rating AG and Scope Ratings UK Limited</u>
...

ANNEX II

Mapping table under the ratings-based method as referred to in Article 2

...
<u>ARC Ratings SA and ARC Ratings (UK) Limited</u>
...
<u>Scope Rating AG and Scope Ratings UK Limited</u>
...

Annex F

ADDITIONAL ANNEXES TO THE TECHNICAL STANDARDS (CAPITAL REQUIREMENTS) (EU EXIT) (NO.3) INSTRUMENT 2019

1 MODIFICATIONS TO THE TECHNICAL STANDARDS (CAPITAL REQUIREMENTS) (EU EXIT) (NO.3) INSTRUMENT 2019

- 1.1 The following Annexes are added to the Technical Standards (Capital Requirements) (EU Exit) (No.3) Instrument 2019:
-

"Annex U

MAIN INDICES AND RECOGNISED EXCHANGES

1 AMENDMENTS TO PART 2 (PRA) OF EU REGULATION 2016/1646

- 1.1 In this Annex deleted text is struck through.
- 1.2 Part 2 (PRA) of Commission Implementing Regulation (EU) 2016/1646 of 13 September 2016 laying down implementing technical standards with regard to main indices and recognised exchanges in accordance with Regulation (EU) No 575/2013 of the European Parliament and of the Council on prudential requirements for credit institutions and investment firms, as it forms part of domestic law by virtue of section 3 of the 2018 Act, is modified as follows:
-

...

ANNEX II

RECOGNISED EXCHANGES SPECIFIED UNDER ARTICLE 197 OF REGULATION (EU) No 575/2013

Table 1

Recognised exchanges on which contracts listed in Annex II of Regulation (EU) No 575/2013 are not traded

Regulated market	MIC
EURONEXT PARIS	XPAR
BOERSE BERLIN (REGULIERTER MARKT)	BERA

BOERSE BERLIN (BERLIN SECOND REGULATED MARKET)	BERC
BOERSE DUESSELDORF (REGULIERTER MARKT)	DUSA
BOERSE DUESSELDORF — QUOTRIX (REGULIERTER MARKT)	DUSC
BOERSE BERLIN EQUIDUCT TRADING (REGULIERTER MARKT)	EQTA
BOERSE BERLIN EQUIDUCT TRADING (BERLIN SECOND REGULATED MARKET)	EQTB
HANSEATISCHE WERTPAPIERBOERSE HAMBURG (REGULIERTER MARKT)	HAMA
NIEDERSAECHSISCHE BOERSE ZU HANNOVER (REGULIERTER MARKT)	HANA
BOERSE MUENCHEN (REGULIERTER MARKT)	MUNA
BOERSE MUENCHEN — MARKET MAKER MUNICH (REGULIERTER MARKT)	MUNC
BADEN-WUERTTEMBERGISCHE WERTPAPIERBOERSE (REGULIERTER MARKT)	STUA
FRANKFURTER WERTPAPIERBOERSE (REGULIERTER MARKT)	FRAA, XETA
TRADEGATE EXCHANGE (REGULIERTER MARKT)	XGRM
IRISH STOCK EXCHANGE — MAIN SECURITIES MARKET	XDUB
EURONEXT LISBON	XLIS
BOLSA DE BARCELONA	XBAR, XMCE
BOLSA DE BILBAO	XBIL, XMCE
BOLSA DE MADRID	XMAD, XMCE, MERF
BOLSA DE VALENCIA	XVAL, XMCE
BONDVISION MARKET	BOND
ELECTRONIC OPEN END FUNDS AND ETC MARKET	ETFP
MARKET FOR INVESTMENT VEHICLES (MIV)	MIVX
ELECTRONIC BOND MARKET	MOTX
ELECTRONIC SHARE MARKET	MTAA

MTS GOVERNMENT MARKET	MTSC
MTS CORPORATE MARKET	MTSM
SECURITISED DERIVATIVES MARKET	SEDX
MERCADO DE DEUDA PUBLICA EN ANOTACIONES	XDPA
AIAF — MERCADO DE RENTA FIJA	XDRF, SEND
BOURSE DE LUXEMBOURG	XLUX
CYPRUS STOCK EXCHANGE	XCYS
SPOT REGULATED MARKET — BMFMS	SBMF
SPOT REGULATED MARKET — BVB	XBSE
RM SYSTEM CZECH STOCK EXCHANGE	XRMZ
PRAGUE STOCK EXCHANGE	XPRA
BATS EUROPE REGULATED MARKET	BATE, CHIX
ISDX MAIN BOARD	ISDX
EURONEXT LONDON	XLDN
LONDON STOCK EXCHANGE — REGULATED MARKET	XLON
NASDAQ RIGA	XRIS
NASDAQ STOCKHOLM	XSTO
NORDIC GROWTH MARKET NGM	XNGM
NASDAQ COPENHAGEN	XCSE
OSLO AXESS	XOAS
OSLO BØRS	XOSL
NASDAQ TALLINN	XTAL
NASDAQ HELSINKI	XHEL
VIENNA STOCKEXCHANGE OFFICIAL MARKET (AMTLICHER HANDEL)	WBAH
VIENNA STOCKEXCHANGE SECOND REGULATED MARKET (GEREGELTER FREIVERKEHR)	WBGF

BULGARIAN STOCK EXCHANGE — SOFIA JSC	XBUL
NASDAQ ICELAND	XICE
BUDAPEST STOCK EXCHANGE	XBUD
BRATISLAVA STOCK EXCHANGE	XBRA
NASDAQ VILNIUS	XLIT
EURONEXT BRUSSELS	XBRU
ZAGREB STOCK EXCHANGE	XZAG
ELECTRONIC SECONDARY SECURITIES MARKET	HDAT
ATHENS EXCHANGE SECURITIES MARKET	XATH
EUROPEAN WHOLESALE SECURITIES MARKET	EWSM
MALTA STOCK EXCHANGE	XMAL
EURONEXT AMSTERDAM	XAMS
BONDSPOT SECURITIES MARKET	RPWC
WARSAW STOCK EXCHANGE	XWAR, WBON, WETP
LJUBLJANA STOCK EXCHANGE OFFICIAL MARKET	XLJU
GIBRALTAR STOCK EXCHANGE	GSXL

Table 2

Recognised exchanges on which contracts listed in Annex II of Regulation (EU) No 575/2013 are traded

Regulated market	MIC
MATIF	XMAT
MONEP	XMON
POWERNEXT DERIVATIVES	XPOW
EUROPEAN ENERGY EXCHANGE	XEEE

EUREX DEUTSCHLAND	XEUR
MERCADO DE FUTUROS E OPCOES	MFOX
MERCADO REGULAMENTADO DE DERIVADOS DO MIBEL	OMP
MEFF EXCHANGE	XMRV, XMPW
MERCADO DE FUTUROS DE ACEITE DE OLIVA — SA	XSRM
DERIVATIVES REGULATED MARKET — BMFMS	BMFM
POWER EXCHANGE CENTRAL EUROPE	XPXE
CME EUROPE LIMITED	CMED
ICE FUTURES EUROPE — ENERGY PRODUCTS DIVISION	IFEU
ICE FUTURES EUROPE — FINANCIAL PRODUCTS DIVISION	IFLL
ICE FUTURES EUROPE — EQUITY PRODUCTS DIVISION	IFLO
ICE FUTURES EUROPE — AGRICULTURAL PRODUCTS DIVISION	IFLX
THE LONDON INTERNATIONAL FINANCIAL FUTURES AND OPTIONS EXCHANGES (LIFFE)	XLIF
THE LONDON METAL EXCHANGE	XLME
LONDON STOCK EXCHANGE DERIVATIVES MARKET	XLOD
ITALIAN DERIVATIVES MARKET	XDMI
NASDAQ STOCKHOLM	XSTO
FISH POOL	FISH
NOREXECO	NEXO
NASDAQ OSLO	NORX
OSLO BØRS	XOSL
EURONEXT BRUSSELS DERIVATIVES	XBRD
ATHENS EXCHANGE DERIVATIVES MARKET	XADE
VIENNA STOCKEXCHANGE OFFICIAL MARKET (AMTLICHER HANDEL)	WBAH
BUDAPEST STOCK EXCHANGE	XBUD

ICE ENDEX DERIVATIVES	INDEX
EURONEXT EQF — EQUITIES AND INDICES DERIVATIVES	XEUE
WARSAW STOCK EXCHANGE/COMMODITIES/POLISH POWER EXCHANGE/COMMODITY DERIVATIVES	PLPD

Draft for consultation

Annex V

MAPPING OF CREDIT ASSESSMENTS OF EXTERNAL CREDIT ASSESSMENT INSTITUTIONS FOR CREDIT RISK

1 AMENDMENTS TO PART 2 (PRA) OF EU REGULATION 2016/1799

1.1 In this Annex new text is underlined.

1.2 Part 2 (PRA) of Commission Implementing Regulation (EU) 2016/1799 of 7 October 2016 laying down implementing technical standards with regard to the mapping of credit assessments of external credit assessment institutions for credit risk in accordance with Articles 136(1) and 136(3) of Regulation EU No 575/2013 of the European Parliament and of the Council, as it forms part of domestic law by virtue of section 3 of the 2018 Act, is amended as follows:

...

ANNEX III

Mapping tables for the purposes of Article 16

...
<u>ARC Ratings S.A. and ARC Ratings (UK) Limited</u>
...
<u>Kroll Bond Rating Agency Europe and Kroll Bond Rating Agency UK Limited</u>
...
<u>Scope Ratings GmbH and Scope Ratings UK Limited</u>
...
<u>S&P Global Ratings Europe Limited and S&P Global Ratings UK Limited</u>
...

Annex W

CRITERIA FOR ASSESSING THE MODELABILITY OF RISK FACTORS UNDER THE INTERNAL MODEL APPROACH

1 AMENDMENTS TO PART 2 (PRA) OF EU REGULATION 2020/...

- 1.1 In this Annex new text is underlined and deleted text is struck through.
- 1.2 Part 2 (PRA) of Commission Delegated Regulation (EU) 2020/... of 2020 supplementing Regulation (EU) No 575/2013 of the European Parliament and of the Council with regard to regulatory technical standards to further specify the criteria for assessing the modelability of risk factors under the internal model approach (IMA) under Article 325be(3), as it forms part of domestic law by virtue of section 3 of the 2018 Act, is amended as follows:

...

Article 2

Verifiable prices

...

5. For the purpose of this Regulation, a third-party vendor shall be considered to be an undertaking that provides data on transactions or quotations to institutions for the purpose of Article 1, including data reporting service providers as defined in Article 4(1)(63) of Directive 2014/65/EU regulation 2(1) of the Data Reporting Services Regulations 2017 and multilateral systems as defined in Article 4(1)(19) of Directive 2014/65/EU 2(1)(11) of Regulation (EU) No 600/2014.

...

Draft for Consultation

Annex X

LIQUIDITY HORIZONS FOR THE INTERNAL MODEL APPROACH

1 AMENDMENTS TO PART 2 (PRA) OF EU REGULATION 2020/...

- 1.1 In this Annex new text is underlined and deleted text is struck through.
- 1.2 Part 2 (PRA) of Commission Delegated Regulation (EU) 2020/... of 2020 supplementing Regulation (EU) No 575/2013 of the European Parliament and of the Council with regard to regulatory technical standards on liquidity horizons for the Internal Model Approach (IMA) under points (a) to (d) of Article 325bd(7), as it forms part of domestic law by virtue of section 3 of the 2018 Act, is amended as follows:
-

...

SECTION 4

DEFINITION OF SMALL AND LARGE CAPITALISATION

Article 7

An equity shall be considered as an equity with large capitalisation where either of the following conditions is met:

- (a) its market capitalisation is greater than EUR 1,75 billion;
- (b) it is included in one of the indices set out in Annex I of Commission Implementing Regulation (EU) 2016/1646 the components of which are all quoted in the ~~Union~~ United Kingdom.

All other equities shall be considered as equities with small capitalisation.

...

Annex Y

MATERIAL RISK TAKERS

1 AMENDMENTS TO PART 2 (PRA) OF EU REGULATION 2020/...

- 1.1 In this Annex new text is underlined and deleted text is struck through.
- 1.2 Part 2 (PRA) of Commission Delegated Regulation (EU) 2020/... of 2020 on [...], as it forms part of domestic law by virtue of section 3 of the 2018 Act, is amended as follows:

Article B1

Definitions

In this Regulation

- (a) “FSMA” means the Financial Services and Markets Act 2000;
- (b) “the PRA” means the Prudential Regulation Authority;
- (c) “PRA-~~authorised~~ person” has the same meaning as in FSMA (see sections 2B(5) and 417(1) of that Act);
- (d) a reference to a provision of the PRA rulebook is to the rules made by the PRA under FSMA as amended by rule-making instruments made before IP completion day under FSMA or EU Exit Instruments made at any time under the Financial Regulators’ Powers (Technical Standards etc.) (Amendment etc.) (EU Exit) Regulations 2018;
- (e) “core business line” means business lines and associated services which represent material sources of revenue, profit or franchise value for an institution or for a group of which an institution forms part;
- (f) “group” has the meaning in section 421 of FSMA.

Article C1

Application

A PRA-~~authorised~~ person to which the Remuneration Part of the PRA Rulebook applies in accordance with rule 1.1(1) of that Part shall comply with this Regulation on an individual basis and must comply, and ensure that the other members of the group comply, with it on a consolidated basis or sub-consolidated basis including those members of the group established outside the United Kingdom.

Article 1

Application of criteria

- 1) Where this Delegated Regulation is applied on individual basis ~~in accordance with Article 109 (1) of Directive 2013/36/EU~~, the criteria set out therein shall be assessed against the institution's individual risk profile.
- 2) Where this Regulation is applied on consolidated or sub-consolidated level ~~in accordance with Article 109 (2) to (6) of Directive 2013/36/EU~~, the criteria set out therein shall be assessed against the risk profile of the relevant parent institution or financial holding company or mixed financial holding company on a consolidated or sub-consolidated basis.
- ...
- 5) A PRA-~~authorised~~ person to which the derogation provided for in Article 7 of the Regulation (EU) No 575/2013 applies is not required to comply with this Delegated Regulation on an individual basis.
- ...

Article 4

Material business unit

'Material business unit' shall be defined as a business unit referred to in point (3) of paragraph 1 of Article 142 of Regulation (EU) No 575/2013, which meets either of the following criteria:

- a) it is a business unit with allocated internal capital of at least 2% of the internal capital of the institution as set out in rule 3.1(1) of the Internal Capital Adequacy Assessment Part of the PRA Rulebook ~~Article 73 of Directive 2013/36/EU~~ or is otherwise seen to have a material impact on the institution's internal capital;
- b) it is a core business line ~~as set out in point (36) of paragraph 1 of Article 2 of Directive 2014/59/EU~~.

Article 5

Significant impact on a material business unit's risk and staff or categories of staff referred to under point (c) of paragraph 2 of Article 94 of Directive 2013/36/EU

- 1) For the purpose of applying point rule 3.1(1)(c)(ii) of paragraph 3 of Article 92 of Directive 2013/36/EU ~~the Remuneration Part of the PRA Rulebook~~, institutions shall set out within their remuneration policies objective criteria to determine whether the professional activities of staff or categories of staff have a significant impact on the material business unit's risk profile, taking into account the following criteria:
 - a) the risk profile of the material business unit and the distribution of internal capital to cover the nature and level of the risks as set out in rule 3.1(1) of the Internal Capital Adequacy Assessment Part of the PRA Rulebook ~~Article 73 of Directive 2013/36/EU~~;
 - b) the risk limits of the material business unit;

- c) the relevant risk and performance indicators used by the institution to identify, manage and monitor risks of the material business unit in accordance with rule 2.1 of the General Organisational Requirements Part of the PRA Rulebook Article 74 of Directive 2013/36/EU;
 - d) the relevant performance criteria set by the institution under ~~points (a) and (b) of paragraph 1 of Article 94 of Directive 2013/36/EU~~ rules 15.4 and 15.6 of the Remuneration Part of the PRA Rulebook;
 - e) the duties and authorities of staff members or categories of staff.
- 2) Institutions shall identify staff or categories of staff under ~~point (e) of paragraph 2 of Article 94 of Directive 2013/36/EU~~ rule 3.1(1)(d) of the Remuneration Part of the PRA Rulebook as having an impact on an institution's risk profile comparably as material as that of those categories of staff referred to in ~~paragraph 3 of Article 92 of that Directive~~ rule 3.1(1)(a) to (c) of the Remuneration Part of the PRA Rulebook if they meet one or more of the criteria defined in Articles 6 and 7 of this Regulation.

Article 6

Qualitative criteria

In addition to members of staff identified under the criteria set out in ~~points~~ rules 3.1(1)(a) and (b) of paragraph 3 of Article 92 of Directive 2013/36/EU ~~the Remuneration Part of the PRA Rulebook~~, members of staff shall be deemed to have a material impact on an institution's risk profile if one or more of the following qualitative criteria are met:

...

(2) the staff member has managerial responsibilities for a risk category set out in rule 3.1(2) (a) to (g), (i) and (j) of the Internal Capital Adequacy Assessment Part of the PRA Rulebook Articles 79 to 87 of Directive 2013/36/EU or is a voting member of a committee responsible for the management of such a risk category ~~provided for in Articles 79 to 87 of Directive 2013/36/EU~~;

(3) with regard to credit risk exposures of a nominal amount per transaction, representing 0.5% of the institution's Common Equity Tier 1 capital and is at least ~~EUR 5~~ £4.5 million, the staff member ~~meets~~ one of the following criteria:

...

Article 7

Quantitative criteria

1) Without prejudice to ~~point~~ rule 3.1(1)(c) of paragraph 3 of Article 92 of Directive 2013/36/EU ~~the Remuneration Part of the PRA Rulebook~~, members of staff shall be deemed to have an impact on an institution's risk profile where one or more of the following quantitative criteria are met:

- a) the staff member, including those expressly referred to in ~~point~~ rule 3.1(1)(c) of paragraph 3 of Article 92 of Directive 2013/36/EU ~~the Remuneration Part of the PRA Rulebook~~, has been awarded in or for the preceding financial year total remuneration that is equal to or greater than ~~EUR 750 000~~ £660,000;

...

3) The application of paragraph 2 by an institution shall be subject to the prior approval of the competent authority responsible for prudential supervision of that institution PRA. The competent authority PRA shall only give its prior approval for staff members mentioned in (a) and (b) of paragraph 1 of Article 7 and where the institution can demonstrate that one of the conditions set out in paragraph 2 are satisfied.

4) Where the staff member was awarded total remuneration of ~~EUR 1 000 000~~ £880,000 or more in or for the preceding financial year, the competent authority appropriate regulator shall only give its prior approval under paragraph 3 in exceptional circumstances. ~~In order to ensure the consistent application of this paragraph, the competent authority shall inform the EBA before giving its approval in respect of such a staff member.~~

5) The existence of exceptional circumstances shall be demonstrated by the institution and assessed by the competent authority PRA. Exceptional circumstances shall be deemed as a situation that is unusual and very infrequent or far beyond what is usual. The exceptional circumstances shall be related to the staff member.

Article 8

Miscellaneous

1) For the purpose of this Regulation and the application of ~~Article 92(3)~~ rule 3.1(1)(c)(i) of Directive 2013/36/EU ~~the Remuneration Part of the PRA Rulebook~~, the average total remuneration of all members of the management body and senior management shall be calculated, taking into account the total of the fixed and variable remuneration of all members of the management body in its management function and supervisory function as well as all staff who fall under the definition of senior management in ~~point (9) of paragraph 1 of Article 3 of Directive 2013/36/EU~~ the Glossary to the PRA Rulebook.

2) For the purposes of this Regulation, variable remuneration that has been awarded but has not yet been paid shall be valued as at the date of the award without taking into account the application of the discount rate referred to in ~~Article 94(1)(g) of Directive 2013/36/EU~~ rule 15.13 of the Remuneration Part of the PRA Rulebook or reductions in payouts, through clawback, malus or otherwise.

...

Article 11

Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

~~This Regulation shall be binding in its entirety and directly applicable in all Member States. It shall not apply to investment firms subject to Regulation (EU) No 2033/2019 unless they are subject to Regulation 575/2013 as amended by Regulation 2019/876 and Directive 2013/36~~

~~as amended by Directive 2019/878 in accordance with Regulation (EU) No 2019/2033 and Directive 2019/2034.~~

...

Draft for consultation