

Appendix 5: Draft BTS EU Exit Instruments and list of BTS in this consultation

Draft BTS EU (Exit) Instruments for the **CRR / CRDIV Binding Technical Standards (BTS)**:

- BTS being split: EU EXIT INSTRUMENT: THE TECHNICAL STANDARDS (CAPITAL REQUIREMENTS) (EU EXIT) (No. 1) INSTRUMENT 2019
- Other BTS being amended: EU EXIT INSTRUMENT: THE TECHNICAL STANDARDS (CAPITAL REQUIREMENTS) (EU EXIT) (No 2) INSTRUMENT [DATE]
- BTS being deleted: EU EXIT INSTRUMENT: THE TECHNICAL STANDARDS (CAPITAL REQUIREMENTS) (EU EXIT) (No. 3) INSTRUMENT [DATE]

Draft BTS EU (Exit) Instrument for the **CSDR Regulatory Technical Standards (RTS)**:

EU EXIT INSTRUMENT: THE TECHNICAL STANDARDS (CENTRAL SECURITIES DEPOSITORIES OFFERING ANCILLARY BANKING SERVICES) (EU EXIT) INSTRUMENT [DATE]

Draft BTS EU (Exit) Instrument for the **BRRD Binding Technical Standards**:

EU EXIT INSTRUMENT: THE TECHNICAL STANDARDS (BANK RESOLUTION AND RECOVERY DIRECTIVE) (EU EXIT) (No.2) INSTRUMENT 2019

Draft BTS EU (Exit) Instrument for the **EMIR Binding Technical Standards**:

EU EXIT INSTRUMENT: THE TECHNICAL STANDARDS (EUROPEAN MARKETS INFRASTRUCTURE) (EU EXIT) INSTRUMENT [YEAR]

Draft BTS EU (Exit) Instrument for the **Solvency II Implementing Technical Standards (ITS)**:

EU EXIT INSTRUMENT: THE TECHNICAL STANDARDS (SOLVENCY II DIRECTIVE & INSTITUTIONS FOR OCCUPATIONAL RETIREMENT PROVISION DIRECTIVE) (EU EXIT) INSTRUMENT [YEAR]

2 November 2018 update: Draft BTS EU (Exit) Instrument for the **FiCOD Regulatory Technical Standards**:

EU EXIT INSTRUMENT: THE TECHNICAL STANDARDS (FINANCIAL CONGLOMERATES) INSTRUMENT [YEAR]

List of BTS consulted on in CP26/18

BTS being amended - within the PRA's sole remit	Instrument
<u>CRDIV</u> 1222/2014 – BTS for the specification of the methodology for the identification of global systemically important institutions and for the definition of subcategories of global systemically important institutions	Capital Requirements (No 2) Annex A
<u>CRR</u> 2016/709 – BTS specifying the conditions for the application of the derogations concerning currencies with constraints on the availability of liquid assets 2017/1230 – BTS further specifying the additional objective criteria for the application of a preferential liquidity outflow or inflow rate for cross-border undrawn credit or liquidity facilities within a group or an institutional protection scheme	Capital Requirements (No 2) Annex B Capital Requirements (No 2) Annex C
<u>Solvency II</u> 2015/460 – BTS with regard to the procedure concerning the approval of an internal model 2015/462 – BTS with regard to the procedures for supervisory approval to establish special purpose vehicles, for the cooperation and exchange of information between supervisory authorities regarding special purpose vehicles as well as to set out formats and templates for information to be reported by special purpose vehicles 2015/498 – BTS with regard to the supervisory approval procedure to use undertaking-specific parameters 2015/499 – BTS with regard to the procedures to be used for granting supervisory approval for the use of ancillary own-fund items 2015/500 – BTS with regard to the procedures to be followed for the supervisory approval of the application of a matching adjustment 2015/2011 – BTS with regard to the lists of regional governments and local authorities, exposures to whom are to be treated as exposures to the central government 2015/2012 – BTS with regard to the procedures for decisions to set, calculate and remove capital add-ons 2015/2015 – BTS on the procedures for assessing external credit assessments 2015/2016 – BTS with regard to the equity index for the symmetric adjustment of the standard equity capital charge 2015/2450 – BTS with regard to the templates for the submission of information to the supervisory authorities	Solvency II – Annex B Solvency II – Annex C Solvency II – Annex D Solvency II – Annex E Solvency II – Annex F Solvency II – Annex G Solvency II – Annex H Solvency II – Annex I Solvency II – Annex J Solvency II – Annex K

BTS being amended - within the PRA's sole remit		Instrument
<u>Solvency II (cont...)</u>		
2015/2452 – BTS with regard to the procedures, formats and templates of the solvency and financial condition report		Solvency II – Annex L
2016/1630 – BTS with regard to the procedures for the application of the transitional measure for the equity risk sub-module		Solvency II - Annex M
<u>CSDR</u>		
Articles 8 to 42 of 2017/390 – BTS on certain prudential requirements for central securities depositories and designated credit institutions offering banking-type ancillary services		CSDR - Annex

BTS being amended – Joint BTS		Instrument
<u>CRR/CRDIV</u>		
Joint PRA/FCA BTS the PRA is leading on which are being split	527/2014 – BTS specifying the classes of instruments that adequately reflect the credit quality of an institution as a going concern and are appropriate to be used for the purposes of variable remuneration	Capital Requirements No 1 Annex A
	604/2014 – BTS with respect to qualitative and appropriate quantitative criteria to identify categories of staff whose professional activities have a material impact on an institution's risk profile	Capital Requirements No 1 Annex B
	1152/2014 – BTS on the identification of the geographical location of the relevant credit exposures for calculating institution-specific countercyclical capital buffer rates	Capital Requirements No 1 Annex C
	2016/2070 – BTS for templates, definitions and IT-solutions to be used by institutions when reporting to the European Banking Authority and to competent authorities	Capital Requirements No 1 Annex D
	2017/180 – BTS for benchmarking portfolio assessment standards and assessment-sharing procedures	Capital Requirements No 1 Annex E
	241/2014 BTS for Own Funds requirements for institutions	Capital Requirements No 1 Annex F
	2014/523 – BTS for determining what constitutes the close correspondence between the value of an institution's covered bonds and the value of the institution's assets	Capital Requirements No 1 Annex G

BTS being amended – Joint BTS		Instrument
Joint PRA/FCA BTS the PRA is leading on which are being split (cont...)	<u>CRR/CRDIV (cont...)</u>	
	2014/525 – BTS for the definition of market	Capital Requirements No 1 Annex H
	529/2014 – BTS on materiality of model extensions and changes	Capital Requirements No 1 Annex I
	680/2014 – BTS with regard to supervisory reporting of institutions	Capital Requirements No 1 Annex J
	1030/2014 – BTS with regard to the uniform formats and date for the disclosure of the values used to identify global systemically important institutions	Capital Requirements No 1 Annex K
	1187/2014 – BTS on determining overall exposure to client or group of connected clients in respect of transactions with underlying assets	Capital Requirements No 1 Annex L
	2015/1555 – BTS for the disclosure of information in relation to the compliance of institutions with the requirement for a countercyclical capital buffer	Capital Requirements No 1 Annex M
	2015/1556 – BTS for the transitional treatment of equity exposures under the IRB approach	Capital Requirements No 1 Annex N
	2018/171 – BTS for the materiality threshold for credit obligations past due	Capital Requirements No 1 Annex O
	2018/728 – BTS for procedures for excluding transactions with non-financial counterparties established in a third country from the own funds requirement for credit valuation adjustment	Capital Requirements No 1 Annex P
	<u>BRRD</u>	
2016/911 – BTS with regard to the form and the content of the description of group financial support agreements	BRRD No 2 Instrument Annex A	
Articles 1 to 21, 33 to 34, 42 to 49 of 2016/1075 – BTS with regard to regulatory technical standards specifying the content of recovery plans, resolution plans and group resolution plans, the minimum criteria that the competent authority is to assess as regards recovery plans and group recovery plans, the conditions for group financial support, the requirements for independent valuers, the contractual recognition of write-down and conversion powers, the procedures and contents of notification requirements and of notice of suspension and the operational functioning of the resolution colleges	BRRD No 2 Instrument Annex B	

BTS being amended – Joint BTS		Instrument
Joint PRA/FCA BTS the PRA is leading on which are being split (cont...)	<u>FICOD</u>	
	342/2014 – BTS for the application of the calculation methods of capital adequacy requirements for financial conglomerates	FICOD Instrument Annex A
	2015/2303 – BTS specifying the definitions and coordinating the supplementary supervision of risk concentration and intra-group transactions	FICOD Instrument Annex B
Joint PRA/FCA BTS the PRA is leading on which are not being split	<u>EMIR</u>	
	2016/2251 – BTS on OTC derivatives, central counterparties and trade repositories with regard to regulatory technical standards for risk-mitigation techniques for OTC derivative contracts not cleared by a central counterparty	EMIR Risk-Mitigation BTS Instrument (Annex)

BTS with only one minor technical change required		Instrument
<i>Note: All BTS require a technical change to delete their final provision which states that 'This Regulation shall be binding in its entirety and directly applicable in all Member States'. The following BTS will require only this technical change but no others.</i>		
<u>CRR/CRD</u>		
2016/101 – BTS for prudential valuation under Article 105(14)		Capital Requirements No 1 – Not listed or in Annex as split by modification G with final words taken out by modification J of cover sheet
2016/200 – BTS with regard to disclosure of the leverage ratio for institutions		
2016/1646 – BTS with regard to main indices and recognised exchanges		
2016/1799 – BTS with regard to the mapping of credit assessments of external credit assessment institutions for credit risk		
2016/1801 – BTS with regard to the mapping of credit assessments of external credit assessment institutions for securitisation		

BTS with only one minor technical change required	Instrument
<p style="text-align: center;"><u>CRR/CRD (cont...)</u></p> <p>2017/72 – BTS specifying conditions for data waiver permissions</p> <p>2017/2295 – BTS for disclosure of encumbered and unencumbered assets</p> <p>2014/1187 – BTS for determining the overall exposure to a client or a group of connected clients in respect of transactions with underlying assets</p> <p>2014/529 – BTS with regard to regulatory technical standards for assessing the materiality of extensions and changes of the Internal Ratings Based Approach and the Advanced Measurement Approach</p> <p>530/2014 – BTS further defining material exposures and thresholds for internal approaches to specific risk in the trading book</p> <p>2013/1423 – BTS with regard to disclosure of own funds requirements for institutions</p> <p>2014/183 – BTS for specifying the calculation of specific and general credit risk adjustments</p> <p>2014/526 – BTS for determining proxy spread and limited smaller portfolios for credit valuation adjustment risk</p> <p>2014/528 – BTS for non-delta risk of options in the standardised market risk approach</p> <p>2014/602 – BTS for facilitating the convergence of supervisory practices with regard to the implementation of additional risk weights</p> <p>2014/945 – BTS with regard to relevant appropriately diversified indices</p> <p>2015/585 – BTS for the specification of margin periods of risk</p> <p>2015/2197 – BTS with regard to closely correlated currencies</p>	<p>Capital Requirements No 1 – Not listed or in Annex as split by modification G with final words taken out by modification J of cover sheet</p>
<p>2015/233 – BTS with regard to currencies in which there is an extremely narrow definition of central bank eligibility</p> <p>2015/2344 – BTS with regard to currencies with constraints on the availability of liquid assets</p> <p>2017/208 – BTS for additional liquidity outflows corresponding to collateral needs resulting from the impact of an adverse market scenario on an institution's derivatives transactions</p>	<p>Capital Requirements No 2 (Technical change only – dealt with in cover sheet at F)</p>

BTS with only one minor technical change required	Instrument
<p style="text-align: center;"><u>Solvency II</u></p> <p>2015/2017 – BTS with regard to the adjusted factors to calculate the capital requirement for currency risk for currencies pegged to the euro</p> <p>2016/1800 – BTS with regard to the allocation of credit assessments of external credit assessment institutions to an objective scale of credit quality steps</p>	Solvency II Annex A

BTS being deleted	Instrument
<p style="text-align: center;"><u>CRR/CRD</u></p> <p>524/2014 – BTS specifying the information that competent authorities of home and host Member States supply to one another</p> <p>620/2014 – BTS with regard to information exchange between competent authorities of home and host Member States</p> <p>650/2014 - with regard to the format, structure, contents list and annual publication date of the information to be disclosed by competent authorities</p> <p>710/2014 – BTS with regard to conditions of application of the joint decision process for institution-specific prudential requirements</p> <p>926/2014 – BTS with regard to standard forms, templates and procedures for notifications relating to the exercise of the right of establishment and the freedom to provide services</p> <p>1151/2014 – BTS on the information to be notified when exercising the right of establishment and the freedom to provide services</p> <p>2016/98 – BTS for specifying the general conditions for the functioning of colleges of supervisors</p> <p>2016/99 – BTS with regard to determining the operational functioning of the colleges of supervisors</p> <p>2016/100 – BTS specifying the joint decision process with regard to the application for certain prudential permissions</p> <p>2017/461 – BTS with regard to common procedures, forms and templates for the consultation process between the relevant competent authorities for proposed acquisitions of qualifying holdings in credit institutions</p>	Capital Requirements No 3

BTS being deleted	Instrument
<p style="text-align: center;"><u>Solvency II</u></p> <p>2015/461 – BTS with regard to the process to reach a joint decision of the application to use a group internal model</p> <p>2015/2013 – BTS with regard to standard deviations in relation to health risk equalisation systems</p> <p>2015/2014 – BTS with regard to the procedures and templates for the submission of information to the group supervisor and for the exchange of information between supervisory authorities</p> <p>2015/2451 – BTS with regard to the templates and structure of the disclosure of specific information by supervisory authorities</p>	Solvency II Annex N
<p style="text-align: center;"><u>Occupational Retirement Provision Directive</u></p> <p>643/2014 – BTS with regard to the reporting of national provisions of prudential nature relevant to the field of occupational pension schemes</p>	Solvency II Annex N

EU EXIT INSTRUMENT: THE TECHNICAL STANDARDS (CAPITAL REQUIREMENTS) (EU EXIT) (No. 1) INSTRUMENT [YEAR]

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 “Regulations”), having carried out the consultations required by regulation 5 of the Regulations and with the approval of the Treasury, makes this instrument in exercise of the powers conferred by regulations 3 and 4 of the Regulations.

Pre-conditions to making

- B. The PRA and the FCA are the appropriate regulators for the Capital Requirements EU Regulations.
- C. The PRA proposes to exercise the power in regulation 3 of the 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.
- D. The PRA has consulted the FCA on a division of responsibility and on the modifications contained in Annexes A to P to this instrument in accordance with regulations 3 and 5 of the Regulations.
- E. [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

- F. In this instrument –
- (a) “the Act” means the European Union (Withdrawal) Act 2018;
 - (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”;
 - (c) “exit day” has the meaning given in the Act;
 - (d) “the FCA” means the Financial Conduct Authority; and
 - (e) “Condition A” means the condition defined in regulation 4(2) of the Regulations;

Division

- G. Each Capital Requirements EU Regulation, as it has effect in domestic law by virtue of section 3 of the Act, is divided into two identical versions of the same, headed “Part 1 (FCA)” and “Part 2 (PRA)” respectively.

- H. Immediately before Article 1 in Part 1 (FCA) in those regulations is inserted:

“Article A1

This Part of the Regulation applies to persons regulated solely by the FCA.”

- I. Immediately before Article 1 in Part 2 (PRA) is inserted:

“Article A1

This Part of the Regulation applies to PRA-authorised persons (within the meaning of section 2B(5) of the Financial Services and Markets Act 2000).”

Modifications to Part 2 (PRA)

- J. In each of the specified Capital Requirements EU Regulations listed in Part 4 under the heading “Capital Requirements Regulation”, omit the words “This Regulation shall be binding in its entirety and directly applicable in all Member States”.
- 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 2014/241	F
Part 2 (PRA) of Commission Delegated Regulation 2014/523	G
Part 2 (PRA) of Commission Delegated Regulation 2014/525	H
Part 2 (PRA) of Commission Delegated Regulation 2014/529	I
Part 2 (PRA) of Commission Delegated Regulation 2014/680	J
Part 2 (PRA) of Commission Implementing Regulation 1030/2014	K
Part 2 (PRA) of Commission Delegated Regulation 2014/1187	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

Commencement

L. This instrument comes into force on exit day.

Citation

M. This instrument may be cited as the Technical Standards (Capital Requirements) (EU Exit) (No.1) Instrument [YEAR].

By order of the Prudential Regulation Committee

[DATE]

Annex A

CLASSES OF INSTRUMENTS TO BE USED FOR VARIABLE REMUNERATION

1 MODIFICATIONS TO PART 2 (PRA) OF EU REGULATION 527/2014

- 1.1 In this Annex new text is underlined and deleted text is struck through.
- 1.2 Part 2 (PRA) of EU Regulation No 527/2014 means Commission Delegated Regulation (EU) No 527/2014 of 12 March 2014 supplementing Directive (EU) No 2013/36/EU of the European Parliament and of the Council with regard to regulatory technical standards specifying the classes of instruments that adequately reflect the credit quality of an institution as a going concern and are appropriate to be used for the purposes of variable remuneration as it forms part of domestic law by virtue of section 3 of the Act and this Instrument, is modified as follows:

...

Article B1

Definitions

In this Regulation:

- (1) “appropriate regulator” has the meaning given by regulation 2(1) of the Capital Requirements Regulations 2013;
- (2) “authorised person” has the same meaning as in FSMA (see sections 31(2) and 417(1) of that Act);
- (3) “Directive 2013/36/EU UK law” means the law of the United Kingdom (or any part of it) which, immediately before exit day, implemented Directive 2013/36/EU as that law has effect on exit day;
- (4) “the FCA” means the Financial Conduct Authority;
- (5) “FSMA” means the Financial Services and Markets Act 2000;
- (6) “the PRA” means the Prudential Regulation Authority;
- (7) “PRA-authorised person” has the same meaning as in FSMA (see sections 2B(5) and 417(1) of that Act);
- (8) 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 exit 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;

- (9) a reference to a provision of a sourcebook is to a sourcebook in the FCA Handbook of Rules and Guidance made by the FCA under FSMA as amended by rule-making instruments made before exit 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

Article 1

Classes of instruments that adequately reflect the credit quality of an institution as a going concern and are appropriate to be used for the purposes of variable remuneration

1. The following shall be the classes of instruments that satisfy the conditions laid down in rule 15.15(1)(b) of the Remuneration Part of the PRA rulebook and in rules 19A.3.47(1)(b) and 19D.3.56(1)(b) of the Senior Management Arrangements, Systems and Controls sourcebook ~~point (1)(ii) of Article 94(1) of Directive 2013/36/EU:~~

...

Article 2

Conditions for classes of Additional Tier 1 instruments

Classes of Additional Tier 1 instruments shall comply with the following conditions:

...

- (c) one of the following requirements is met:
- (i) the instruments are issued for the sole purpose of being awarded as variable remuneration and the provisions governing the instrument ensure that any distributions are paid at a rate which is consistent with market rates for similar instruments issued by the institution or by institutions of comparable nature, scale, complexity and credit quality and which in any case is, at the time the remuneration is awarded, no higher than 8 percentage points above the annual percentage average rate of change of the Consumer Prices Index (for all items) for the Union published by the Statistics Board Commission (Eurostat) in its Harmonised Indices of Consumer Prices published pursuant to Article 11 of Council Regulation (EC) No 2494/95. Where the instruments are awarded to staff members who perform the predominant part of their professional activities outside the ~~Union~~ United Kingdom and the instruments are denominated in a currency issued by a third country, institutions may use a similar independently-calculated index of consumer prices produced in respect of that third country;

...

Article 4

Conditions for classes of Other Instruments

1. Under the conditions laid down in point (c) of Article 1(1), Other Instruments satisfy the conditions laid down in rule 15.15(1)(b) of the Remuneration Part of the PRA rulebook and in rules 19A.3.47(1)(b) and 19D.3.56(1)(b) of the Senior Management Arrangements, Systems and Controls sourcebook ~~point (1)(ii) of Article 94(1) of Directive 2013/36/EU~~ in each of the following cases:

...

4. The conditions referred to in point (c) of paragraph 1 are the following:
- (a) ~~the competent authorities have~~ appropriate regulator has determined for the purpose of regulation 21 of the Capital Requirements Regulations 2013 ~~Article 127 of Directive 2013/36/EU~~ that the institution that issues the instrument to which the other instruments are linked is subject to consolidated supervision by a third-country supervisory authority which is equivalent to that governed by the principles set out in Directive 2013/36/EU UK law ~~that Directive~~ and the requirements of Chapter 2 of Title II of Part One of Regulation (EU) No 575/2013;

Article 5

Write down, write up and conversion procedures

...

13. In order for the write-down of an instrument to be considered temporary, all of the following conditions shall be met:
- (e) the sum of any write-up amounts and payments of coupons on the reduced amount of the principal shall be treated as a payment that results in a reduction of Common Equity Tier 1 and shall be subject, together with other distributions on Common Equity Tier 1 instruments, to the restrictions relating to the Maximum Distributable Amount as laid down ~~in~~:
- (i) in rule 4.3 of the Capital Buffers Part of the PRA rulebook in the case of a PRA-authorised person;
- (ii) in rule 10.4.3 of the Prudential Sourcebook for Investment Firms in the case of other authorised persons ~~Article 141(2) of Directive 2013/36/EU~~
14. For the purposes of point (d) of paragraph 13, the calculation shall be made at the moment when the write-up is operated.

...

Annex B

MATERIAL RISK-TAKERS

2 MODIFICATIONS TO PART 2 (PRA) OF EU REGULATION 604/2014

- 2.1 In this Annex new text is underlined and deleted text is struck through.
- 2.2 Part 2 (PRA) of EU Regulation 604/2014 means Commission Delegated Regulation (EU) No 604/2014 of 4 March 2014 supplementing Directive 2013/36/EU of the European Parliament and of the Council with regard to regulatory technical standards with respect to qualitative and appropriate quantitative criteria to identify categories of staff whose professional activities have a material impact on an institution's risk profile as it forms part of domestic law by virtue of section 3 of the Act and this Instrument, is modified as follows:

...

Article 1A

Definitions

In this Regulation:

- (1) “appropriate regulator” has the meaning given by regulation 2(1) of the Capital Requirements Regulations 2013;
- (2) “authorised person” has the same meaning as in FSMA (see sections 31(2) and 417(1) of that Act);
- (3) “Directive 2013/36/EU UK law” means the law of the United Kingdom (or any part of it) which, immediately before exit day, implemented Directive 2013/36/EU as that law has effect on exit day;
- (4) “the FCA” means the Financial Conduct Authority;
- (5) “FSMA” means the Financial Services and Markets Act 2000;
- (6) “the PRA” means the Prudential Regulation Authority;
- (7) “PRA-authorised person” has the same meaning as in FSMA (see sections 2B(5) and 417(1) of that Act);
- (8) 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 exit 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;
- (9) a reference to a provision of a sourcebook is to a sourcebook in the FCA Handbook of Rules and Guidance made by the FCA under FSMA as amended by rule-making instruments made before exit 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.

Article 2

Application of the criteria

~~Without prejudice to the obligation imposed on the competent authority to ensure that institutions comply with the principles set out in Articles 92, 93 and 94 of Directive 2013/36/EU for all categories of staff whose professional activities have a material impact on an institution's risk profile pursuant to Article 92(2) of that Directive, staff~~ Staff who meet any of the qualitative criteria set out in Article 3 of this Regulation or any of the quantitative criteria in Article 4 of this Regulation shall be identified as having a material impact on an institution's risk profile.

Article 3

Qualitative criteria

Staff shall be deemed to have a material impact on an institution's risk profile where any of the following qualitative criteria are met:

...

- (5) the staff member has overall responsibility for risk management within a business unit as defined in Article 142(1)(3) of Regulation (EU) No 575/2013 which has had internal capital distributed to it in accordance with Directive 2013/36/EU UK law which implemented Article 73 of Directive 2013/36/EU that represents at least 2 % of the internal capital of the institution (a 'material business unit');

...

- (10) the staff member is responsible for, or is a member of, a committee responsible for the management of a risk category provided for in Directive 2013/36/EU UK law which implemented Articles 79 to 87 of Directive 2013/36/EU other than credit risk and market risk;

...

Article 4

Quantitative criteria

1. Subject to paragraphs 2 to 5, staff shall be deemed to have a material impact on an institution's risk profile where any of the following quantitative criteria are met:

...

3. The condition set out in point (b) of paragraph 2 shall be assessed on the basis of objective criteria which take into account all relevant risk and performance indicators used by the institution to identify, manage and monitor risks in

accordance with Directive 2013/36/EU UK law which implemented Article 74 of Directive 2013/36/EU and on the basis of the duties and authorities of the staff member or category of staff and their impact on the institution's risk profile when compared with the impact of the professional activities of staff members identified by the criteria set out in Article 3 of this Regulation.

4. An institution shall notify the ~~competent authority responsible for its prudential supervision~~ appropriate regulator of the application of paragraph 2 in relation to the criterion in point (a) of paragraph 1. The notification shall set out the basis on which the institution has determined that the staff member concerned, or the category of staff to which the staff member belongs, meets one of the conditions laid down in paragraph 2 and shall, if applicable, include the assessment carried out by the institution pursuant to paragraph 3.
5. The application of paragraph 2 by an institution in respect of a staff member who was awarded total remuneration of EUR 750 000 or more in the preceding financial year, or in relation to the criterion in point (b) of paragraph 1, shall be subject to the prior approval of the ~~competent authority responsible for prudential supervision of that institution~~ appropriate regulator.

The ~~competent authority~~ appropriate regulator shall only give its prior approval where the institution can demonstrate that one of the conditions set out in paragraph 2 is satisfied, having regard, in respect of the condition in point (b) of paragraph 2, to the assessment criteria set out in paragraph 3.

Where the staff member was awarded total remuneration of EUR 1 000 000 or more in the preceding financial year the ~~competent authority~~ appropriate regulator shall only give its prior approval in exceptional circumstances. ~~In order to ensure the consistent application of this Article the competent authority shall inform the European Banking Authority before giving its approval in respect of such a staff member.~~

Article 5

Calculation of remuneration awarded

1. For the purposes of this Regulation, remuneration which 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 applicable remuneration rules ~~Article 94(1)(g)(iii) of Directive 2013/36/EU~~ or reductions in payouts, whether through clawback, malus, or otherwise. All amounts shall be calculated gross and on a full-time equivalent basis.
 - 1A. In paragraph 1 “applicable remuneration rules” means—
 - (a) in the case of PRA-authorised persons, rule 15.13 of the Remuneration Part of the PRA rulebook;
 - (b) in the case of other authorised persons, rules 19A.3.44D and 19D.3.52 of the FCA Senior management arrangements, Systems and Controls sourcebook.

2. For the purpose of the application of points (b) and (c) of Article 4(1), the remuneration awarded may be considered separately for each ~~Member State~~ and ~~third~~ country where the institution has an establishment and staff shall be assigned to the country where they carry on the predominant part of their activities.

...

Annex C

GEOGRAPHICAL LOCATION OF RELEVANT CREDIT EXPOSURES FOR COUNTERCYCLICAL CAPITAL BUFFER RATES

3 MODIFICATIONS TO PART 2 (PRA) OF EU REGULATION 1152/2014

- 3.1 In this Annex new text is underlined and deleted text is struck through.
- 3.2 Part 2 (PRA) of EU Regulation 1152/2014 means Commission Delegated Regulation (EU) No 1152/2014 of 4 June 2014 supplementing Directive 2013/36/EU of the European Parliament and of the Council with regard to regulatory technical standards on the identification of the geographical location of the relevant credit exposures for calculating institution-specific countercyclical capital buffer rates as it forms part of domestic law by virtue of section 3 of the Act and this Instrument, is modified as follows:

Article 1

Definitions

For the purposes of this Regulation, the following definitions shall apply:

- (1) 'general credit exposure' means the risk exposure amount calculated in accordance with Article 92(3) of Regulation (EU) No 575/2013 of an exposure referred to in Article 140(4)(a) of Directive 2013/36/EU subject to the own funds requirement for credit risk under Part 3, Title 2 of that Regulation, other than an exposure referred to in points (a) to (f) of Article 112;
- (2) 'trading book exposure' means the risk exposure amount calculated in accordance with Article 92(3) of Regulation (EU) No 575/2013 of an exposure referred to in Article 140(4)(b) of Directive 2013/36/EU subject to the own funds requirement for specific risk under Part 3, Title 4, Chapter 2 of that Regulation, other than an exposure referred to in points (a) to (f) of Article 112;
- (3) 'securitisation exposure' means the risk exposure amount calculated in accordance with Article 92(3) of Regulation (EU) No 575/2013 of an exposure referred to in Article 140(4)(c) of Directive 2013/36/EU subject to the own funds requirement under Part 3, Title 2, Chapter 5 of that Regulation, other than an exposure referred to in points (a) to (f) of Article 112;
- (4) 'location of the obligor' means the ~~Member State or the third~~ country, where the natural or legal person, who is the institution's counterparty to a general credit exposure or the issuer of a financial instrument not included in the trading book or the counterparty to a non-trading book exposure, is ordinarily resident (in the case of a natural person), or has its registered office (in the case of a legal person); for a legal person whose centre of actual administration is in a ~~Member State or in a third~~ country other than the ~~Member State or the~~

country of its registered office, 'location of the obligor' means the ~~Member State or the third~~ country of its actual place of administration;

- (5) 'location of the debtor' means the ~~Member State or the third~~ country, where the natural or legal person who is the issuer of the financial instrument in the trading book, or the counterparty to a trading book exposure, is ordinarily resident (in the case of a natural person), or has its registered office (in the case of a legal person); for a legal person whose centre of actual administration is in a ~~Member State or in a third~~ country other than ~~the state or the country of its registered office~~, 'location of the debtor' means the ~~Member State or the third~~ country of its actual place of administration;
- (6) 'location of the income' means the ~~Member State or the third~~ country of the location of the assets which generate the income that is the primary source of repayment of the obligation in relation to a specialised lending exposure;
- (7) 'foreign exposure' means a general credit exposure whose obligor is not located in the ~~institution's home Member State~~ United Kingdom;
- (8) 'specialised lending exposure' means the general credit exposures possessing the characteristics referred to in Article 147(8) of Regulation (EU) No 575/2013.

Article 2

Location of general credit exposures

...

- (4) General credit exposures to other items as referred to in point (q) of Article 112 of Regulation (EU) No 575/2013 shall be allocated to the ~~institution's home Member State~~ United Kingdom if the institution cannot identify their obligor.
- (5) The following general credit exposures may be allocated to ~~an institution's home Member State~~ the United Kingdom:

....

Article 3

Geographical location of trading book exposures

...

- (3) Institutions, whose total trading book exposures does not exceed 2 % of their total general credit, trading book and securitisation exposures, may allocate those exposures to the United Kingdom ~~home Member State of the institution~~.

...

Article 4

Geographical location of securitisation exposures

....

- (3) Securitisation exposures for which information on underlying securitisation exposures is not available, may be allocated to the United Kingdom ~~home Member State of the institution~~ if the institution cannot identify the underlying obligor based on existing available information from internal or external sources or without applying a disproportionate effort to obtain the information.

...

Annex D

BENCHMARKING: REPORTING

4 MODIFICATIONS TO PART 2 (PRA) OF REGULATION 2016/2070

- 4.1 In this Annex new text is underlined and deleted text is struck through.
- 4.2 Part 2 (PRA) of Regulation 2016/2070 means Commission Implementing Regulation (EU) 2016/2070 of 14 September 2016 laying down implementing technical standards for templates, definitions and IT-solutions to be used by institutions when reporting to the European Banking Authority and to competent authorities in accordance with Article 78(2) of Directive 2013/36/EU of the European Parliament and of the Council as it forms part of domestic law by virtue of section 3 of the Act and this Instrument, is modified as follows:

...

Article 1

~~Reporting by the institutions for the purposes of Article 78(2) of Directive 2013/36/EU on an individual and consolidated basis~~

~~For the purposes of Article 78(2) of Directive 2013/36/EU, an~~ An institution referred to in paragraph 1 of that Article ~~permitted to use internal approaches for the calculation of risk weighted exposure amounts or own funds requirements (except for operational risk)~~ shall submit to its competent authority all the information referred to in Articles 2 and 3 on an individual and consolidated basis.

...

Article 4

Reference and remittance dates

...

3. Where the date referred to in paragraph 2 is not a working day in the ~~Member State of the competent authority to which the information is to be submitted~~ United Kingdom, the information shall be submitted on the following working day.

...

Annex E

BENCHMARKING: PORTFOLIO ASSESSMENTS

5 MODIFICATIONS TO PART 2 (PRA) OF EU REGULATION 2017/180

5.1 Part 2 (PRA) of EU Regulation 2017/180 means Commission Delegated Regulation (EU) 2017/180 of 24 October 2016 supplementing Directive 2013/36/EU of the European Parliament and of the Council with regard to regulatory technical standards for benchmarking portfolio assessment standards and assessment-sharing procedures, as it forms part of domestic law by virtue of section 3 of the Act and this Instrument is modified as follows:

5.1.1 Articles 1, 2 and sub-paragraphs (a) to (e) of Article 3 are deleted; and

5.1.2 Unless deleted by 5.1.1, in Articles 3, 7, 9, 10, 11 and 12 new text is underlined and deleted text is struck through when modified as follows:

...

Article 3

Overview

1. When carrying out the annual assessment of the quality of internal approaches paying particular attention to:
 - i. those exposures that exhibit significant differences in own fund requirements for the same exposure;
 - ii. approaches where there is particularly high or low diversity, and also where there is a significant and systematic under-estimation of own funds requirements,

~~referred to in the first subparagraph of Article 78(3) or Directive 2013/36/EU,~~ competent authorities shall identify the internal approaches that need specific assessment in a manner which is proportionate to the nature, scale and complexity of the risks inherent in the business model as well as the relevance of the portfolios included in Implementing Regulation (EU) 2016/2070 for the institution in relation to the risk profile of the institution. ~~They shall also take into account the analysis provided in the EBA report referred to in the second subparagraph of Article 78(3) of Directive 2013/36/EU as follows:~~

Article 7

General assessment standards for internal approaches for credit risk

1. When carrying out an assessment referred to in Article 3(1) relating to credit risk approaches, competent authorities shall use at least the information on the internal approaches applied to the supervisory benchmarking portfolios which is contained in the following documents, where relevant:

- (a) ~~the EBA report referred to in the second subparagraph of Article 78(3) of Directive 2013/36/EU;~~

...

Article 9

General assessment standards for internal approaches for market risk

1. When carrying out an assessment referred to in Article 3(1), competent authorities shall use at least the information on the internal approaches applied to the supervisory benchmarking portfolios which is contained in the following documents, where relevant:
 - (a) ~~the EBA report referred to in the second subparagraph of Article 78(3) of Directive 2013/36/EU;~~

...

Article 10

Assessment of differences in the outcomes of internal approaches for market risk

...

2. When assessing the causes of the differences for VaR values, competent authorities shall consider both of the following:
 - (a) ~~any alternative homogenised VaR calculations that EBA may provide in its report referred to in the second subparagraph of Article 78(3) of Directive 2013/36/EU, using available profit and loss data;~~
 - (b) the dispersion observed in the VaR metric provided by institutions under Implementing Regulation (EU) 2016/2070.

...

5. Competent authorities shall analyse VaR models of an institution for portfolios which might show a profit-and-loss time-series that significantly diverges from the profit-and-loss time-series of the institution's peers, ~~as identified in the EBA report referred to in the second subparagraph of Article 78(3) of Directive 2013/36/EU~~, even where the final own funds requirement for that particular portfolio is similar to the one provided by the institution's peers in absolute terms.
6. In addition, for VaR, sVaR, IRC and models used for correlation trading activities, competent authorities shall assess the effect of regulatory variability drivers ~~using the data provided by the EBA report referred to in the second subparagraph of Article 78(3) of Directive 2013/36/EU~~ by clustering the metric outcomes by the different modelling options.

....

Article 11

Assessment of the level of own funds for internal approaches for market risk

1. Where assessing the level of own funds of each institution, competent authorities shall take into account both of the following:
 - (a) the level of own funds by non-aggregated portfolio;
 - (b) the effect of the diversification benefit applied by each institution in aggregated portfolios, by comparing the sum of own funds of the non-aggregated portfolios referred to in point (a) of this paragraph with the level of own funds provided for the aggregated portfolio, ~~as provided in the EBA report referred to in the second subparagraph of Article 78(3) of Directive 2013/36/EU;~~
2. Where assessing the level of own funds by institution, competent authorities shall also take into account both of the following:
 - (a) the effect of the supervisory add-ons; the effect of the supervisory actions not contemplated in the data collected ~~by EBA.~~

....

Annex F

DEFINITION OF OWN FUNDS

6 MODIFICATIONS TO PART 2 (PRA) OF EU REGULATION 2014/241

- 6.1 In this Annex, new text is underlined and deleted text is struck through:
- 6.2 Part 2 (PRA) of EU Regulation 241/2014 means 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 Act and this Instrument, is modified as follows:

...

Article B1

Definitions

1. In this Regulation -

- (1) “Council Directive 86/635/EEC UK law” means the law of the United Kingdom (or any part of it) which, immediately before exit day, implemented Directive 86/635/EEC, as that law has effect on exit day;
 - (2) “Directive 2002/87/EC UK law” means the law of the United Kingdom (or any part of it) which, immediately before exit day, implemented Directive 2002/87/EC, as that law has effect on exit day;
 - (3) “Directive 2013/36/EU UK law” means the law of the United Kingdom (or any part of it) which, immediately before exit day, implemented Directive 2013/36/EU, as that law has effect on exit day.
2. Unless the context otherwise requires, a reference in this Regulation to an enactment is a reference to that enactment as amended by regulations made under section 8 of the European Union (Withdrawal) Act 2018.

Article 1

Subject matter

This Regulation lays down rules concerning:

- (a) the meaning of ‘foreseeable’ when determining whether foreseeable charges or dividends have been deducted from own funds according to Article 26(4) of Regulation (EU) No 575/2013;
- (b) conditions according to which Competent authorities may determine that a type of undertaking recognised under the applicable national law ~~law of the United Kingdom (or any part of it)~~ qualifies as a mutual, cooperative society,

savings institution or similar institution, according to Article 27(2) of Regulation (EU) No 575/2013;

- (c) the applicable forms and nature of indirect funding of capital instruments, according to Article 28(5) of Regulation (EU) No 575/2013;
- (d) the nature of limitations on redemption necessary where the refusal by the institution of the redemption of own funds instruments is prohibited under ~~applicable national law~~ the applicable law of the United Kingdom (or any part of it) or of a third country, according to Article 29(6) of Regulation (EU) No 575/2013;

...

Article 2

Meaning of 'foreseeable' in foreseeable dividend for the purposes of Article 26(2)(b) of Regulation (EU) No 575/2013

...

- 9. The amount of foreseeable dividends to be deducted shall be determined taking into account any regulatory restrictions on distributions, in particular restrictions determined in accordance with Directive 2013/36/EU UK law which implemented Article 141 of Directive 2013/36/EU of the European Parliament and of the Council. The amount of profit after deduction of foreseeable charges subject to such restrictions may be included fully in Common Equity Tier 1 items where the condition of point (a) of paragraph 2 of Article 26 of Regulation (EU) No 575/2013 is met. When such restrictions are applicable, the foreseeable dividends to be deducted shall be based on the capital conservation plan agreed by the competent authority pursuant to Directive 2013/36/EU UK law which implemented Article 142 of Directive 2013/36/EU.

...

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 ΣΠΗ' 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 one 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.~~
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, ~~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)';~~

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.

Article 6

Type of undertaking recognised under applicable national law as a mutual for the purposes of Article 27(1)(a)(i) 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 mutual 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 mutual for the purposes of paragraph 1, the institution's legal status shall fall within one of the following categories: institutions must be incorporated (or deemed to be incorporated) under the Building Societies Act 1986 or registered as a savings bank within the meaning of the Savings Bank (Scotland) Act 1819.
 - (a) in Denmark: Associations ('Foreninger') or funds ('Fonde') which originate from the conversion of insurance companies ('Forsikringselskaber'), mortgage credit institutions ('Realkreditinstitutter'), savings banks ('Sparekasser'), cooperative savings banks ('Andelskasser') and affiliations of cooperative savings banks ('Sammenslutninger af andelskasser') into limited companies as defined under the Danish Financial Business Act;
 - (b) in Ireland: institutions registered as 'building societies' under the Building Societies Act 1989;
 - (c) in the United Kingdom: institutions registered as 'building societies' under the Building Societies Act 1986; institutions registered as a 'savings bank' under the Savings Bank (Scotland) Act 1819.
3. With respect to Common Equity Tier 1 capital, to qualify as a mutual for the purposes of paragraph 1, the institution is only allowed to issue, under the applicable law of the United Kingdom (or any part of it) ~~according to the national applicable law or~~

~~company~~ its statutes, at the level of the legal entity, capital instruments referred to in Article 29 of Regulation (EU) No 575/2013.

4. To qualify as a mutual for the purposes of paragraph 1, the total amount or a partial amount of the sum of capital and reserves shall be owned by members of the institution, who do not, in the ordinary course of business, benefit from direct distribution of the reserves, in particular through the payment of dividends. Such conditions are deemed to be fulfilled even where the institution issues Common Equity Tier 1 instruments that grant a right on the profits and reserves, where allowed by ~~the applicable national law~~ the applicable law of the United Kingdom (or any part of it).

Article 7

Type of undertaking recognised under applicable national law as a similar institution for the purposes of Article 27(1)(a)(iv) 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 similar institution to cooperatives, mutuals and savings institutions 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 similar institution to cooperatives, mutuals and savings institutions for the purposes of paragraph 1, the institution's legal status falls under one of the following categories:~~
 - (a) ~~in Austria: the 'Pfandbriefstelle der österreichischen Landes-Hypothekenbanken' under the 'Bundesgesetz über die Pfandbriefstelle der österreichischen Landes-Hypothekenbanken (Pfandbriefstelle-Gesetz - PfBrStG);~~
 - (b) ~~in Finland: institutions registered as 'Hypoteekkiyhdistys' or 'Hypoteksförening' under 'Laki hypoteekkiyhdistyksistä' or 'Lag om hypoteksföreningar'.~~
3. With respect to Common Equity Tier 1 capital, to qualify as a similar institution to cooperatives, mutuals and savings institutions for the purposes of paragraph 1, the institution shall be only able to issue, under the applicable law of the United Kingdom (or any part of it)~~according to the national applicable law or its company~~ statutes, at the level of the legal entity, capital instruments referred to in Article 29 of Regulation (EU) No 575/2013.
4. To qualify as a similar institution to cooperatives, mutuals and savings institutions for the purposes of paragraph 1, one or more of the following conditions shall also be met:
 - (a) where the holders, which may be members or non-members of the institution, of the Common Equity Tier 1 instruments referred to in paragraph 3 have the ability to resign under the applicable law of the United Kingdom (or any part of it)~~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 that applicable national law, company its statutes and of Regulation (EU) No 575/2013 and this Regulation. That 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], 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;

- (b) the sum of capital, reserves and interim or year-end profits, is not 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. That 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 such ~~the applicable national~~ law, provided that that part is proportionate to their contribution to the capital and reserves or, where permitted by ~~the applicable national~~ 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 Article 29(4) and (5) of Regulation (EU) No 575/2013 are met;
- (c) the total amount or a partial amount of the sum of capital and reserves is owned by members of the institution who do not, in the ordinary course of business, benefit from direct distribution of the reserves, in particular through the payment of dividends.

...

Article 7b

Preferential distributions regarding preferential rights to payments of distributions

...

7. For the purposes of paragraph 6, either of the following conditions (a) or (b) shall apply:
- (a) both of the following points (i) and (ii) are met:
- (i) the instrument with fewer or no voting rights can only be subscribed and held by the holders of voting instruments;
 - (ii) the number of the voting rights of any single holder is limited;
- (b) the distributions on the voting instruments issued by the institutions are subject to a cap set out under the applicable national law of the United Kingdom (or any part of it), or of a third country.

...

9. For the purposes of point (a) of paragraph 7, the voting rights of any single holder shall be deemed to be limited in the following cases:
- (a) where each holder only receives one voting right irrespective of the number of voting instruments for any holder;
- (b) where the number of voting rights is capped irrespective of the number of number of voting instruments held by any holder;

- (c) where the number of voting instruments any holder may hold is limited under the statutes of the institution or under the applicable national law of the United Kingdom (or any part of it), or of a third country.

Article 8

Indirect funding of capital instruments for the purposes of Article 28(1)(b,) Article 52(1)(c) and Article 63(c) of Regulation (EU) No 575/2013

...

3. Direct funding shall also include funding granted for other purposes than purchasing an institution's capital instruments, to any natural or legal person who has a qualifying holding in the credit institution, as referred to in Article 4(36) of Regulation (EU) No 575/2013, or who is deemed to be a related party within the meaning of the definitions in paragraph 9 of International Accounting Standard 24 on Related Party Disclosures as applied in the ~~Union~~ United Kingdom according to Regulation (EC) No 1606/2002 of the European Parliament and of the Council, taking into account any additional guidance ~~as defined~~ issued by the competent authority, if the institution is not able to demonstrate all of the following:

...

Article 9

Applicable forms and nature of indirect funding of capital instruments for the purposes of Article 28(1)(b) and 52(1)(c) and 63(c) of Regulation (EU) No 575/2013

1. The applicable forms and nature of indirect funding of the purchase of an institution's capital instruments shall include the following:
- (a) funding of an investor's purchase, at issuance or thereafter, of an institution's capital instruments by any entities on which the institution has a direct or indirect control or by entities included in any of the following:
- (1) the scope of accounting or prudential consolidation of the institution;
 - (2) ~~the scope of the consolidated balance sheet or extended aggregated calculation, where equivalent to consolidated accounts as referred to in Article 49(3)(a)(iv) of Regulation (EU) No 575/2013, that is drawn up by the institutional protection scheme or the network of institutions affiliated to a central body that are not organised as a group to which the institution belongs;~~
 - (3) the scope of supplementary supervision of the institution in accordance with Directive 2002/87/EC UK law of the European Parliament and of the Council on the supplementary supervision of credit institutions, insurance undertakings and investment firms in a financial conglomerate;
- ...
- (b) funding of an investor's purchase, at issuance or thereafter, of an institution's capital instruments by external entities that are protected by a guarantee or by the use of a credit derivative or are secured in some other way so that the credit risk is transferred to the institution or to any entities on which the

institution has a direct or indirect control or any entities included in any of the following:

- (1) the scope of accounting or prudential consolidation of the institution;
- ~~(2) the scope of the consolidated balance sheet or extended aggregated calculation, where equivalent to consolidated accounts as referred to in Article 49(3)(a)(iv) of Regulation (EU) No 575/2013, that is drawn up by the institutional protection scheme or the network of institutions affiliated to a central body that are not organised as a group to which the institution belongs;~~
- (3) the scope of supplementary supervision of the institution in accordance with Directive 2002/87/EC UK law;

...

(a) the investor is not included in any of the following:

- (1) the scope of accounting or prudential consolidation of the institution;
- ~~(2) the scope of the consolidated balance sheet or extended aggregated calculation, where equivalent to consolidated accounts as referred to in Article 49(3) (a)(iv) of Regulation (EU) No 575/2013, that is drawn up by the institutional protection scheme or the network of institutions affiliated to a central body that are not organised as a group to which the institution belongs. For this purpose an investor is deemed to be included in the scope of the extended aggregated calculation if the relevant capital instrument is subject to consolidation or extended aggregated calculation in accordance with Article 49(3)(a) (iv) of Regulation (EU) No 575/2013 in a way that the multiple use of own funds items and any creation of own funds between members of the institutional protection scheme is eliminated. Where the permission from Competent authorities referred to in Article 49(3) of Regulation (EU) No 575/2013 has not been granted, this condition shall be deemed to be met where both the entities referred to in paragraph 1(a) and the institution are members of the same institutional protection scheme and the entities deduct the funding provided for the purchase of the institution's capital instruments according to Articles 36(1)(f) to (i), Article 56(a) to (d) and Article 66(a) to (d) of Regulation (EU) No 575/2013, as applicable;~~
- (3) the scope of the supplementary supervision of the institution in accordance with Directive 2002/87/EC UK law;

(b) the external entity is not included in any of the following:

- (1) the scope of accounting or prudential consolidation of the institution;
- ~~(2) the scope of the consolidated balance sheet or extended aggregated calculation, where equivalent to consolidated accounts as referred to in Article 49(3)(a)(iv) of Regulation (EU) No 575/2013, that is drawn up by the institutional protection scheme or the network of institutions affiliated to a central body that are not organised as a group to which the institution belongs;~~

- (3) the scope of the supplementary supervision of the institution in accordance with Directive 2002/87/EC UK law.

...

5. With regard to mutuals, cooperative societies and similar institutions, where there is an obligation under the law of the United Kingdom (or any part of it) ~~national law~~ or the statutes of the institution for a customer to subscribe capital instruments in order to receive a loan, that loan shall not be considered as a direct or indirect funding where all of the following conditions are met:

...

Subsection 4

Limitations on redemption of capital instruments

Article 10

Limitations on redemption of capital instruments issued by mutuals, savings institutions, cooperative societies and similar institutions for the purposes of Article 29(2)(b) of Regulation (EU) No 575/2013 and Article 78(3) of Regulation (EU) No 575/2013

1. An institution may issue Common Equity Tier 1 instruments with a possibility to redeem only where such possibility is foreseen by the applicable ~~national law~~ of the United Kingdom (or any part of it), or of a third country.

...

3. The extent of the limitations on redemption included in the provisions governing the instruments shall be determined by the institution on the basis of the prudential situation of the institution at any time, having regard to in particular, but not limited to:

- (a) the overall financial, liquidity and solvency situation of the institution;
- (b) the amount of Common Equity Tier 1 capital, Tier 1 and total capital compared to the total risk exposure amount calculated in accordance with the requirements laid down in point (a) of Article 92(1) of Regulation (EU) No 575/2013, the specific own funds requirements referred to in regulation 34 of the Capital Requirements Regulations 2013 ~~Article 104(1)(a) of Directive 2013/36/EU~~ and the combined buffer requirement as defined in regulation 2(1) of the Capital Requirements (Capital Buffers and Macroprudential Measures) Regulations 2014 ~~point (6) of Article 128 of that Directive~~.

Article 11

Limitations on redemption of capital instruments issued by mutuals, savings institutions, cooperative societies and similar institutions for the purposes of Article 29(2)(b) of Regulation (EU) No 575/2013 and Article 78(3) of Regulation (EU) No 575/2013

1. The limitations on redemption included in the contractual or legal provisions governing the instruments shall not prevent the competent authority from limiting further the redemption on the instruments on an appropriate basis as foreseen by Article 78 of Regulation (EU) No 575/2013.

2. Competent authorities shall assess the bases of limitations on redemption included in the contractual and legal provisions governing the instrument. They shall require institutions to modify the corresponding contractual provisions where they are not satisfied that the bases of limitations are appropriate. Where the instruments are governed by the national law of the United Kingdom (or any part of it), or of a third country in the absence of contractual provisions, the legislation shall enable the institution to limit redemption as referred to in paragraphs 1 to 3 of Article 10 in order for the instruments to qualify as Common Equity Tier 1.

...

Article 13

Deduction of losses for the current financial year for the purposes of Article 36(1)(a) of Regulation (EU) No 575/2013

...

3. Where losses for the current financial year have already reduced Common Equity Tier 1 items as a result of an interim or a year-end financial report, a deduction is not needed. For the purpose of this Article, the financial report means that the profit and losses have been determined after a closing of the interim or the annual accounts in accordance with the accounting framework to which the institution is subject under Regulation (EC) No 1606/2002 on the application of international accounting standards and Council Directive 86/635/EEC UK law on the annual accounts and consolidated accounts of banks and other financial institutions.

...

Article 14

Deductions of deferred tax assets that rely on future profitability for the purposes of Article 36(1)(c) of Regulation (EU) No 575/2013

1. The deductions of deferred tax assets that rely on future profitability under Article 36(1)(c) of Regulation (EU) No 575/2013 shall be made according to paragraphs 2 and 3.
2. The offsetting between deferred tax assets and associated deferred tax liabilities shall be done separately for each taxable entity. Associated deferred tax liabilities shall be limited to those that arise from the tax law of the same jurisdiction as the deferred tax assets. For the calculation of deferred tax assets and liabilities at consolidated level, a taxable entity includes any number of entities which are members of the same tax group, fiscal consolidation, fiscal unity or consolidated tax return under applicable ~~national~~ law of the United Kingdom or a third country.

...

Article 15a

Indirect holdings for the purposes of Article 36(1)(f),(h) and (i) of Regulation (EU) No 575/2013

...

2. Without prejudice to point (h) of paragraph 1, an 'intermediate entity' as referred to in Article 4(1)(114) of Regulation (EU) No 575/2013 does not comprise:
 - (a) mixed activity holding companies, institutions, insurance undertakings, reinsurance undertakings;
 - (b) entities that are, by virtue of applicable ~~national~~ law of the United Kingdom (or a part of it), subject to the requirements of Regulation (EU) No 575/2013 and Directive 2013/36/EU UK law;
 - (c) financial sector entities other than the ones mentioned in point (a), which are supervised and required to deduct direct and indirect holdings of their own capital instruments and holdings of capital instruments of financial sector entities from their regulatory capital.
3. For the purposes of point (c) of paragraph 1, a defined benefit pension fund shall be deemed to be independent from its sponsoring institution where all of the following conditions are met:
 - (a) the defined benefit pension fund is legally separate from the sponsoring institution and its governance is independent;
 - (b) the statutes, the instruments of incorporation and the internal rules of the specific pension fund, as applicable, have been approved by an independent regulator; or the rules governing the incorporation and functioning of the defined benefit pension fund, as applicable, are established in the applicable ~~national~~ Member State country;

...

Article 16

Deductions of foreseeable tax charges for the purposes of Article 36(1)(l) and Article 56(f) of Regulation (EU) No 575/2013

...

2. When the institution is calculating its Common Equity Tier 1 capital on the basis of financial statements prepared in accordance with Regulation (EC) No 1606/2002, the condition of paragraph 1 is deemed to be fulfilled.
3. Where the condition of paragraph 1 is not fulfilled, the institution shall decrease its Common Equity Tier 1 items by the estimated amount of current and deferred tax charges not yet recognised in the balance sheet and profit and loss account related to transactions and other events recognised in the balance sheet or the profit and loss account. The estimated amount of current and deferred tax charges shall be determined using an approach equivalent to the one provided by Regulation (EC) No 1606/2002. The estimated amount of deferred tax charges may not be netted against deferred tax assets that are not recognised in the financial statements.

Article 17

Other deductions for capital instruments of financial institutions for the purposes of Article 36(3) of Regulation (EU) No 575/2013

...

3. The deductions referred to in paragraph 1 shall not apply in the following cases:
 - (a) where the financial institution is authorised and supervised by a competent authority and subject to prudential requirements equivalent to those applied to institutions under Regulation (EU) No 575/2013. This approach shall be applied to third country financial institutions only where an equivalence assessment of the prudential regime of the third country concerned has been performed under that regulation and where it has been concluded that the prudential regime of the third country concerned is at least equivalent to that applied in the ~~Union~~ United Kingdom;
 - (b) where the financial institution is an authorised electronic money institution as defined in regulation 2(1) of the Electronic Money Regulations 2011 ~~within the meaning of Article 2 of Directive 2009/110/EC of the European Parliament and of the~~ ~~and does not benefit from optional exemptions as provided by Article 9 of that Directive~~;
 - (c) where the financial institution is ~~a~~ an authorised payment institution as defined in regulation 2(1) of the Payment Services Regulations 2017 ~~within the meaning of Article 4 of Directive 2007/64/EC of the European Parliament and of the Council and does not benefit from a waiver as provided by Article 26 of that Directive~~;
 - (d) where the financial institution is a UK AIFM ~~an alternative investment fund manager within the meaning of Article 4(1) of~~ as defined in regulation 2(1) of the Alternative Investment Fund Managers Regulations 2013 ~~Directive 2011/61/EU of the European Parliament and of the Council~~ ~~or a management company within the meaning of Article 2(1) of Directive 2009/65/EC of the European Parliament and of the Council~~ as defined in section 237(2) of the Financial Services and Markets Act 2000.

Article 18

Capital instruments of third country insurance and reinsurance undertakings for the purposes of Article 36(3) of Regulation (EU) No 575/2013

1. Holdings of capital instruments of third country insurance and reinsurance undertakings that are subject to a solvency regime that either
 - a. before exit day, has been assessed as non-equivalent to that laid down in Title I, Chapter VI of Directive 2009/138/EC according to the procedure set out in Article 227 of that Directive and that assessment has not, on or after exit day, been revoked by the Treasury.

- b. on or after exit day, has been assessed as non-equivalent to that laid down in the laws of the United Kingdom that implemented Title I, Chapter VI of Directive 2009/138/EC according to the procedure set out in Article 379A of the Solvency II Delegated Regulation (EU) 2015/35, or, where assessed as non-equivalent by the PRA according to the procedure in Regulation 19 of the Solvency 2 Regulations 2015; or
- c. that has not been assessed,
shall be deducted as follows:
...
2. Where the solvency regime of the third country including rules on own funds, has:-
- a. before exit day, been assessed as equivalent to that laid down in Title I, Chapter VI of Directive 2009/138/EC according to the procedure set out in Article 227 of that Directive and that assessment has not, on or after exit day, been revoked by the Treasury; or
- b. on or after exit day, been assessed as equivalent to that laid down in the laws of the United Kingdom that implemented Title I, Chapter VI of Directive 2009/138/EC according to the procedure set out in Article 379A of the Solvency II Delegated Regulation (EU) 2015/35, or, where assessed as equivalent by the PRA according to the procedure in Regulation 19 of the Solvency 2 Regulations 2015, holdings of capital instrument of the third-country insurance or reinsurance undertakings shall be treated as holdings of capital instruments of insurance or reinsurance undertakings authorised in accordance with Article 14 of Directive 2009/138/EC within the meaning of 'insurance undertaking' and 'reinsurance undertaking' in section 417(1) of the Financial Services and Markets Act 2000.

...

Article 19

Capital instruments of undertakings excluded from the scope of Directive 2009/138/EC for the purposes of Article 36(3) of Regulation (EU) No 575/2013

Holdings of capital instruments of ~~undertakings excluded from the scope of Directive 2009/138/EC in accordance with Article 4 of that Directive~~ undertakings within Article 4(1)(27)(k) of Regulation (EU) No 575/2013 shall be deducted as follows:

...

SECTION 2

Conversion or write-down of the principal amount

Article 21

Nature of the write-up of the principal amount following a write-down for the purposes of Article 52(1)(n) and Article 52(2)(c)(ii) of Regulation (EU) No 575/2013

1. The write-down of the principal amount shall apply on a pro rata basis to all holders of Additional Tier 1 instruments that include a similar write-down mechanism and an identical trigger level.
2. For the write-down to be considered temporary, all of the following conditions shall be met:
 - ...
 - (f) the sum of any write-up amounts and payments of coupons on the reduced amount of the principal shall be treated as a payment that results in a reduction of Common Equity Tier 1 and shall be subject, together with other distributions on Common Equity Tier 1 instruments, to the restrictions relating to the Maximum Distributable Amount as referred to in Directive 2013/36/EU UK law which implemented Article 141(2) of Directive 2013/36/EU, ~~as transposed in national law or regulation.~~
 - ...

Article 24a

Distribution on Own Funds Instruments — Broad Market Indices

1. An interest rate index shall be deemed to be a broad market index if it fulfils all of the following conditions:
 - ...;
 - (c) it is calculated as an average rate by a body independent of the institutions that are contributing to the index ('panel');
 - ...;
 - (e) the composition of the panel referred to in point (c) ensures a sufficient level of representativeness of institutions present in the United Kingdom Member State.
2. For the purposes of point (e) of paragraph 1, a sufficient level of representativeness shall be deemed to be achieved in either of the following cases:
 - (a) where the panel referred to in point (c) of paragraph 1 includes at least 6 different contributors before any discount of quotes is applied for the purposes of setting the rate;
 - (b) where all of the following conditions are met:
 - (i) the panel referred to in point (c) of paragraph 1 includes at least 4 different contributors before any discount of quotes is applied for the purposes of setting the rate;..

- (ii) the contributors to the panel referred to in point (c) of paragraph 1 represent at least 60 % of the related market.
3. The related market referred to in point (b)(ii) of paragraph 2 shall be the sum of assets and liabilities of the effective contributors to the panel in the domestic currency divided by the sum of assets and liabilities in the domestic currency of credit institutions in the United Kingdom ~~relevant Member State~~, including branches established in the United Kingdom ~~Member State~~, and money market funds in the United Kingdom ~~relevant Member State~~.

...

Article 29

Submission of application by the institution to carry out redemptions, reductions and repurchases for the purposes of Article 77 and Article 78 of Regulation (EU) No 575/2013 and appropriate bases of limitation of redemption for the purposes of paragraph 3 of Article 78 of Regulation (EU) No 575/2013

...

3. In the case of a repurchase of Common Equity Tier 1 instruments, Additional Tier 1 instruments or Tier 2 instruments for market making purposes, competent authorities may give their permission in accordance with the criteria set out in Article 78 of Regulation (EU) No 575/2013 in advance to actions listed in Article 77 of that Regulation for a certain predetermined amount.
 - (a) For Common Equity Tier 1 instruments, that amount shall not exceed the lower of the following amounts:
 - (1) 3% of the amount of the relevant issuance;
 - (2) 10% of the amount by which Common Equity Tier 1 capital exceeds the sum of the Common Equity Tier 1 capital requirements pursuant to Article 92 of Regulation (EU) No 575/2013, the specific own funds requirements referred to in regulation 34(1) of the Capital Requirements Regulations 2013 ~~Article 104(1)(a) of Directive 2013/36/EU~~ and the combined buffer requirement as defined in regulation 2(1) of the Capital Requirements (Capital Buffers and Macro-prudential Measures) Regulations 2014 ~~point (6) of Article 128 of that Directive~~.

...

Article 34a

Minority interests included in consolidated Common Equity Tier 1 capital

....

3. Where the subsidiary complies with the provisions of Part Three of Regulation (EU) No 575/2013 on the basis of its consolidated situation the following treatment shall apply:
 - (a) the Common Equity Tier 1 capital of that subsidiary on its consolidated basis referred to in point (a) of Article 84(1) of Regulation (EU) No 575/2013 shall include the eligible minority interests that arise from its own subsidiaries

calculated pursuant to Article 84 of Regulation (EU) No 575/2013 and the provisions laid down in this Regulation;

- (b) for the purpose of the sub-consolidation calculation, the amount of Common Equity Tier 1 capital required according to point (i) of Article 84(1)(a) of Regulation (EU) No 575/2013 shall be the amount required to meet the Common Equity Tier 1 requirements of that subsidiary at the level of its consolidated situation calculated in accordance with point (a) of Article 84(1) of that Regulation. The specific own funds requirements referred to in ~~Article 104 of Directive 2013/36/EU~~ shall be the ones set by the competent authority of the subsidiary under regulation 34 of the Capital Requirements Regulations 2013;

...

CHAPTER Va

OWN FUNDS BASED ON FIXED OVERHEADS

Article 34b

Calculation of the eligible capital of at least one quarter of the fixed overheads of the preceding year for the purposes of Article 97(1) of Regulation (EU) No 575/2013

1. For the purposes of this Chapter, 'firm' means an entity referred to in point (2)(c) of Article 4(1) of Regulation (EU) No 575/2013 that provides the investment services and activities listed in paragraphs 2 and 4 of Part 3 of Schedule 2 to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 points (2) and (4) of Section A of Annex I to Directive 2004/39/EC of the European Parliament and of the Council or an investment firm.
2. For the purposes of Article 97(1) of Regulation (EU) No 575/2013, firms shall calculate their fixed overheads of the preceding year, using figures resulting from the applicable accounting framework, by subtracting the following items from the total expenses after distribution of profits to shareholders in their most recent audited annual financial statements, or, where audited statements are not available, in annual financial statements validated by national supervisors:
 - ...
 - (f) fees to tied agents as defined in point 29 of Article 4 of Directive 2014/65/EU point 25 of Article 4 of Directive 2004/39/EC, where applicable;
 - ...

Annex G

CLOSE CORRESPONDENCE BETWEEN VALUE OF COVERED BONDS AND AN INSTITUTION'S ASSETS

7 MODIFICATION TO PART 2 (PRA) OF EU REGULATION 2014/523

- 7.1 In this Annex, new text is underlined and deleted text is struck through:
- 7.2 Part 2 (PRA) of EU Regulation 523/2014 means Article 1 of Commission Delegated Regulation (EU) No 523/2014 of 12 March 2014 supplementing Regulation (EU) No 575/2013 of the European Parliament and of the Council with regard to regulatory technical standards for determining what constitutes the close correspondence between the value of an institution's covered bonds and the value of the institution's assets as it forms part of domestic law by virtue of section 3 of the Act and this Instrument, is modified as follows:

...

Article 1

Definitions

The following definitions shall apply:

- (1) 'covered bond' means a CRR covered bond, within the meaning of Article 4(1)(128A) of Regulation (EU) No 575/2013~~means a bond as referred to in Article 52(4) of Directive 2009/65/EC;~~

...

Annex H

DEFINITION OF “MARKET” FOR THE PURPOSES OF CALCULATING A NET POSITION IN EQUITY INSTRUMENTS

8 MODIFICATION TO PART 2 (PRA) OF EU REGULATION 2014/525

- 8.1 In this Annex, new text is underlined and deleted text is struck through.
- 8.2 Part 2 (PRA) of EU Regulation 525/2014 means Article 1 of Commission Delegated Regulation (EU) No 525/2014 of 12 March 2014 supplementing Regulation (EU) No 575/2013 of the European Parliament and of the Council with regard to regulatory technical standards for the definition of market as it forms part of domestic law by virtue of section 3 of the Act and this Instrument, is modified as follows:

...

Article 1

Definition of ‘market’ for the purpose of calculating the overall net position in equity instruments referred to in Article 341(2) of Regulation (EU) No 575/2013

The term ‘market’ shall mean: all equities listed in stock markets located within a national jurisdiction.

~~(a) for the euro area, all equities listed in stock markets located in Member States that have adopted the euro as their currency;~~

~~(b) for non-euro Member States and third countries, all equities listed in stock markets located within a national jurisdiction.~~

...

Annex I

MATERIALITY OF MODEL EXTENSIONS AND CHANGES

9 MODIFICATION TO PART 2 (PRA) OF EU REGULATION 2014/529

- 9.1 Part 2 (PRA) of EU Regulation 529/2014 means Commission Delegated Regulation (EU) No 529/2014 of 12 March 2014 supplementing Regulation (EU) No 575/2013 of the European Parliament and of the Council with regard to regulatory technical standards for assessing the materiality of extensions and changes of the Internal Ratings Based Approach and the Advanced Measurement Approach, as it forms part of domestic law by virtue of section 3 of the Act and this Instrument, is modified as follows:
- 9.1.1 In Articles 4, 6 and 7a, and Annex II, for “EU parent institution” substitute “UK parent institution”; and
- 9.1.2 In paragraph 2(b) of Section 1 of Part II of Annex II, delete the words “20(1)(b) and”.

Annex J

SUPERVISORY REPORTING

10 MODIFICATIONS TO PART 2 (PRA) OF EU REGULATION 2014/680

- 10.1 In this Annex, new text is underlined and deleted text is struck through.
- 10.2 Part 2 (PRA) of EU Regulation 680/2014 means 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 Act and this Instrument, is modified as follows:

...

Article 2

Reporting reference dates

....

3. Where institutions are permitted by the law of the United Kingdom (or any part of it) ~~national laws~~ to report their financial information based on their accounting year-end which deviates from the calendar year, reporting reference dates may be adjusted accordingly, so that reporting of financial information is done every three, six or twelve months from their accounting year-end, respectively.

Article 3

Reporting remittance dates

...

2. If the remittance day is a public holiday in the United Kingdom Member State of the competent authority to which the report is to be provided, or a Saturday or a Sunday, data shall be submitted on the following working day.

...

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:

...

(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;~~

...

Article 6

Format and frequency of reporting on own funds and own funds requirements on a consolidated basis, except for groups which only consist of investment firms subject to articles 95 and 96 of Regulation (EU) No 575/2013

In order to report information on own funds and own funds requirements according to Article 99 of Regulation (EU) No 575/2013 on a consolidated basis, institutions in the United Kingdom ~~a Member State~~ shall submit:

...

Article 9

Format and frequency of reporting on financial information for institutions subject to Article 4 of Regulation (EC) No 1606/2002 and other credit institutions applying Regulation (EC) No 1606/2002 on a consolidated basis

1. In order to report financial information on a consolidated basis according to Article 99(2) of Regulation (EU) No 575/2013, institutions established in ~~a Member State~~ the United Kingdom shall submit the information specified in Annex III on a consolidated basis, according to the instructions in Annex V and the information specified in Annex VIII on a consolidated basis, according to the instructions in Annex IX.

...

Article 10

Format and frequency of reporting on financial information for credit institutions applying Regulation (EC) No 1606/2002 on a consolidated basis, by virtue of Article 99(3) Regulation (EU) No 575/2013

Where a competent authority has extended the reporting requirements of financial information on a consolidated basis to institutions in ~~a Member State~~ the United Kingdom in accordance with Article 99(3) Regulation (EU) No 575/2013, institutions shall submit financial information according to Article 9.

Article 11

Format and frequency of reporting on financial information for institutions applying national accounting frameworks developed under Directive 86/635/EEC UK law on a consolidated basis

1. Where a competent authority has extended the reporting requirements of financial information on a consolidated basis to institutions established in ~~a Member State~~ the United Kingdom in accordance with Article 99(6) Regulation (EU) No 575/2013, institutions shall submit the information specified in Annex IV on a consolidated basis, according to the instructions in Annex V and the information specified in Annex VIII on a consolidated basis, according to the instructions in Annex IX.

...

Article 12

...

3. ~~Branches in another Member State shall also submit to the competent authority of the host Member State information as specified in Annex VI according to the instructions in Annex VII related to that branch with a semi-annual frequency.~~

...

Article 16a

Format and frequency of reporting on asset encumbrance on an individual and a consolidated basis

...

4. Institutions shall only be required to report the information in Part D of Annex XVI where they issue CRR covered bonds within the meaning of Article 4(1)(128A) of Regulation (EU) No 575/2013~~the bonds referred to in the first subparagraph of Article 52(4) of Directive 2009/65/EC of the European Parliament and of the Council.~~

Article 16b

...

2. By way of derogation from paragraph 1, an institution may report the information on additional liquidity monitoring metrics with a quarterly frequency where all of the following conditions are met:

...;

- (b) the ratio of the individual balance sheet total of the institution to the sum of individual balance sheet totals of all institutions in the United Kingdom~~respective Member State~~ is below 1 % for two consecutive years preceding the year of reporting;
- (c) the institution has total assets, calculated in accordance with the law of the United Kingdom (or any part of it) which, immediately before exit day, implemented Council Directive 86/635/EEC, as that law has effect on exit day, of less than EUR 30 billion.

...

Annex K

DISCLOSURES TO IDENTIFY GLOBAL SYSTEMICALLY IMPORTANT INSTITUTIONS

11 MODIFICATIONS TO PART 2 (PRA) OF EU REGULATION 1030/2014

- 11.1 In this Annex new text is underlined and deleted text is struck through.
- 11.2 Part 2 (PRA) of EU Regulation 1030/2014 means Article 3 of Commission Implementing Regulation (EU) No 1030/2014 of 29 September 2014 laying down implementing technical standards with regard to the uniform formats and date for the disclosure of the values used to identify global systemically important 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 Act and this Instrument, is modified as follows:

...

Article 2

Date of disclosure

...

The PRA or FCA, as applicable ~~Relevant authorities~~ may allow institutions whose financial year-end is 30 June to report indicator values based on their position at 31 December.

...

Article 3

Disclosure location

...

~~Without undue delay, following the disclosure of that information by the G-SIIs, relevant authorities shall send those completed templates, including the ancillary data and the memorandum items, to the EBA. The EBA shall disclose the completed template, excluding the ancillary data and the memorandum items, on its website for centralisation purposes.~~

...

Annex L

DETERMINING OVERALL EXPOSURE TO CLIENT OR GROUP OF CONNECTED CLIENTS IN RESPECT OF TRANSACTIONS WITH UNDERLYING ASSETS

12 MODIFICATION TO PART 2 (PRA) OF EU REGULATION 2014/1187

- 12.1 In this Annex new text is underlined and deleted text is struck through.
- 12.2 Part (2) (PRA) of EU Regulation 1187/2014 means Article 7 of Commission Delegated Regulation (EU) 1187/2014 of 2 October 2014 supplementing Regulation (EU) No 575/2013 of the European Parliament and of the Council as regards regulatory technical standards for determining the overall exposure to a client or a group of connected clients in respect of transactions with underlying assets as it forms part of domestic law by virtue of section 3 of the Act and this Instrument, is modified as follows:

...

Article 7

Additional exposure constituted by the structure of a transaction

...

2. The condition in point (a) of paragraph 1 shall be considered to be met where the transaction is one of the following:
- (a) a UK UCITS as defined in ~~Article 1(2) of Directive 2009/65/EC~~ under section 237 of the Financial Services and Markets Act 2000;
 - (b) an undertaking established in a third country, that carries out activities similar to those carried out by a UK UCITS and which is subject to supervision pursuant to ~~a Union legislative act or pursuant to~~ legislation of a third country which applies supervisory and regulatory requirements which are at least equivalent to those applied in the ~~Union~~ UK to UK UCITS.

...

Annex M

DISCLOSURE OF INFORMATION ON THE COUNTER-CYCLICAL CAPITAL BUFFER

13 MODIFICATIONS TO PART 2 (PRA) OF EU REGULATION 2015/1555

- 13.1 In this Annex new text is underlined and deleted text is struck through.
- 13.2 Part 2 (PRA) of EU Regulation 2015/1555 means Commission Delegated Regulation (EU) 2015/1555 of 28 May 2015 supplementing Regulation (EU) No 575/2013 of the European Parliament and of the Council with regard to regulatory technical standards for the disclosure of information in relation to the compliance of institutions with the requirement for a countercyclical capital buffer in accordance with Article 440 as it forms part of domestic law by virtue of section 3 of the Act and this Instrument, is modified as follows:

...

Article 1

Subject matter

Pursuant to Article 440 of Regulation (EU) No 575/2013, this Regulation specifies the disclosure requirements for institutions in relation to their compliance with the requirement for a countercyclical capital buffer referred to in Part 3 of the Capital Requirements (Capital Buffers and Macro-prudential Measures) Regulations 2014~~Chapter 4 of Title VII of Directive 2013/36/EU~~.

...

Annex N

TRANSITIONAL TREATMENT OF EQUITY EXPOSURES

14 MODIFICATIONS TO PART 2 (PRA) OF EU REGULATION 2015/1556

- 14.1 In this Annex new text is underlined and deleted text is struck through.
- 14.2 Part 2 (PRA) of EU Regulation 2015/1556 means Article 1 of Commission Delegated Regulation (EU) 2015/1556 of 11 June 2015 supplementing Regulation (EU) No 575/2013 of the European Parliament and of the Council with regard to regulatory technical standards for the transitional treatment of equity exposures under the IRB approach as it forms part of domestic law by virtue of section 3 of the Act and this Instrument, is modified as follows:

...

Article 1

Competent authorities may afford to institutions and ~~EU~~United Kingdom subsidiaries of institutions the exemption from the IRB treatment referred to in Article 495(1) of Regulation (EU) No 575/2013 only with regard to those categories of their equity exposures that on 31 December 2013 were already benefiting from an exemption from the IRB treatment.

...

Annex O

MATERIALITY THRESHOLD FOR CREDIT OBLIGATIONS PAST DUE

15 MODIFICATIONS TO PART 2 (PRA) OF EU REGULATION 2018/171

- 15.1 In this Annex new text is underlined and deleted text is struck through.
- 15.2 Part 2 (PRA) of EU Regulation 2018/171 means Articles 4 and 5 of Commission Delegated Regulation (EU) 2018/171 of 19 October 2017 on supplementing Regulation (EU) No 575/2013 of the European Parliament and of the Council with regard to regulatory technical standards for the materiality threshold for credit obligations past due, as they form part of domestic law by virtue of section 3 of the Act and this Instrument, are modified as follows:

...

Article 4

~~A competent authority shall notify EBA of the materiality thresholds set in its jurisdiction. A component authority setting the relative component of the materiality threshold at a higher or lower percentage than 1% shall substantiate that choice to EBA.~~

Article 5

Updating of the materiality thresholds

Where the absolute component of the materiality threshold is set in a currency other than the euro and where, due to volatility of currency exchange rates, the equivalent of that component is higher than 100 EUR for retail exposures or 500 EUR for exposures other than retail exposures, the threshold shall remain unchanged, unless ~~the competent authority substantiates to EBA that~~ the materiality threshold no longer reflects a level of risk that the competent authority considers to be reasonable.

...

Annex P

EXCLUDING TRANSACTIONS WITH NON-FINANCIAL COUNTERPARTIES ESTABLISHED IN A THIRD-COUNTRY FROM THE OWN FUNDS REQUIREMENT FOR CREDIT VALUATION ADJUSTMENT RISK

16 MODIFICATIONS TO Part 2 (PRA) of Regulation 2018/728

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

16.2 Part 2 (PRA) of Regulation 2018/728 of Article 1 of Commission Delegated Regulation (EU) 2018/728 of 24 January 2018 supplementing Regulation (EU) No 575/2013 of the European Parliament and of the Council with regard to regulatory technical standards for procedures for excluding transactions with non-financial counterparties established in a third country from the own funds requirement for credit valuation adjustment risk, as it forms part of domestic law by virtue of section 3 of the Act and this Instrument, is modified as follows:

...

Article 1

1. For the purposes of point (a) of Article 382(4) of Regulation (EU) No 575/2013, institutions shall consider as non-financial counterparties established in a third country, counterparties that meet both of the following conditions:

- (a) they are established in a third country;
- (b) they would qualify as a non-financial counterparty within the meaning of point (9) of Article 2 of Regulation (EU) No 648/2012 if they were established in the ~~Union~~United Kingdom.

...

EU EXIT INSTRUMENT: THE TECHNICAL STANDARDS (CAPITAL REQUIREMENTS) (EU EXIT) (No 2) INSTRUMENT [YEAR]

Powers exercised

- A. The Prudential Regulation 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 Regulations”), having carried out consultations required by regulation 5 of the Regulations and with the approval of the Treasury, makes this instrument in exercise of the power conferred by regulation 3 of the Regulations.

Pre-conditions to making

- B. The PRA is the appropriate regulator for the EU regulations specified in Part 2 of the Schedule to the Regulations.
- C. The PRA has consulted [the Bank of England and Financial Conduct Authority] in accordance with regulation 5.
- D. 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

- E. In this instrument –
- (a) “the Act” means the European Union (Withdrawal) Act 2018.
 - (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”;
 - (c) “exit day” has the meaning given in the Act

Modifications

- F. In each of the EU Regulations specified in Part 2 of the Schedule to the Regulations, under the headings “Capital Requirements Directive” and “Capital Requirements Regulation” omit the words “This Regulation shall be binding in its entirety and directly applicable in all Member States”.
- G. Additionally, the PRA makes the modifications contained in the Annex listed in column (2) to the corresponding Capital Requirements EU Regulation listed in column (1) below.

(1)	(2)
Commission Delegated Regulation 1222/2014	A
Commission Delegated Regulation 2016/709	B
Commission Delegated Regulation 2017/1230	C

Commencement

- H. This instrument comes into force on exit day.

Citation

- I. This instrument may be cited as the Technical Standards (Capital Requirements) (EU Exit) (No.2) Instrument [YEAR].

By order of the Prudential Regulation Committee
[DATE]

Annex A

GLOBAL SYSTEMICALLY IMPORTANT INSTITUTIONS

1 MODIFICATIONS TO EU REGULATION 1222/2014

- 1.1 In this Annex new text is underlined and deleted text is struck through.
- 1.2 Commission Delegated Regulation (EU) 1222/2014 with regard to regulatory technical standards for the specification of the methodology for the identification of global systemically important institutions and for the definition of subcategories of global systemically important institutions as it forms part of domestic law by virtue of section 3 of the Act, is modified as follows:

Article 1

Subject matter and scope

This Regulation specifies the methodology in accordance with which the ~~authority referred to in Article 131(1) of Directive 2013/36/EU~~ (hereinafter referred to as 'relevant authority') of a ~~Member State~~ shall identify, on a consolidated basis, a relevant entity as a global systemically important institution (G-SII), and the methodology for the definition of subcategories of G-SIIs and the allocation of G-SIIs to those subcategories based on their systemic significance and, as part of the methodology, timelines and data to be used for the identification.

Article 2

Definitions

For the purpose of this Regulation, the following definitions apply:

- (1) 'Relevant entity' means ~~an EU a UK~~ parent institution or ~~EU a UK~~ parent financial holding company or ~~EU a UK~~ parent mixed financial holding company or an institution that is not a subsidiary of ~~an EU a UK~~ parent institution or ~~EU a UK~~ parent financial holding company or ~~EU a UK~~ parent mixed financial holding company;
- ...
- (4) 'Cut-off score' means a score value determining the lowest boundary and the boundaries between the ~~five subcategories as defined~~ referred to in regulation 24 of the 2014 Regulations ~~Article 131(9) of Directive 2013/36/EU~~;
- ...
- (6) 'the 2014 Regulations' means the Capital Requirements (Capital Buffers and Macro-Prudential Measures) Regulations 2014 (S.I. 2014/894);
- (7) 'relevant authority' means the PRA.

Article 3

Common parameters for the methodology

1. The EBA shall identify a sample of institutions or groups whose indicator values are to be used as reference values representing the global banking sector for the purpose of calculating the scores, taking into account internationally agreed standards, in particular the sample used by the Basel Committee on Banking Supervision for the identification of global systemically important banks ~~and shall notify relevant authorities of the relevant entities included in the sample by 31 July of each year.~~

...

2. ~~The relevant authority shall report the indicator values of each relevant entity with an exposure measure above EUR 200 billion which is authorised within its jurisdiction to the EBA not later than 31 July each year. The relevant authority shall ensure that the indicator values are identical to the ones submitted to the Basel Committee on Banking Supervision and to those disclosed by that relevant entity in accordance with Commission Implementing Regulation (EU) No 1030/2014 (1). The relevant authority shall use the templates set out therein.~~
3. The EBA shall compute the denominators, ~~based on the indicator values reported by the relevant authority pursuant to paragraph 2,~~ taking into account internationally agreed standards, in particular the denominators published by the Basel Committee on Banking Supervision for that year, ~~and notify them to relevant authorities.~~ The denominator of an indicator shall be the aggregate amount of the indicator values across all relevant entities and banks authorised in third countries in the sample, ~~as reported for the relevant entities pursuant to paragraph 2 and disclosed by the banks authorised in third countries on 31 July of the relevant year.~~

Article 4

Identification procedure

1. The relevant authority shall calculate the scores of the relevant entities that are included in the sample identified in accordance with Article 3(1) ~~notified by the EBA identified in accordance with Article 3(1), which are authorised in its jurisdiction,~~ not later than 15 December of each year. ~~Where the relevant authority, in the exercise of sound supervisory judgment, designates a relevant entity as a G-SII in accordance with Article 131(10)(b) of Directive 2013/36/EU, the relevant authority shall communicate a detailed statement in written form on the reasons for its assessment to the EBA not later than 15 December of each year.~~

...

Article 5

Identification as G-SII, determination of the scores and allocation to subcategories

1. The indicator values shall be based on reported data of the relevant entity of the preceding financial year-end, on a consolidated basis, and for banks authorised in third countries on data disclosed in accordance with internationally agreed standards. ~~The Relevant authorityies~~ may use indicator values of relevant entities whose financial year-end is 30 June based on their position on 31 December.
2. The relevant authority shall determine the score of each relevant entity of the sample as the simple average of the category scores subject to a maximum category score of 500 base points for the category measuring the substitutability. Each category score shall be calculated as the simple average of the values resulting from dividing each of the indicator values of that category by the denominator of the indicator ~~notified by the EBA~~ computed in accordance with Article 3(3). The scores shall be expressed in base points and shall be rounded to the nearest whole base point.
-
4. The relevant authority shall identify a relevant entity as a G-SII where the score of that entity is equal to or higher than the lowest cut-off score. A decision to designate a relevant entity as a G-SII in the exercise of sound supervisory judgment in accordance with regulation 25(a) of the 2014 Regulations ~~Article 131(10)(b) of Directive 2013/36/EU~~ shall be based on an assessment of whether its failure would have a significant negative impact on the global financial market and the global economy.
5. The relevant authority shall allocate a G-SII to a subcategory in accordance with its score. A decision to re-allocate a G-SII from a lower subcategory to a higher subcategory in the exercise of sound supervisory judgment in accordance with regulation 25(b) of the 2014 Regulations ~~Article 131(10)(a), of Directive 2013/36/EU~~ shall be based on an assessment whether its failure would have a higher negative impact on the global financial market and the global economy.
-

Article 6

Indicators

6. For data reported in currencies other than the Euro, the relevant authority shall use an appropriate exchange rate taking into account ~~the reference exchange rate published by the European Central Bank applicable on 31 December~~ and international standards. For the payment activity indicator as referred to in paragraph 3(b), the relevant authority shall use the average exchanges rates for the relevant year.
- ...

Annex B

LIQUIDITY: CURRENCIES WITH CONSTRAINTS ON THE AVAILABILITY OF LIQUID ASSETS

2 MODIFICATIONS TO EU REGULATION 2016/709

- 2.1 In this Annex new text is underlined and deleted text is struck through.
- 2.2 Article 4 of Commission Delegated Regulation (EU) 2016/709 of 26 January 2016 supplementing Regulation (EU) No 575/2013 of the European Parliament and of the Council with regard to regulatory technical standards specifying the conditions for the application of the derogations concerning currencies with constraints on the availability of liquid assets as it forms part of domestic law by virtue of section 3 of the Act, is modified as follows:

Article 4

Application of the derogation provided for in Article 419(2)(a) of Regulation (EU) No 575/2013

...

3. An institution shall ensure that its foreign exchange risk management framework meets the following conditions:
- (a) currency mismatches resulting from the use of the derogation provided for in Article 419(2)(a) of Regulation (EU) No 575/2013 are adequately measured, monitored, controlled and justified;
 - (b) liquid assets inconsistent with the distribution by currency of liquidity outflows after the deduction of inflows can be liquidated in pounds Sterling ~~the currency of the Member State of the relevant competent authority~~ whenever necessary;
 - (c) historical evidence relating to stress periods supports the conclusion that the institution is able to promptly liquidate the assets referred to in point (b).
4. An institution which uses liquid assets in a currency other than ~~the currency of the Member State of the relevant competent authority~~ pounds Sterling to cover liquidity needs in ~~the latter currency~~ pounds Sterling shall apply a haircut of 8 % to the value of those assets in addition to any haircut applied in accordance with Article 418 of Regulation (EU) No 575/2013.

Where the liquid assets are denominated in a currency that is not actively traded in global foreign exchange markets, the additional haircut shall be the higher of 8 % and the largest monthly exchange rate movement between both currencies in the 10 years prior to the relevant reporting reference date.

Where ~~the currency of the Member State of the relevant competent authority~~ the pound Sterling is formally pegged to another currency under a mechanism in which the central banks of both currencies are bound to support the currency peg, the institution may apply a haircut equal to the width of the exchange rate band.

Annex C

LIQUIDITY; CRITERIA FOR THE APPLICATION OF A PREFERENTIAL LIQUIDITY OUTFLOW OR INFLOW RATE FOR CROSS-BORDER UNDRAWN CREDIT OR LIQUIDITY FACILITIES

3 MODIFICATIONS TO EU REGULATION 2017/1230

3.1 Commission Delegated Regulation (EU) 2017/1230 of 31 May 2017 supplementing Regulation (EU) No 575/2013 of the European Parliament and of the Council with regard to regulatory technical standards further specifying the additional objective criteria for the application of a preferential liquidity outflow or inflow rate for cross-border undrawn credit or liquidity facilities within a group or an institutional protection scheme as it forms part of domestic law by virtue of section 3 of the Act, is modified as follows:

3.1.1 The words “or an institutional protection scheme” are omitted from its title.

3.1.2 In Articles 2 and 3 new text is underlined and deleted text is struck through:

Article 2

Low liquidity risk profile of the liquidity provider and receiver

1. The low liquidity risk profile referred to in point (a) of Article 29(2) and in point (a) of Article 34(2) of Delegated Regulation (EU) 2015/61 shall satisfy the following conditions:

- (a) the liquidity provider and receiver have complied with the required level of the liquidity coverage ratio as set out in Articles 4 and 38 of Delegated Regulation (EU) 2015/61, as well as any liquidity-related supervisory requirements or measures applied pursuant to Directive 2013/36/EU UK law that implemented Title VII, Chapter 2, Sections III and IV of Directive 2013/36/EU, on an on-going basis and for at least 12 months prior to the authorisation to apply the preferential outflow or inflow rate for undrawn credit or liquidity facilities pursuant to Article 29(1) and Article 34(1) of Delegated Regulation (EU) 2015/61;
- (b) the liquidity provider and receiver's liquidity positions pose a low level of risk according to the latest supervisory review and evaluation process conducted in accordance with Directive 2013/36/EU UK law that implemented Title VII, Chapter 2, Section III of Directive 2013/36/EU.

For the purposes of determining whether the condition referred to in point (a) of this paragraph is satisfied, the required level of the liquidity coverage ratio shall be calculated on the basis that the preferential liquidity outflow or inflow rate applied during the twelve month period referred to in that point.

2. Where the liquidity provider or receiver has been granted permission from the relevant competent authorities to waive the condition set out in point (d) of Article 29(1) and point (d) of Article 34(1) of Delegated Regulation (EU) 2015/61 and a liquidity provider or receiver does not meet or expects not to meet the required level of the liquidity coverage ratio set out in Articles 4 and 38 of that Delegated Regulation, or any liquidity related supervisory requirements or measures applied under Directive 2013/36/EU UK law that implemented Title VII, Chapter 2, Sections III and IV of Directive 2013/36/EU,

it shall immediately notify the relevant competent authorities and include a description of the effects of such failure to meet that liquidity coverage ratio or any liquidity related supervisory requirements or measures on the corresponding preferential outflow or inflow rate applied to its counterparty.

...

5. In this Article, “Directive 2013/36/EU UK law” means the law of the United Kingdom (or any part of it) which, immediately before exit day, implemented Directive 2013/36/EU as it has effect on exit day.

Article 3

Legally binding agreements and commitments between the group entities regarding the undrawn credit or liquidity line

...

4. If the remaining maturity referred to in point (e) of paragraph 1 falls below six months or a notice for cancellation of the credit or liquidity line is given, credit institutions shall immediately notify the relevant competent authorities. Those authorities shall determine whether the preferential outflow or inflow rates continue to apply ~~in accordance with the process referred to in point (b) of Article 20(1) of Regulation (EU) No 575/2013.~~

EU EXIT INSTRUMENT: THE TECHNICAL STANDARDS (CAPITAL REQUIREMENTS) (EU EXIT) (No. 3) INSTRUMENT [YEAR]

Powers exercised

- A. The Prudential Regulation 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 Regulations”), with the consent of the Financial Conduct Authority (“the FCA”) having carried out the consultations required by regulation 5 of the Regulations and with the approval of the Treasury, makes this instrument in exercise of the powers conferred by regulation 3 of the Regulations.

Pre-conditions to making

- B. The PRA and the FCA are the appropriate regulators for the Capital Requirements EU Regulations specified in Part 4 of the Schedule to the Regulations.
- C. The PRA proposes to exercise the power in regulation 3 of the Regulations to modify the Capital Requirements EU Regulations.
- D. The FCA has been consulted on the modifications contained in Annex A to this instrument in accordance with regulation 5 of the Regulations and has consented to the modifications contained in Annex A to this instrument in accordance with regulation 3(2) of the Regulations.
- E. 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

- F. In this instrument –
- (a) “the Act” means the European Union (Withdrawal) Act 2018;
 - (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”.
 - (c) “exit day” has the meaning given in the Act;
 - (d) “the FCA” means the Financial Conduct Authority.

Modifications

- G. The PRA deletes the Capital Requirements EU Regulations listed below.

Commission Delegated Regulation (EU) 524/2014
Commission Implementing Regulation (EU) 620/2014
Commission Implementing Regulation (EU) 650/2014
Commission Implementing Regulation 710/2014
Commission Implementing Regulation 926/2014

Commission Delegated Regulation 1151/2014
Commission Delegated Regulation 2016/98
Commission Implementing Regulation 2016/99
Commission Implementing Regulation (EU) 2016/100
Commission Implementing Regulation (EU) 2017/461

Commencement

H. This instrument comes into force on exit day.

Citation

I. This instrument may be cited as the Technical Standards (Capital Requirements) (EU Exit) (No.3) Instrument [YEAR].

By order of the Prudential Regulation Committee

[DATE]

EU EXIT INSTRUMENT: THE TECHNICAL STANDARDS (CENTRAL SECURITIES DEPOSITORIES OFFERING ANCILLARY BANKING SERVICES) (EU EXIT) INSTRUMENT [YEAR]

Powers exercised

- A. The Prudential Regulation 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 Regulations”), having carried out consultations required by regulation 5 of the Regulations and with the approval of the Treasury, makes this instrument in exercise of the power conferred by regulation 3 of the Regulations.

Pre-conditions to making

- B. The PRA is the appropriate regulator for the Central Securities Depositories EU Regulations (or parts thereof) specified in Part 2 of the Schedule to the Regulations.
- C. The PRA has consulted the Bank of England and FCA in accordance with regulation 5 of the Regulations.
- D. 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

- E. In this instrument –
- (a) “the Act” means the European Union (Withdrawal) Act 2018;
 - (b) “the Central Securities Depositories EU Regulations” means Articles 8-42 of Regulation (EU) 2017/390 specified in Part 2 of the Schedule to the Regulations under the heading “Central Securities Depositories Regulation” as they form part of domestic law by virtue of section 3 of the Act;
 - (c) “exit day” has the meaning given in the Act;
 - (d) “the PRA” means the Prudential Regulation Authority;

Modifications

- F. The PRA makes the modifications to the Central Securities Depositories EU Regulations contained in the Annex to this instrument.

Commencement

- G. This instrument comes into force on exit day.

Citation

- H. This instrument may be cited as the Technical Standards (Central Securities Depositories offering Ancillary Banking Services) (EU Exit) Instrument [YEAR].

By order of the Prudential Regulation Committee

[DATE]

Annex

FINANCIAL RESOURCES FOR CREDIT AND LIQUIDITY RISKS

1 MODIFICATIONS TO ARTICLES 9 TO 42 OF REGULATION 2017/390

- 1.1 In this Annex new text is underlined and deleted text is struck through.
- 1.2 Articles 9 to 42 of EU Regulation 2017/390, as they form part of domestic law by virtue of section 3 of the European Union (Withdrawal) Act 2018, are modified as follows:

Article 9

General rules on collateral and other equivalent financial resources

...

2. Collateral shall be provided by the counterparties under a security financial collateral arrangement ~~as defined in point (e) of Article 2(1) of Directive 2002/47/EC of the European Parliament and of the Council~~ or under a title transfer financial collateral arrangement as those terms are defined in regulation 3(1) of the Financial Collateral Arrangements (No 2) Regulations 2003 but omitting, in each case, the last subparagraph of each definition point (b) of Article 2(1) of that Directive.

...

Article 10

Collateral for the purposes of point (d) of Article 59(3), and point (d) of Article 59(4) of Regulation (EU) No 909/2014

...

2. In order for collateral, to be considered of a lower quality than that referred to in paragraph 1 for the purposes of point (d) of Article 59(3), and point (d) of Article 59(4) of Regulation (EU) No 909/2014, it shall consist of transferable securities and money market instruments that meet all of the following conditions:

...

- (h) they are not issued by any of the following:

...

- (iii) an entity whose business involves providing services critical to the functioning of the CSD-banking service provider, unless that entity is the Bank of England ~~a Union central bank~~ or a central bank that issues a currency in which the CSD-banking service provider has exposures;

...

Article 11

Other collateral

1. Other types of collateral to be used by a CSD-banking service provider shall consist of financial instruments that meet all of the following conditions:
 - (a) they are freely transferable without any legal constraint or third party claims that impair their liquidation;
 - (b) they are eligible at a central bank of the Union, where the CSD-banking service provider has access to regular, non-occasional credit ('routine credit') at that central bank;

...

Article 14

Collateral concentration limits

...

3. A CSD-banking service provider shall ensure that no more than 10% of its intraday credit exposure is guaranteed by any of the following:
 - (a) a single credit institution;
 - (b) a third country financial institution that is subject to and complies with prudential rules that in respect of which either:-
 - (i) the Commission has, before exit day, adopted an implementing act in accordance with Article 114(7) of Regulation (EU) No 575/2013 (as that Regulation had effect at the date that act was adopted) that the third country is considered as applying supervisory and regulatory arrangements at least equivalent to those applied in the Union, and that decision has not, on or after exit day, been revoked by the Treasury; or
 - (ii) the Treasury has, on or after exit day, by regulations determined, in accordance with the second subparagraph of Article 114(7) of Regulation (EU) No 575/2013, that the third country is considered as applying supervisory and regulatory arrangements are at least as stringent as those provided for in the law of the United Kingdom (or any part of it) which, immediately before exit day, implemented Directive 2013/36/EU and Regulation (EU) No 575/2013; ~~in accordance with~~

...

Article 15

Other equivalent financial resources

1. Other equivalent financial resources shall consist only of the financial resources or the credit protection referred to in paragraphs 2 to 4 and those referred to in Article 16.
2. Other equivalent financial resources may include commercial bank guarantees provided by a creditworthy financial institution that fulfils the requirements set out in Article 38(1) or a syndicate of such financial institutions that meet all of the following conditions:
...
 - (e) they are not issued by an entity that is part of the same group as the borrowing participant covered by the guarantee, or by an entity whose business involves providing services critical to the functioning of the CSD-banking service provider, unless that entity is the Bank of England ~~an European Economic Area central bank~~ or a central bank issuing a currency in which the CSD-banking service provider has exposures;...
3. Other equivalent financial resources may include bank guarantees issued by a central bank that meet all of the following conditions:
 - (a) they are issued by the Bank of England ~~a Union central bank~~ or a central bank issuing a currency in which the CSD-banking service provider has exposures;...

Article 23

General requirements for the management of intraday credit risk

2. The following exposures are exempt from the application of Articles 9 to 15 and 24:
 - (a) exposures to the Bank of England ~~members of the European System of Central Banks~~ and other ~~Member States'~~ bodies performing similar functions in the United Kingdom and other ~~Union~~ United Kingdom public bodies charged with or intervening in the management of the public debt ;
 - (b) exposures to one of the multilateral development banks listed in Article 117(2) of Regulation (EU) No 575/2013;
 - (c) exposures to one of the international organisations listed in Article 118 of Regulation (EU) No 575/2013;

- (d) exposures to public sector entities within the meaning of Article 4(8) of Regulation (EU) No 575/2013 where they are owned by central governments and have explicit arrangements provided by central governments guaranteeing their credit exposures;
- (e) exposures to third country central banks that are denominated in the domestic currency of that central bank provided either that:-
 - (i) before exit day, the Commission has adopted an implementing act in accordance with Article 114(7) of Regulation (EU) No 575/2013 (as that Regulation had effect at the date that act was adopted) confirming that this third country is considered as applying supervisory and regulatory arrangements at least equivalent to those applied in the Union and that decision has not, on or after exit day, been revoked by the Treasury; or
 - (ii) after exit day, the Treasury has by regulations determined, in accordance with the second subparagraph of Article 114(7) of Regulation (EU) No 575/2013, that this third country is considered as applying supervisory and regulatory arrangements at least equivalent to those applied in the United Kingdom.

...

Article 36

Stress testing the sufficiency of liquid financial resources

...

8. The CSD-banking service provider shall determine the relevant currencies referred to in point (c) of Article 59(4) of Regulation (EU) No 909/2014 by applying the following steps in sequence:
 - (a) rank the currencies from highest to lowest based on the average of the three largest daily negative net cumulative positions, converted into euro, within a period of 12 months;
 - (b) consider as relevant:
 - (i) ~~the most relevant Union currencies that meet the conditions specified in the Delegated Regulation (EU) 2017/392;~~
 - (ii) all ~~remaining~~ currencies until the corresponding aggregated amount of the average largest net negative cumulative positions measured according to (a) is equal to or exceeds 95 % for all currencies.

...

Article 38

Arrangements in order to convert collateral or investment into cash using prearranged and highly reliable funding arrangements

1. For the purposes of point (e) of Article 59(4) of Regulation (EU) No 909/2014 creditworthy financial institutions shall include one of the following:
 - (a) a credit institution authorised to accept deposits under Part 4A of the Financial Services & Markets Act 2000~~in accordance with Article 8 of Directive 2013/36/EU~~ that the CSD-banking service provider can demonstrate to have low credit risk based on an internal assessment, employing a defined and objective methodology that does not exclusively rely on external opinions;
 - (b) a third country financial institution that meets all of the following requirements:
 - (i) it is subject to and complies with prudential rules considered to be at least as stringent as those set out in the law of the United Kingdom (or any part of it) which, immediately before exit day, implemented Directive 2013/36/EU as it has effect on exit day and Regulation (EU) No 575/2013;
 - (ii) it has robust accounting practices, safekeeping procedures, and internal controls;
 - (iii) it has low credit risk based on an internal assessment carried out by the CSD-banking service provider, employing a defined and objective methodology that does not exclusively rely on external opinions;
 - (iv) it takes into consideration the risks arising from the establishment of that third country financial institution in a particular country.

Article 42

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.~~

EU EXIT INSTRUMENT: THE TECHNICAL STANDARDS (EUROPEAN MARKET INFRASTRUCTURE) (EU EXIT) INSTRUMENT [YEAR]

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 “Regulations”), having carried out the consultations required by regulation 5 of the Regulations and with the approval of the Treasury, makes this instrument in exercise of the powers conferred by regulations 3 of the Regulations.

Pre-conditions to making

- B. The PRA and the FCA are the appropriate regulators for the EU EMIR.
- C. The PRA proposes to exercise the power in regulation 3 of the Regulations to modify the EU EMIR.
- D. The FCA has been consulted on the modifications contained in the Annex to this instrument in accordance with regulation 5 of the Regulations and has consented to the modifications contained in the Annex to this instrument in accordance with regulation 3(2) of the Regulations.
- E. 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

- F. In this instrument –
- (a) “the Act” means the European Union (Withdrawal) Act 2018;
 - (b) “EU EMIR” means the EU Regulation specified in Part 4 of the Schedule to the Regulations under the heading “European Markets Infrastructure Regulation”;
 - (c) “exit day” has the meaning given in the Act; and
 - (d) “the FCA” means the Financial Conduct Authority.

Modifications

- G. The PRA makes the modifications in the Annex below to the EU EMIR.

Commencement

- H. This instrument comes into force on exit day.

Notes

- I. In the Annex to this instrument, the “notes” (indicated by “**Note:**”) are included for the convenience of readers but do not form part of the legislative text.

Citation

- J. This instrument may be cited as the Technical Standards (European Market Infrastructure) (EU Exit) Instrument [YEAR].

By order of the Prudential Regulation Committee

[DATE]

Annex

RISK-MITIGATION TECHNIQUES FOR OTC DERIVATIVE CONTRACTS NOT CLEARED BY A CENTRAL COUNTERPARTY

1 MODIFICATIONS TO EU REGULATION 2016/2251

- 1.1 In this Annex new text is underlined and deleted text is struck through.
- 1.2 Commission Delegated Regulation (EU) 2016/2251 with regard to regulatory technical standards for risk-mitigation techniques for OTC derivative contracts not cleared by a central counterparty as it forms part of domestic law by virtue of section 3 of the Act, is modified as follows:

Article 1

Definitions

For the purposes of this Regulation, the following definitions apply:

...

- (4) 'UK UCITS' means UK UCITS as defined in section 237(3) of the Financial Services and Markets Act 2000.

...

Article 4

Eligible collateral

1. A counterparty shall only collect collateral from the following asset classes:

...

- (c) debt securities issued by ~~Member States' central governments or central banks~~ the central government of the United Kingdom or the Bank of England;
- (d) debt securities issued by ~~Member States'~~ the United Kingdom regional governments or local authorities whose exposures are treated as exposures to the central government of ~~the United Kingdom that Member State~~ in accordance with Article 115(2) of Regulation (EU) No 575/2013;
- (e) debt securities issued by ~~Member States'~~ the United Kingdom public sector entities whose exposures are treated as exposures to the central government, regional government or local authority of ~~the United Kingdom that Member State~~ in accordance with Article 116(4) of Regulation (EU) No 575/2013;
- (f) debt securities issued by ~~the United Kingdom~~ Member States' regional governments or local authorities other than those referred to in point (d);
- (g) debt securities issued by ~~the United Kingdom~~ Member States' public sector entities other than those referred to in point (e);

...

- (m) debt securities issued by credit institutions or investment firms including bonds ~~referred to in Article 52(4) of Directive 2009/65/EC of the European Parliament and of the Council~~ admitted to the register of regulated covered

bonds maintained under Regulation 7(1)(b) of the Regulated Covered Bonds Regulations 2008 (SI 2008/346);

...

- (r) shares or units in ~~undertakings for collective investments in transferable securities (UCITS)~~ UK UCITS, provided that the conditions set out in Article 5 are met.

Article 5

Eligibility criteria for units or shares in UK UCITS

1. For the purposes of point (r) of Article 4(1), a counterparty may only use units or shares in UK UCITS as eligible collateral where all the following conditions are met:
- (a) the units or shares have a daily public price quote;
 - (b) the UK UCITS are limited to investing in assets that are eligible in accordance with Article 4(1);
 - (c) the UK UCITS meet the criteria laid down in Article 132(3) of Regulation (EU) No 575/2013.

For the purposes of point (b), UK UCITS may use derivative instruments to hedge the risks arising from the assets in which they invest.

Where a UK UCITS invests in shares or units of other UK UCITS, the conditions laid down in the first subparagraph shall also apply to those UK UCITS.

2. By way of derogation from point (b) of paragraph 1, where a UK UCITS or any of its underlying UK UCITS do not only invest in assets that are eligible in accordance with Article 4(1), only the value of the unit or share of the UK UCITS that represents investment in eligible assets may be used as eligible collateral pursuant to paragraph 1 of this Article.

The first subparagraph shall apply to any underlying UK UCITS of a UK UCITS that has underlying UK UCITS of its own.

3. Where non-eligible assets of a UK UCITS can have a negative value, the value of the unit or share of the UK UCITS that may be used as eligible collateral pursuant to paragraph 1 shall be determined by deducting the maximum negative value of the non-eligible assets from the value of eligible assets.

Article 6

Credit quality assessment

1. The collecting counterparty shall assess the credit quality of assets belonging to the asset classes referred to in points (c), (d) and (e) of Article 4(1) that are either not denominated or not funded in the issuer's domestic currency and in points (f), (g), (j) to (n) and (p) of Article 4(1) using one of the following methodologies:

...

- (b) the internal ratings referred to in paragraph 3 of the posting counterparty, where that counterparty is established in the United Kingdom ~~Union~~ or in a third country where the posting counterparty is subject to consolidated supervision assessed ~~equivalent to that governed by~~ the Prudential Regulation

Authority or the Financial Conduct Authority: ~~Union law in accordance with Article 127 of Directive 2013/36/EU.~~

- (i) prior to exit day, as equivalent to that governed by Union law in accordance with Article 127 of Directive 2013/36/EU; or
- (ii) on or after exit day, as equivalent to that governed by the law of the United Kingdom in accordance with regulation 21 of the Capital Requirements Regulations 2013;

...

Article 8

Concentration limits for initial margin

1. Where collateral is collected as initial margin in accordance with Article 13, the following limits shall apply for each collecting counterparty:

...

The limits laid down in the first subparagraph shall also apply to shares or units in UK UCITS where the UK UCITS primarily invests in the asset classes referred to in that subparagraph.

...

3. The counterparties referred to in paragraph 2 shall be one of the following:
 - (a) institutions identified as G-SIIs in accordance with Part 4 of the Capital Requirements (Capital Buffers and Macro-prudential Measures) Regulations 2014 Article 131 of Directive 2013/36/EU;
 - (b) institutions identified as O-SIIs in accordance with Part 5 of the Capital Requirements (Capital Buffers and Macro-prudential Measures) Regulations 2014 Article 131 of Directive 2013/36/EU;

...

Article 19

Collateral management and segregation

1. The procedures referred to in Article 2(2)(c) shall include the following:

...

- (e) that cash collected as initial margin is maintained in cash accounts at central banks or credit institutions which fulfil all of the following conditions:
 - (i) they are ~~authorised~~ credit institutions which are ~~in accordance with Directive 2013/36/EU~~ CRR firms (within the definition in Article 4(1)(2A) of the Capital Requirements Regulation or are authorised in a third country whose supervisory and regulatory arrangements have been found to be equivalent in accordance with Article 142(2) of Regulation (EU) No 575/2013;

...

Article 23

CCPs authorised as credit institutions

By way of derogation from Article 2(2), counterparties may provide in their risk management procedures that no collateral is exchanged in relation to non-centrally cleared OTC derivative contracts entered into with CCPs that are authorised by the Prudential Regulation Authority as credit institutions having permission under Part 4A of the Financial Services and Markets Act 2000 to carry on the regulated activity of accepting deposits in accordance with Directive 2013/36/EU.

Article 24

Non-financial counterparties and third-country counterparties

By way of derogation from Article 2(2), counterparties may provide in their risk management procedures that no collateral is exchanged in relation to non-centrally cleared OTC derivative contracts entered into with non-financial counterparties that do not meet the conditions of Article 10(1)(b) of Regulation (EU) No 648/2012, or with non-financial entities established in a third country that would not meet the conditions of Article 10(1)(b) of Regulation (EU) No 648/2012 if they were established in the ~~Union~~United Kingdom.

...

Article 28

Threshold based on notional amount

...

3. ~~UK UCITS authorised in accordance with Directive 2009/65/EC and AIFs (as defined in regulation 3 of the Alternative Investment Fund Managers Regulation 2013) alternative investment funds managed by AIFMs (as defined in regulation 4 of the Alternative Investment Fund Managers Regulation 2013) authorised or registered in accordance with the Alternative Investment Fund Managers Regulations 2013 alternative investment fund managers authorised or registered in accordance with Directive 2011/61/EU of the European Parliament and of the Council shall be considered distinct entities and treated separately when applying the thresholds referred to in paragraph 1 where the following conditions are met:~~

...

Article 29

Threshold based on initial margin amounts

...

3. ~~UK UCITS authorised in accordance with Directive 2009/65/EC and AIFs (as defined in regulation 3 of the Alternative Investment Fund Managers Regulation 2013) alternative investment funds managed by AIFMs (as defined in regulation 4 of the Alternative Investment Fund Managers Regulation 2013) authorised or registered in accordance with the Alternative Investment Fund Managers Regulations 2013 alternative investment fund managers authorised or registered in accordance with~~

~~Directive 2011/61/EU~~ shall be considered distinct entities and treated separately when applying the thresholds referred to in paragraph 1 where the following conditions are met:

...

Article 31

Treatment of derivatives with counterparties in third countries where legal enforceability of netting agreements or collateral protection cannot be ensured

1. By way of derogation from Article 2(2), counterparties established in the ~~Union~~ United Kingdom may provide in their risk management procedures that variation and initial margins are not required to be posted for non-centrally cleared OTC derivative contracts concluded with counterparties established in a third country for which any of the following apply:

...

For the purposes of the first subparagraph, counterparties established in the United Kingdom ~~Union~~ shall collect margin on a gross basis.

2. By way of derogation from Article 2(2), counterparties established in the United Kingdom ~~Union~~ may provide in their risk management procedures that variation and initial margins are not required to be posted or collected for contracts concluded with counterparties established in a third country where all of the following conditions apply:

...

CHAPTER III

INTRAGROUP DERIVATIVE CONTRACTS

SECTION 1

Procedures for counterparties ~~competent authorities and the Financial Conduct Authority~~ when applying exemptions for intragroup derivative contracts

Article 32

Procedures for counterparties and ~~relevant competent authorities~~ the Financial Conduct Authority

1. The application or notification from a counterparty to the ~~competent authority~~ Financial Conduct Authority pursuant to paragraphs ~~68~~ to ~~109~~ of Article 11 of Regulation (EU) No 648/2012 shall be deemed to have been received when the Financial Conduct Authority ~~competent authority~~ receives all of the following information:
 - (a) all the information necessary to assess whether the conditions specified in paragraphs ~~6, 7, 8, or 9~~ 6, 7, 8, or 9 or ~~10~~, respectively, of Article 11 of Regulation (EU) No 648/2012 have been fulfilled;
 - (b) the information and documents referred to in Article 18(2) of Commission Delegated Regulation (EU) No 149/2013.
2. Where a ~~competent authority~~ the Financial Conduct Authority determines that further information is required in order to assess whether the conditions referred to in

- paragraph 1(a) are fulfilled, it shall submit a written request for information to the counterparty.
3. ~~A decision by a competent authority under Article 11(6) of Regulation (EU) No 648/2012 shall be communicated to the counterparty within 3 months of receipt of all the information referred to in paragraph 1.~~
 4. Where the Financial Conduct Authority ~~competent authority~~ reaches a positive decision under paragraphs ~~6, 8, or 10~~ of Article 11 of Regulation (EU) No 648/2012, it shall communicate that positive decision to the counterparty in writing, specifying at least the following:
 - (a) whether the exemption is a full exemption or a partial exemption;
 - (b) in the case of a partial exemption, a clear identification of the limitations of the exemption.
 5. Where the Financial Conduct Authority ~~competent authority~~ reaches a negative decision under paragraphs ~~6, 8, or 10~~ of Article 11 of Regulation (EU) No 648/2012 or objects to a notification under paragraphs ~~7 or 9~~ of Article 11 of that Regulation, it shall communicate that negative decision or objection to the counterparty in writing, specifying at least the following:
 - (a) the conditions of paragraphs ~~6, 7, 8, or 9 or 10~~, respectively, of Article 11 of Regulation (EU) No 648/2012 that are not fulfilled;
 - (b) a summary of the reasons for considering that such conditions are not fulfilled.
 6. ~~[] Where one of the competent authorities notified under Article 11(7) of Regulation (EU) No 648/2012 considers that the conditions referred to in points (a) or (b) of the first subparagraph of Article 11(7) of that Regulation are not fulfilled, it shall notify the other competent authority within 2 months of receipt of the notification.~~
 - ...
 8. A decision by ~~a competent authority~~ the Financial Conduct Authority under Article 11(8) of Regulation (EU) No 648/2012 shall be communicated to the counterparty established in the United Kingdom ~~Union~~ within 3 months of receipt of all the information referred to in paragraph 1.
 9. ~~A decision by the competent authority of a financial counterparty referred to Article 11(10) of Regulation (EU) No 648/2012 shall be communicated to the competent authority of the non-financial counterparty within 2 months from the receipt of the all the information referred to in paragraph 1 and to the counterparties within 3 months of receipt of that information~~
 10. Counterparties that have submitted a notification or received a positive decision according to paragraphs ~~6, 7, 8, or 9 or 10~~, respectively, of Article 11 of Regulation (EU) No 648/2012 shall immediately notify the Financial Conduct Authority ~~relevant competent authority~~ of any change that may affect the fulfilment of the conditions set out in those paragraphs, as applicable. The Financial Conduct Authority ~~relevant competent authority~~ may object to the application for the exemption or withdraw its positive decision following any change in circumstances that could affect the fulfilment of those conditions.
 11. Where a negative decision or objection is communicated by the Financial Conduct Authority ~~competent authority~~, the relevant counterparty may only submit another

application or notification where there has been a material change in the circumstances that formed the basis of the Financial Conduct Authority's ~~competent authority's~~ decision or objection.

Article 33

Applicable criteria on the legal impediment to the prompt transfer of own funds and repayment of liabilities

A legal impediment to the prompt transfer of own funds or repayment of liabilities between the counterparties as referred to in paragraphs 5 ~~and 8~~ to 9 ~~10~~ of Article 11 of Regulation (EU) No 648/2012 shall be deemed to exist where there are actual or foreseen restrictions of a legal nature including any of the following:

...

- (c) any of the conditions on the early intervention, recovery and resolution as referred to in the Banking Act 2009 or the Bank Recovery and Resolution (No. 2) Order 2014 ~~Directive 2014/59/EU of the European Parliament and of the Council~~ are met, as a result of which the competent authority foresees an impediment to the prompt transfer of own funds or repayment of liabilities;

...

Article 34

Applicable criteria on the practical impediments to the prompt transfer of own funds and repayment of liabilities

A practical impediment to the prompt transfer of own funds or repayment of liabilities between the counterparties as referred to in paragraphs 5 ~~and 8~~ to 9 ~~10~~ of Article 11 of Regulation (EU) No 648/2012 shall be deemed to exist where there are restrictions of a practical nature, including any of the following:

...

Article 36

Application of 9(2), Article 11, Articles 13 to 18, points (c), (d) and (f) of Article 19(1), Article 19(3) and Article 20

1. Article 9(2), Article 11, Articles 13 to 18, points (c), (d) and (f) of Article 19(1), Article 19(3) and Article 20 shall apply as follows:
 - (a) from 1 month after ~~the date of entry into force of this Regulation~~ 4 January 2017, where both counterparties have, or belong to groups each of which has, an aggregate average notional amount of non-centrally cleared derivatives that is above EUR 3 000 billion;
 - (b) from 1 September 2017, where both counterparties have, or belong to groups each of which has, an aggregate average notional amount of non-centrally cleared derivatives that is above EUR 2 250 billion;
 - (c) from 1 September 2018, where both counterparties have, or belong to groups each of which has, an aggregate average notional amount of non-centrally cleared derivatives that is above EUR 1 500 billion;

- ~~(d) from 1 September 2019, where both counterparties have, or belong to groups each of which has, an aggregate average notional amount of non-centrally cleared derivatives that is above EUR 750 billion;~~

[Note: Articles 9(2), Article 11, Articles 13 to 18, points (c), (d) and (f) of Article 19(1), Article 19(3) and Article 20 do not form part of domestic law on and after exit day by virtue of section 3 of the Act where both counterparties have, or belong to groups each of which has, an aggregate average notional amount of non-centrally cleared derivatives that is above EUR 750 billion and below EUR 1500 billion.]

- ~~(e) from 1 September 2020, where both counterparties have, or belong to groups each of which has, an aggregate average notional amount of non-centrally cleared derivatives that is above EUR 8 billion.~~

[Note: Articles 9(2), Article 11, Articles 13 to 18, points (c), (d) and (f) of Article 19(1), Article 19(3) and Article 20 do not form part of domestic law on and after exit day by virtue of section 3 of the Act where both counterparties have, or belong to groups each of which has, an aggregate average notional amount of non-centrally cleared derivatives that is above EUR 8 billion and below EUR 750 billion.]

- 2. ~~By way of derogation from paragraph 1, where the conditions of paragraph 3 of this Article are met, Article 9(2), Article 11, Articles 13 to 18, points (c), (d) and (f) of Article 19(1), Article 19(3) and Article 20 shall apply as follows:~~

- ~~(a) 3 years after the date of entry into force of this Regulation where no equivalence decision has been adopted pursuant to Article 13(2) of Regulation (EU) No 648/2012 for the purposes of Article 11(3) of that Regulation in respect of the relevant third country;~~
- ~~(b) the later of the following dates where an equivalence decision has been adopted pursuant to Article 13(2) of Regulation (EU) No 648/2012 for the purposes of Article 11(3) of that Regulation in respect of the relevant third country:
 - ~~(i) 4 months after the date of entry into force of the decision adopted pursuant to Article 13(2) of Regulation (EU) No 648/2012 for the purposes of Article 11(3) of that Regulation in respect of the relevant third country;~~
 - ~~(ii) the applicable date determined pursuant to paragraph 1.~~~~

- 3. ~~The derogation referred to in paragraph 2 shall only apply where counterparties to a non-centrally cleared OTC derivative contract meet all of the following conditions:~~

- ~~(a) one counterparty is established in a third country and the other counterparty is established in the Union;~~
- ~~(b) the counterparty established in a third country is either a financial counterparty or a non-financial counterparty;~~
- ~~(c) the counterparty established in the Union is one of the following:~~

- ~~(i) a financial counterparty, a non-financial counterparty, a financial holding company, a financial institution or an ancillary services undertaking subject to appropriate prudential requirements and the third country counterparty referred to in point (a) is a financial counterparty;~~
- ~~(ii) either a financial counterparty or a non-financial counterparty and the third country counterparty referred to in point (a) is a non-financial counterparty;~~
- ~~(d) both counterparties are included in the same consolidation on a full basis in accordance to Article 3(3) of Regulation (EU) No 648/2012;~~
- ~~(e) both counterparties are subject to appropriate centralised risk evaluation, measurement and control procedures;~~
- ~~(f) the requirements of Chapter III are met.~~

Article 37

Application of Articles 9(1), 10 and 12

1. Articles 9(1), 10 and 12, shall apply as follows:
 - (a) from 1 month after ~~the date of entry into force of this Regulation~~ 4 January 2017 for counterparties both of which have, or belong to groups each of which has, an aggregate average notional amount of non-centrally cleared OTC derivatives above EUR 3 000 billion;
 - (b) from ~~the date that is the latest of~~ 1 March 2017 ~~or 1 month following the date of its entry into force of this Regulation~~ for other counterparties.
2. By way of derogation from paragraph 1 in respect of contracts for foreign exchange forwards referred to in point (a) of Article 27, Articles 9(1), 10 and 12 shall apply on ~~one of the following dates, whichever is earlier:~~
 - (a) ~~31 December 2018, where the Regulation referred to in point (b) does not yet apply;~~
 - (b) ~~the date of entry into application of the Commission Delegated Regulation (EU) 2017/565~~ 3 January 2018 specifying some technical elements related to the definition of financial instruments with regard to physically settled foreign exchange forwards or the date determined pursuant to paragraph 1, whichever is later.
3. ~~By way of derogation from paragraph 1, where the conditions of paragraph 4 of this Article are met, Articles 9(1), 10 and 12 shall apply as follows:~~
 - (a) ~~3 years after the date of entry into force of this Regulation where no equivalence decision has been adopted pursuant to Article 13(2) of Regulation (EU) No 648/2012 for the purposes of Article 11(3) of that Regulation in respect of the relevant third country;~~
 - (b) ~~the later of the following dates where an equivalence decision has been adopted pursuant to Article 13(2) of Regulation (EU) No 648/2012 for the purposes of Article 11(3) of that Regulation in respect of the relevant third country:~~

- ~~(i) four months after the date of entry into force of the decision adopted pursuant to Article 13(2) of Regulation (EU) No 648/2012 for the purposes of Article 11(3) of that Regulation in respect of the relevant third country;~~
 - ~~(ii) the applicable date determined pursuant to paragraph 1.~~
- 4. ~~The derogation referred to in paragraph 3 shall only apply where counterparties to a non-centrally cleared OTC derivative contract meet all of the following conditions:~~
 - ~~(a) one counterparty is established in a third country and the other counterparty is established in the Union;~~
 - ~~(b) the counterparty established in a third country is either a financial counterparty or a non-financial counterparty;~~
 - ~~(c) the counterparty established in the Union is one of the following:~~
 - ~~(i) a financial counterparty, a non-financial counterparty, a financial holding company, a financial institution or an ancillary services undertaking subject to appropriate prudential requirements and the third country counterparty referred to in point (a) is a financial counterparty;~~
 - ~~(ii) either a financial counterparty or a non-financial counterparty and the third country counterparty referred to in point (a) is a non-financial counterparty;~~
 - ~~(d) both counterparties are included in the same consolidation on a full basis in accordance to Article 3(3) of Regulation (EU) No 648/2012;~~
 - ~~(e) both counterparties are subject to appropriate centralised risk evaluation, measurement and control procedures;~~
 - ~~(f) the requirements of Chapter III are met.~~

Article 38

Dates of application for specific contracts

1. By way of derogation from Articles 36(1) and 37, in respect of all non-centrally OTC derivatives which are single-stock equity options or index options, the Articles referred to in paragraph Articles 36(1) and 37 shall not ~~apply from 3 years after the date of entry into force of this Regulation.~~

[Note: the Articles referred paragraph Articles 36(1) and 37 do not form part of domestic law on and after exit day by virtue of section 3 of the Act in respect of all non-centrally OTC derivatives which are single-stock equity options or index options.]
2. ~~By way of derogation from Articles 36(1) and 37, where a counterparty established in the Union enters into a non-cleared OTC derivative contract with another counterparty which belongs to the same group, the Articles referred to in Articles 36(1) and 37 shall apply from the dates specified in accordance with those Articles, or 4 July 2017, whichever is the later.~~

Article 39

Calculation of aggregate average notional amount

1. For the purposes of Articles 36 and 37, the aggregate average notional amount referred to shall be calculated as the average of the total gross notional amount that meets all of the following conditions:
 - (a) ~~that are recorded on the last business day of March, April and May of 2016 with respect to counterparties referred to in point (a) of Article 36(1);~~
 - (b) that are recorded on the last business day of March, April and May of the year referred to in each of the points in Article 36(1);

...
2. For the purpose of paragraph 1, UK UCITS authorised in accordance with Directive 2009/65/EC and AIFs (as defined in regulation 3 of the Alternative Investment Fund Managers Regulation 2013) alternative investment funds managed by AIFMs (as defined in regulation 4 of the Alternative Investment Fund Managers Regulation 2013) authorised or registered in accordance with the Alternative Investment Fund Managers Regulations 2013~~alternative investment fund managers authorised or registered in accordance with Directive 2011/61/EU~~ shall be considered distinct entities and treated separately, where the following conditions are met:

...

Article 40

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.~~

ANNEX II

Methodology to adjust the value of collateral for the purposes of Article 21

Table 2

Haircuts for short term credit quality assessments

Credit quality step with which the credit assessment of a short term debt security is associated	Haircuts for debt securities issued by entities described in Article 4(1) (c) and (j) in (%)	Haircuts for debt securities issued by entities described in Article 4(1) (m) in (%)	Haircuts for securitisation positions and meeting the criteria in Article 4(1) (o) in (%)

1	0,5	1	2
2-3 or below	1	2	4

...

2. For eligible units in UK UCITS the haircut is the weighted average of the haircuts that would apply to the assets in which the fund is invested.

...

EU EXIT INSTRUMENT: THE TECHNICAL STANDARDS (BANK RESOLUTION AND RECOVERY DIRECTIVE) (EU EXIT) (No.2) INSTRUMENT [YEAR]

Powers exercised

- A. The Prudential Regulation Authority (“the PRA”) being the appropriate regulator within the meaning of the Financial Regulators’ Powers (Technical Standards) (EU Exit) Regulations 2018 (“the Regulations”), having carried out the consultations required by regulation 5 of the Regulations and with the approval of the Treasury, makes this instrument in exercise of the powers conferred by regulations 3 and 4 of the Regulations.

Pre-conditions to making

- B. The PRA and the FCA are the appropriate regulators for the Bank Recovery and Resolution EU Regulations.
- C. The PRA proposes to exercise the power in regulation 3 of the Regulations to modify the Bank Recovery and Resolution EU Regulations and considers that (a) Condition A is satisfied; and (b) that the modifications to the Bank Recovery and Resolution EU Regulations can most appropriately be made by using the procedure set out in regulation 4 of the Regulations.
- D. The PRA has consulted the FCA on a division of responsibility and on the modifications contained in Annexes A and B to this instrument in accordance with regulations 3 and 5 of the Regulations.
- E. the PRA has consulted the Bank of England in accordance with regulation 5 of the Regulations.
- F. 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

- G. In this instrument –
- (a) “the Act” means the European Union (Withdrawal) Act 2018;
 - (b) “the Bank Recovery and Resolution EU Regulations” means the EU Regulations specified in Part 4 of the Schedule to the Regulations under the heading “Bank Recovery and Resolution Directive”;
 - (c) “exit day” has the meaning given in the Act;
 - (d) “the FCA” means the Financial Conduct Authority; and
 - (e) “Condition A” means the condition defined in regulation 4(2) of the Regulations.

Division

- H. Each Bank Recovery and Resolution EU Regulation, as it has effect in domestic law by virtue of section 3 of the Act, is divided into two identical versions of the same, headed “Part 1 (FCA)” and “Part 2 (PRA)” respectively.
- I. Immediately before Article 1 in Part 1 (FCA) is inserted:

“Article A1

This Part of the Regulation applies to persons regulated solely by the FCA and their qualifying parent undertakings (within the meaning of section 192B of the Financial Services and Markets Act 2000) other than qualifying parent undertakings of PRA-authorized persons (within the meaning of section 2B (5) of the Financial Services and Markets Act 2000).”

J. Immediately before Article 1 in Part 2 (PRA) is inserted:

“Article A1

This Part of the Regulation applies to PRA-authorized persons (within the meaning of section 2B(5) of the Financial Services and Markets Act 2000) and their qualifying parent undertakings (within the meaning of section 192B of the Financial Services and Markets Act 2000)”.

Modifications

K. The PRA makes the modifications contained in the Annex listed in column (2) below to the corresponding Bank Recovery and Resolution EU Regulation (or part thereof) listed in column (1) below.

(1)	(2)
Part 2 (PRA) of Commission Implementing Regulation (EU) 2016/911	A
Part 2 (PRA) of Articles 1 to 21, 33 to 36 and 42 to 49 of Commission Delegated Regulation 2016/1075	B

Commencement

L. This instrument comes into force on exit day.

Citation

M. This instrument may be cited as the Technical Standards (Bank Resolution and Recovery Directive) (EU Exit) (No.2) Instrument [YEAR].

By order of the Prudential Regulation Committee

[DATE]

Annex A

GROUP FINANCIAL SUPPORT AGREEMENTS

MODIFICATIONS TO PART 2 (PRA) OF EU REGULATION 2016/911

- 1.1 In this Annex new text is underlined and deleted text is struck through.
- 1.2 This Regulation applies to persons who are PRA-authorised persons (within the meaning of section 2B(5) of the Financial Services and Markets Act 2000) and their qualifying parent undertakings (within the meaning of section 192(B) of the Financial Services and Markets Act 2000).
- 1.3 Part 2 (PRA) of EU Regulation 2016/911 means Commission Implementing Regulation of 9 June 2016 laying down implementing technical standards with regard to the form and the content of the description of group financial support agreements in accordance with Directive 2014/59/EU of the European Parliament and of the Council establishing a framework for the recovery and resolution of credit institutions and investment firms, as it forms part of domestic law by virtue of section 3 of the Act and this Instrument, is modified as follows:

COMMISSION IMPLEMENTING REGULATION (EU) 2016/911

of 9 June 2016

laying down implementing technical standards with regard to the form and the content of the description of group financial support agreements in accordance with Directive 2014/59/EU of the European Parliament and of the Council establishing a framework for the recovery and resolution of credit institutions and investment firms

Article 1

Form of disclosure

Each institution that is a party to a group financial support agreement entered into pursuant to the law of the United Kingdom or any part of it implementing Article 19 of Directive 2014/59/EU which was relied upon immediately before exit day for that implementation or transposition, shall make disclosures in accordance with article 2 of this Regulation on its website in a form that ensures accessibility to the public.

...

Article 1A

Definitions

Unless the contrary intention appears, all words and expressions in this Regulation shall have the same meaning as in the Bank Recovery and Resolution (No. 2) Order 2014.

...

Article 2

Terms to be disclosed

...

2. The disclosure shall be accompanied by a statement that the provision of the financial support is subject to the conditions set out in Chapter 4 of the Group Financial Support Part of the PRA Rulebook or in rule IFPRU 11.5.14R of the Recovery and Resolutions Part of the FCA Handbook Article 23 of Directive 2014/59/EU and to the right of the competent authority to prohibit or restrict the provision ~~pursuant to Article 25 of Directive 2014/59/EU.~~

Article 3

Entry into force

...

~~This Regulation shall be binding in its entirety and directly applicable in all Member States.~~

Annex B

RECOVERY PLANS, INTRA-GROUP FINANCIAL SUPPORT, CONTRACTUAL RECOGNITION OF BAIL IN, NOTIFICATIONS ETC.

MODIFICATIONS TO SPECIFIED ARTICLES OF PART 2 (PRA) OF EU REGULATION 2016/1075/EU

1.4 In this Annex new text is underlined and deleted text is struck through as shown.

1.5 Part 2 (PRA) of EU Regulation (EU) 2016/1075 means Articles 1 to 21, 33 to 36 and 42 to 49 of Commission Delegated Regulation 2016/1075 of 23 March 2016 supplementing Directive 2014/59/EU of the European Parliament and of the Council with regard to regulatory technical standards specifying the content of recovery plans, resolution plans and group resolution plans, the minimum criteria that the competent authority is to assess as regards recovery plans and group recovery plans, the conditions for group financial support, the requirements for independent valuers, the contractual recognition of write-down and conversion powers, the procedures and contents of notification requirements and of notice of suspension and the operational functioning of the resolution colleges, as they form part of domestic law by virtue of section 3 of the Act, and this Instrument are modified as follows:

COMMISSION DELEGATED REGULATION (EU) 2016/1075

of 23 March 2016

supplementing Directive 2014/59/EU of the European Parliament and of the Council with regard to regulatory technical standards specifying the content of recovery plans, resolution plans and group resolution plans, the minimum criteria that the competent authority is to assess as regards recovery plans and group recovery plans, the conditions for group financial support, the requirements for independent valuers, the contractual recognition of write-down and conversion powers, the procedures and contents of notification requirements and of notice of suspension and the operational functioning of the resolution colleges.

CHAPTER I

COMMON PROVISIONS AND RECOVERY PLANS

Articles 1 to 15 of this Chapter apply to persons who are PRA-authorised persons (within the meaning of section 2B(5) of the Financial Services and Markets Act 2000) and their qualifying parent undertakings (within the meaning of section 192(B) of the Financial Services and Markets Act 2000.

Article 1

Subject matter

This Regulation further specifies:

- (1) the information to be contained in an individual recovery plan and, in accordance with rules 3.8 and 3.9 of the Recovery Plans Part of the paragraphs 5 and 6 of Article 7 of Directive 2014/59/EU PRA Rulebook or rules IFPRU 11.3.9R and 11.3.11G of the Recovery Plans Part of the FCA Handbook, in a group recovery plan;
- (2) the minimum criteria that the competent authority is to assess with regard to both individual and group recovery plans, in accordance with paragraph 8 of Article 6 of Directive 2014/59/EU; articles 13 and 18 of the Bank Recovery and Resolution (No. 2) Order 2014;
- (3) the contents of resolution plans required for institutions that are not part of a group subject to consolidated supervision pursuant to the law of the United Kingdom or any part of it implementing Articles 111 and 112 of Directive 2013/36/EU which was relied upon immediately before exit day for that implementation or transposition and the contents of resolution plans required for groups, in accordance respectively, with Articles 10 and 13 of Directive 2014/59/EU Part 5 of the Bank Recovery and Resolution (No.2) Order 2014;
- (4) the matters and criteria to be examined for the assessment of the resolvability of institutions or groups, provided for respectively in paragraph 4 of Article 15, and paragraph 2 of Article 16 of the Directive 2014/59/EU in Part 6 of the Bank Recovery and Resolution (No. 2) Order 2014;
- (5) the conditions set out in points (a), (c), (e) and (i) of Article 23(1) of Directive 2014/59/EU Chapter 4 of the Group Financial Support Part of the PRA Rulebook or in rule IFPRU 11.5.14R of Recovery and Resolution Part of the FCA Handbook with regard to financial support by a group entity in accordance with Article 19 of that Directive;
- (6) the circumstances in which a person is independent from the resolution authority and the institution or recovery or resolution entity referred to in point (b), (c) or (d) of paragraph 1 of Article 1 of Directive 2014/59/EU for the purposes of section 62A of the Banking Act 2009 paragraph 1 of Article 36 of that Directive and of Article 74 thereof;
- (7) the list of liabilities to which the exclusion from the obligation to include the contractual term referred to in paragraph 1 of Article 55 of Directive 2014/59/EU by the Contractual Recognition of Bail-In Part of the PRA Rulebook or in rule IFPRU 11.6 of the Recovery and Resolution Part of the FCA Handbook applies and the contents of the contractual term required in that paragraph by those rules;
- (8) the procedures and contents relating to the notifications referred to in paragraph 1, 2 and 3 of Article 81 of Directive 2014/59/EU articles 182 and 183 of the Bank Recovery and Resolution (No. 2) Order 2014, Chapter 8 of the Notifications Part of the PRA Rulebook or in rule IFPRU 11.7 in the Recovery and Resolution Part of the FCA Handbook and to the notice

of suspension referred to in ~~Article 83 of that Directive~~; sections 24,25,41,48,48T and 89J of the Banking Act 2009;

- (9) ~~detailed rules on setting up and operational functioning of the resolution colleges for the performance of the tasks referred to in paragraph 1 of Article 88 of Directive 2014/59/EU.~~

Points (1), (2), (3) and (4) above are subject to the application of any simplified obligations determined in accordance with Article 4 of Directive 2014/59/EU, articles 7 and 8 of the Bank Recovery and Resolution (No.2) Order 2014.

Article 2

Definitions

Subject to the following, unless the contrary intention appears, all words and expressions in this Regulation shall have the same meaning as in the Bank Recovery and Resolution (No. 2) Order 2014.

For the purposes of this Regulation, the following definitions apply:

- (A1) 'exit day' shall have the same meaning as in the European Union (Withdrawal) Act 2018;
- (1) 'individual recovery plan' means any of the following:
- (a) a recovery plan drawn up in accordance with Article 5(1) of Directive 2014/59/EU rules 2.1 to 2.2 of the Recovery Plans Part of the PRA Rulebook, or in rule IFPRU 11.2.4R of the Recovery Plans Part of the FCA Handbook by an institution that is not part of a group subject to consolidated supervision pursuant to the law of the United Kingdom or any part of it implementing Articles 111 and 112 of Directive 2014/59/EU which was relied upon immediately before exit day for that implementation or transposition and any determination under article 7(3) of the Bank Recovery and Resolution (No.2) Order 2014 Articles 111 and 112 of Directive 2013/36/EU;
- (b) a recovery plan drawn up in accordance with article 24 of the Bank Recovery and Resolution (No.2) Order 2014 7(2) of Directive 2014/59/EU by a subsidiary of an EU a parent undertaking;
- ...
- (3) 'preferred resolution strategy' a resolution strategy capable of best achieving the resolution objectives set out in set out in Article 31 of Directive 2014/59/EU section 4 of the Banking Act 2009 given the structure and the business model of the institution or group, and the resolution regimes applicable to legal entities in a group;
- (4) 'qualifying eligible liabilities' means eligible liabilities which are included in the amount of own funds and eligible liabilities referred to in section 3A(4) of the Banking Act 2009 (and sections 121 onwards of the Bank Recovery and Resolution (No.2) Order) 2014) and which are not excluded by article 123(4) of the Bank Recovery

~~and Resolution (No.2) Order 2014 which satisfy the conditions set forth in Article 45(4) of Directive 2014/59/EU in order to be included in the amount of own funds and eligible liabilities referred to in Article 45(1) of that Directive~~

- (5) “recovery and resolution entity” means:
- (a) an institution that is established in the United Kingdom;
 - (b) a financial institution that is established in the United Kingdom when the financial institution is a subsidiary of a credit institution or investment firm, or of a company referred to in paragraphs (c) or (d), and is covered by the supervision of the parent undertaking on a consolidated basis in accordance with articles 6 to 17 of Regulation (EU) 575/2013;
 - (c) an entity of any of the following kinds which is established in the United Kingdom:
 - (i) a financial holding company;
 - (ii) a mixed financial company;
 - (iii) a mixed-activity holding company;
 - (d) a United Kingdom parent financial holding company or a United Kingdom parent mixed financial holding company.

...

Article 4

Summary of the key elements of the recovery plan

...

2. For the purposes of Sections II and III of Chapter I of this Regulation, material change means any change which could impact the ability of an institution or of ~~an EU~~ a United Kingdom parent undertaking or one or more of its subsidiaries to implement a recovery plan or to implement one or more recovery options contained in a recovery plan.

Article 5

Governance

The information on governance shall contain at least a detailed description of the following matters:

...

- (2)

...

- (b) confirmation that the recovery plan has been assessed and approved by the management body of the institution or United Kingdom ~~EU~~ parent undertaking responsible for submitting the plan;

...

Article 7

The description of entities covered by the recovery plan

...

- (iv) any existing group financial support agreements concluded in accordance with ~~Article 19 of Directive 2014/59/EU Chapter 2 of the Group Financial Support Part of the PRA Rulebook or in rule IFPRU 11.5 of the Recovery and Resolution Part of the FCA Handbook~~, including the parties to the agreement, the form of the financial support and the conditions associated with the provision of the financial support;

...

2. For the purposes of points (b) and (c) of paragraph 1, the reference to legal entities or branches shall be understood as a reference to legal entities or branches which:

...

- (f) are important for the financial stability of the United Kingdom at ~~least one of the Member States in which they have their registered offices or operate~~

...

Article 9

Actions, arrangements and measures under recovery options

...

2. Where a recovery option does not include the actions, arrangements or measures set out in points (a) to (e) of paragraph 1, the subsection on recovery options shall contain a demonstration that those actions, arrangements or measures have been adequately considered by the institution, the United Kingdom ~~Union~~ parent undertaking or the subsidiary which drew up and submitted the plan.

...

Article 13

Cross references

Where information set out in article 7 has been submitted to the resolution authority ~~authorities~~ pursuant to ~~Article 11 of Directive 2014/59/EU section 83ZB of the Banking Act 2009~~, competent authorities may choose to accept cross references to that information as sufficient for meeting the requirement in article 7 if they do not compromise the completeness and quality of the recovery plan, as required by section III of Chapter I of this Regulation.

...

Article 16

Completeness of recovery plans

The competent authority shall assess the extent to which a recovery plan satisfies the requirements of the law of the United Kingdom or any part of it which was relied upon immediately before exit day for the implementation or transposition of article 5 or article 7 of Directive 2014/59/EU2014, including in Chapters 2,3 and 5 of the Recovery Plans Part of the PRA Rulebook, or rules IFPRU 11.2 and 11.3 of the Recovery and Resolution Part of the FCA Handbook and any determination under article 7(3) of the Bank Recovery and Resolution (No.2) Order, and shall review the completeness of the plan based on the following:

...

- (2) whether the plan provides information that is up to date, also with respect to any material changes to the entity or entities, in particular changes to their legal or organisational structure or their business or financial situation since the last submission of the plan, in accordance with article 62(3)(a) of the Bank Recovery and Resolution (No.2) Order 2014 and any determination under Article 5(2) of Directive 2014/59/EU article 7(4) of the Bank Recovery and Resolution (No.2) Order 2014;

...

- (4) whether the plan adequately reflects an appropriate range of scenarios of severe macroeconomic and financial stress relevant to the specific conditions of the entity or entities that the plan covers, taking into account, where appropriate, guidelines issued by the EBA before exit day in accordance with Article 5(7) of Directive 2014/59/EU that further specify the range of scenarios to be used in recovery plans ~~by making every effort to comply with them in line with Article 16(3) of Regulation (EU) No 1093/2010~~;

...

- (7) whether the plan includes, where applicable, arrangements for intra-group financial support adopted pursuant to an agreement for group financial support that has been concluded in accordance with ~~Chapter III of Directive 2014/59/EU~~; Chapter 2 of the Group Financial Support Part of

the PRA Rulebook or in rule IFPRU 11.5 of the Recovery and Resolution Part of the FCA Handbook;

- (8) whether for each of the scenarios of severe macroeconomic and financial stress which is reflected in the plan in accordance with Chapter 2 of the Recovery Plans Part of the PRA Rulebook or in rules IFPRU 11.38R to IFPRU 11.3.13R and IFPRU 11.3.20R of the Recovery and Resolution Part of the FCA Handbook ~~Article 7(6) of Directive 2014/59/EU~~, the plan identifies whether there are:

...

Article 17

Quality of recovery plans

In assessing whether the recovery plan meets the requirements of the law of the United Kingdom the requirements and criteria set out in or any part of it implementing Article 5 and Article 7 of Directive 2014/59/EU, which was relied upon immediately before exit day for that implementation or transposition, including Chapters 2, 3 and 5 of the Recovery Plans Part of the PRA Rulebook or in rules IFPRU 11.2 and 11.3 of the Recovery and Resolution Part of the FCA Handbook, and any determination under article 7(3) of the Bank Recovery and Resolution (No.2) Order 2014, as applicable, the competent authority, shall review the quality of a recovery plan based on the following:

...

- (3) ...
- (a) the plan provides a sufficient level of detail concerning the information required to be included in recovery plans pursuant to articles 5 and 7 of Directive 2014/59/EU 7 of the Bank Recovery and Resolution (No.2) Order 2014, the Recovery Plans Part of the PRA Handbook or in rules IFPRU 11.2 and 11.3 of the Recovery and Resolution Part of the FCA Handbook;
- (b) the plan contains a sufficiently wide range of recovery options and indicators, taking into account, where appropriate, the guidelines issued by the EBA before exit day in accordance with Article 9(2) of Directive 2014/59/EU that further specify the indicators to be included in recovery plans, ~~by making every effort to comply with them in line with Article 16(3) of Regulation (EU) No 1093/2010;~~

...

Article 18

Implementation of the arrangements proposed in the recovery plans

1. When assessing the extent to which the recovery plan satisfies the criterion set out in point (a) of Article 6(2) of Directive 2014/59/EU, articles 12, 13, 18 and 19 of the Bank Recovery and Resolution (No.2) Order 2014, the competent authority shall review the following:

...

- (c) whether recovery options included in the plan set out actions which effectively address the scenarios of severe macroeconomic and financial stress reflected in accordance with Chapter 2 of the Recovery Plans Part of the PRA Rulebook or rules 11.2.6R to 11.2.11R and IFPRU 11.3.8R to IFPRU 11.3.13 of the Recovery and Resolution Part of the FCA Handbook Article 5(6) of Directive 2014/59/EU;

...

Article 19

Recovery options

When assessing the extent to which the recovery plan satisfies the criterion set out in point (b) of Article 6(2) of Directive 2014/59/EU article 13 of the Bank Recovery and Resolution (No.2) Order 2014, the competent authority shall review the following:

...

Article 20

Specific requirements for group recovery plans

- (1) When assessing the extent to which a group recovery plan satisfies the criteria set out in rules 3.8 and 3.9 of the Recovery Plans Part of the PRA Rulebook or rules IFPRU 11.3.8R to IFPRU 11.3.13R and IFPRU 11.3.20R of the Recovery and Resolution Part of the FCA Handbook articles 7(4) and (6) of Directive 2014/59/EU, the competent authority shall review the following:

...

- (c) the extent to which arrangements included in the plan ensure the coordination and consistency of measures to be taken at the level of the parent undertaking or of an institution subject to consolidated supervision pursuant to the law of the United Kingdom, or any part of it, implementing Chapter 3 of Title VII of Directive 2013/36/EU which was relied upon immediately before exit day for that implementation pursuant to Chapter 3 of Title VII of Directive 2013/36/EU, or at the level of individual institutions, respectively. The extent to which governance processes included in the plan take into account the governance structure of individual subsidiaries and any relevant legal restrictions shall be reviewed in particular;
- (2) the extent to which the plan provides solutions to overcome any obstacles to the implementation of recovery measures within the group which are identified in relation to a scenario scenarios of severe macroeconomic and financial stress relevant to the institution's specific conditions including system-wide events and stress specific to individual legal persons and to groups provided for in Article 5(6) of Directive 2014/59/EU; and if the obstacles cannot be overcome, the extent to which alternative recovery measures could achieve the same objectives;

...

CHAPTER III INTRA GROUP FINANCIAL SUPPORT

Articles 33 to 36 of this Chapter apply to persons who are PRA-authorised persons (within the meaning of section 2B(5) of the Financial Services and Markets Act 2000) and their qualifying parent undertakings (within the meaning of section 192(B) of the Financial Services and Markets Act 2000).

Article 33

Prospect to redress financial difficulties

...

2. When assessing the condition referred to in paragraph 1, the competent authority ~~referred to in Article 25 (2) of Directive 2014/59/EU~~ of the group entity providing financial support shall take into account information and assessments provided by the competent authority responsible for the receiving entity.

Article 34

Terms of the support

1. The terms, including consideration, for providing the financial support shall be deemed to be in compliance with rules 2.1(1) to 2.1(4) ~~Article 19(7) of Directive 2014/59/EU~~ of the Group Financial Support Part of the PRA Rulebook or rule IFPRU 11.5.10R of the Recovery and Resolution Part of the FCA Handbook if the following conditions are met:

...

- (b) the terms reflect the best interest of the providing entity in accordance with ~~Article 19(7) of Directive 2014/59/EU~~ rules 2.1(1) to 2.1(4) of the Group Financial Support Part of the PRA Rulebook or rule IFPRU 11.5.10R of the Recovery and Resolution Part of the FCA Handbook and the relation of benefits, risks and costs taken into account when determining the best interest, including direct or indirect benefits that may accrue to the providing entity as a result of the provision of financial support and of the benefits for the group from this provision.

...

Article 35

Liquidity and solvency of the providing entity

1. Subject to the condition specified in Rule 4.1(7) of Chapter 4 of the Group Financial Support Part of the point (g) of Article 23(1) of Directive 2014/59/EU PRA Rulebook or rules IFPRU 11.5.14R (8) and 11.5.14R of the Recovery and Resolution Part of the FCA Handbook, the provision of the financial support shall be considered not to jeopardise the liquidity or solvency of the providing entity if, following the provision of the financial support:

...

Article 36

Resolvability of the providing entity

1. The provision of ~~the~~ financial support shall be considered not to undermine the resolvability of the providing entity, if the provision of the financial support does not make the implementation of the resolution strategy for the providing entity as set out in the resolution plan substantively less feasible or less credible, in accordance with the assessment under ~~articles 15 and 16 of Directive 2014/59/EU~~ 60, 61 and 62 of the Bank Recovery and Resolution (No.2 Order) 2014.

...

CHAPTER V RESOLUTION

Articles 42 to 44 of this Chapter apply to persons who are PRA-authorised persons (within the meaning of section 2B(5) of the Financial Services and Markets Act 2000) and their qualifying parent undertakings (within the meaning of section 192(B) of the Financial Services and Markets Act 2000).

Article 42

Definitions

For the purposes of this Chapter V, section I, the following definitions apply:

- (1) 'material amendment' means, in relation to a relevant agreement, as defined in point 2 of this article, ~~entered into before the date of application of the national provisions transposing Section 5 of Chapter IV of Title IV of Directive 2014/59/EU~~, an amendment, including an automatic amendment, made after that date and affecting the substantive rights and obligations of a party to a relevant agreement; amendments which do not affect the substantive rights and obligations of a party to a relevant agreement include a change to the contact details of a signatory or the addressee for the service of documents, typographical changes to correct drafting errors or automatic adjustments of interest rates;

- (2) ‘relevant agreement’ means any agreement, including the terms of a capital instrument, creating a liability to which ~~Article 55(1) of Directive 2014/59/EU applies~~ Chapter 2 of the Contractual Recognition of Bail-In Part of the PRA Rulebook requires the inclusion of a term in the agreement or to which rule IFPRU 11.6 of the Recovery and Resolution Part of the FCA Handbook applies.

Article 43

Liabilities to which the exclusion from the obligation to include the contractual term referred to in Article 55(1) of Directive 2014/59/EU applies Chapter 2 of the Contractual Recognition of Bail-In Part of the PRA Rulebook or rule IFPRU 11.6 of the Recovery and Resolution Part of the FCA Handbook applies

1. For the purposes of the Contractual Recognition of Bail-In Part of the PRA Rulebook and or rule IFPRU 11.6 of the Recovery and Resolution Part of the FCA Handbook, a secured liability shall not be considered as an excluded liability where, at the time at which it is created, it is:
- ...
- (b) fully secured but governed by contractual terms that do not oblige the debtor to maintain the liability fully collateralised on a continuous basis in compliance with regulatory requirements of ~~Union~~ the law of the United Kingdom or of a third country law achieving effects that can be deemed equivalent to United Kingdom ~~Union-law~~
2. ~~For the purposes of point (d) of the first subparagraph of Article 55(1) of Directive 2014/59/EU, liabilities issued or entered into after the date of application of the provisions adopted by Member States for the transposition of Section 5 of Chapter IV of Title IV of Directive 2014/59/EU in a Member State referred to in Article 42(1) of this Regulation shall comprise rule 2.3 of the Contractual Recognition of Bail-In Part of the PRA Rulebook or rule IFPRU 11.6.3 R of the Recovery and Resolution Part of the FCA Handbook, recognition of bail-in applies to:~~
- (a) liabilities created after the relevant ~~that~~ date, regardless of whether they are created under relevant agreements entered into before that date, including under master or framework agreements between the contracting parties governing multiple liabilities;
- (b) liabilities created before or after that date under relevant agreements entered into before that date and which are subject to a material amendment;
- (c) liabilities under debt instruments issued after that date.

“relevant date” means the date applicable under Chapter 2 of the Contractual Recognition of Bail-in Part of the PRA Rulebook or rule IFPRU 11.6.3 R of the

Recovery and Resolution Part of the FCA Handbook.

3. ~~For the purposes of the second subparagraph of Article 55(1) of Directive 2014/59/EU, a resolution authority shall determine that~~ The requirement to include a contractual term in a relevant agreement pursuant to rule 2.1 of Contractual Recognition of Bail-In Part of the PRA Rulebook or rule IFPRU 11.6.3R (2)(e) of the Recovery and Resolution Part of the FCA Handbook shall not apply where the resolution authority is satisfied that the law of the third country concerned or a binding agreement concluded with that third country provides for an administrative or judicial procedure which
- (b) ...
- (ii) the recognition or support of the exercise of the write-down and conversion powers by the resolution authority would result in third country creditors, in particular depositors located and payable in that third country, being treated less favourably than creditors, and depositors located or payable in the United Kingdom Union, with similar rights under applicable United Kingdom Union law;
- ...
2. ~~For the purposes of the second subparagraph of Article 55(1) of Directive 2014/59/EU, a~~ The resolution authority shall assess that the grounds referred to in paragraph 3(b) would not prevent the recognition or support of the exercise of the write-down and conversion powers in all circumstances where such powers are applied.

Article 44

Contents of the contractual term required by Chapter 2 of the Contractual Recognition of Bail-In Part of the Article 55(1) of Directive 2014/59/EU PRA Rulebook or rule IFPRU 11.6 of the Recovery and Resolution Part of the FCA Handbook applies.

Contractual term in a relevant agreement shall include the following:

- (1) the acknowledgement and acceptance by the counterparty of a recovery and resolution institution or entity referred to in point (b), (c) or (d) of Article 1(1) of Directive 2014/59/EU, that the liability may be subject to the exercise of write-down and conversion powers by the a resolution authority;
- (2) a description of the write-down and conversion powers under United Kingdom law of the each resolution authority ~~in accordance with the national law transposing Section 5 of Chapter IV of Title IV of Directive 2014/59/EU or, where applicable, under Regulation (EU) No 806/2014 of the European Parliament and of the Council (7), in particular the powers~~

~~set out in points (e), (f), (g) and (j) of Article 63(1) of Directive 2014/59/EU;~~

(3) the acknowledgement and acceptance by the counterparty of a recovery and resolution ~~an institution or entity referred to in point (b), (c) or (d) of Article 1(1) of Directive 2014/59/EU:~~

(a) that it is bound by the effect of an application of the powers referred to in point (b), including:

(i) any reduction in the principal amount or outstanding amount due, including any accrued but unpaid interest, in respect of the liability of ~~an institution or a recovery and resolution~~ entity referred to in point (b), (c) or (d) of Article 1(1) of Directive 2014/59/EU under the relevant agreement;

...

(b) that the terms of the relevant agreement may be varied as necessary to give effect to the exercise by a resolution authority of its write-down and conversion powers and such variations will be binding on the counterparty of ~~an institution or~~ recovery and resolution ~~entity referred to in point (b), (c) or (d) of Article 1(1) of Directive 2014/59/EU;~~

(c) that ordinary shares or other instruments of ownership may be issued to or conferred on the counterparty of ~~an institution or a~~ recovery and resolution ~~entity referred to in point (b), (c) or (d) of Article 1(1) of Directive 2014/59/EU~~, as a result of the exercise of the write-down and conversion powers;

(4) the acknowledgement and acceptance by the counterparty of ~~an institution or a recovery and resolution~~ entity referred to in point (b), (c) or (d) of Article 1(1) of Directive 2014/59/EU, that the contractual term is exhaustive on the matters described therein to the exclusion of any other agreements, arrangements or understandings between the counterparties relating to the subject matter of the relevant agreement.

For the purposes of this article, a mixed activity holding company established in the United Kingdom shall not be a recovery and resolution entity unless it is a mixed activity holding company which has at least one subsidiary which is an institution which is not the subsidiary of a financial holding company which is also the subsidiary of the mixed-activity holding company.

Article 45

General requirements for notifications

- (1) Notifications submitted under ~~Articles 81(1), (2), (3) and 83(2) of Directive 2014/59/EU~~ articles 182 and 183 of the Bank Recovery and Resolution (No.2) Order 2014 and rules 8.2 and 8.3 of the Notifications Part of the PRA Rulebook and rule IFPRU 11.7 of the Recovery and Resolution Part of the FCA Handbook shall be in writing and transmitted by adequate and safe electronic means.
- (2) The relevant authorities ~~referred to in paragraphs 1, 2 and 3 of Article 81 of Directive 2014/59/EU and in Article 83(2)~~ shall specify the contact details for submitting a notification and make these publicly available.
- (3) Before sending a notification, the sender may make contact orally with the relevant authorities ~~referred to in paragraphs 1, 2 and 3 of Article 81 of Directive 2014/59/EU~~ to inform them that a notification is being submitted.
- (4) For the purpose of notifications referred to in Article 45(1) points (a), (b), (e), (d), (h) and (j) of Article 81(3) of Directive 2014/59/EU and in points (a), (b), (f) and (h) of Article 83(2) thereof, competent authorities and resolution authorities shall use the language in common use for cooperation with each other with the consolidating supervisor and the group level resolution authority.
- (5) The relevant authorities ~~referred to in paragraphs 1, 2 and 3 of Article 81 of Directive 2014/59/EU and in Article 83(2)~~ shall acknowledge receipt of the notification to the sender specifying the date and time of receipt as recorded by the recipient and the contact details of the staff handling the notification.

Article 46

Notification by the management body to a competent authority

- (1) The notifications submitted by the management body of ~~institution or an recovery and resolution entity referred to in point (b), (c) or (d) of Article 1(1) of Directive 2014/59/EU~~ to a competent authority, shall include:
 - (a) the name, the address of the registered office and, where available, the legal entity identifier of the ~~institution referred to in point (b), (c) or (d) of Article 1(1) of Directive 2014/59/EU~~ or recovery and resolution entity sending the notification;
 - (b) the name and address of the registered office of the immediate and ultimate parent undertaking of that ~~institution referred to in point (b), (c) or (d) of Article 1(1) of Directive 2014/59/EU~~ or recovery and resolution entity, where relevant;
 - (c) the relevant information and analyses that the management body took into account when performing the assessment for determining

that the conditions ~~under Article 32(4) of Directive 2014/59/EU~~ section 7(2) of the Banking Act 2009 have been met;

- (d) a copy of the management body's written resolution confirming its assessment that the ~~institution referred to in point (b), (c) or (d) of Article 1(1) of Directive 2014/59/EU~~ or the recovery and resolution entity is failing or likely to fail;

...

- (2) The notification pursuant to ~~Article 81(1) of Directive 2014/59/EU~~ article 181 of the Bank Recovery and Resolution (No.2) Order 2014 and rules 8.2 and 8.3 of the Notifications Part of the PRA Rulebook shall be communicated immediately to the competent authority following the decision by the management body of an ~~institution or y referred to in point (b), (c) or (d) of Article 1(1) of Directive 2014/59/EU~~ recovery and resolution entity that that entity is failing or likely to fail.

Article 47

Communication of the competent authority to the resolution authority of the received notification

Upon receipt of the notification referred to in Article 46, the competent authority shall immediately send the following information to the resolution authority:

...

- (2) the details of crisis prevention measures or actions referred to in ~~article 104 of Directive 2013/36/EU~~ 182 of the Bank Recovery and Resolution (No. 2) Order 2014 that the competent authority has taken or requires an ~~institution or~~ recovery and resolution entity referred to in point (b), (c) or (d) of ~~Article 1(1) of Directive 2014/59/EU~~ to take, where relevant;

...

Article 48

Notification of assessment that an institution meets the conditions for resolution set out in ~~points (a) and (b) of Article 32(1) of Directive 2014/59/EU~~ sections 7(2) and 7(3) of the Banking Act 2009

- 1. The notification of a competent authority or the resolution authority for the purposes of ~~article 81(3) of Directive 2014/59/EU~~ 183 of the Bank Recovery and Resolution (No.2) Order 2014 shall include:

- (a) the name of the ~~institution or~~ recovery and resolution entity referred to in point (b), (c) or (d) of ~~Article 1(1) of Directive 2014/59/EU~~ to which the notification relates;

...

- (c) a summary of the assessment required in ~~points (a) and (b) of Article 32(1) of Directive 2014/59/EU~~ sections 7(2) and 7(3) of the Banking Act 2009.
2. The notification shall be made without delay following a determination that the conditions referred to in ~~points (a) and (b) of Article 32(1) of Directive 2014/59/EU~~ sections 7(2) and 7(3) of the Banking Act 2009 have been met.

...

Article 49

Notice

1. The notice referred to in ~~paragraph 4 of Article 83 of Directive 2014/59/EU~~ sections 24, 25, 41, 48T and 89J of the Banking Act 2009 to be published by the resolution authority, shall include:
- (a) the name, the address of the registered office and, where available, the legal entity identifier of the ~~institution or recovery and resolution entity referred to in point (b), (c) or (d) of Article 1(1) of Directive 2014/59/EU~~ under resolution;
- (b) the name and address of the registered office of the immediate and ultimate parent undertaking of that ~~institution or recovery and resolution entity referred to in point (b), (c) or (d) of Article 1(1) of Directive 2014/59/EU~~, where relevant;
- ...
- (ii) information on the access to other clients' assets or funds within the ~~meaning of point (e) of Article 31(2) of Directive 2014/59/EU~~ objectives set out in section 4 of the Banking Act 2009 held at the institution affected by the resolution action;
- (iii) information on the contractual payment or delivery obligations subject to suspension under ~~Article 69 of Directive 2014/59/EU~~, section 70A and 70D of the Banking Act 2009 including the commencement and expiration of the suspension period, where applicable;
- (iv) information on the secured creditors of the ~~institution or recovery and resolution entity referred to in point (b), (c) or (d) of Article 1(1) of Directive 2014/59/EU~~ under resolution subject to restrictions on the enforcement of security interest including the commencement and expiration of that restriction period in accordance with ~~Article 70 of Directive 2014/59/EU~~, section 70B and 70D of the Banking Act 2009 where applicable;
- (v) information on the contractual parties affected by the temporary suspension of termination rights including the commencement and expiration of the suspension period

under Article 71 of Directive 2014/59/EU, section 70C and 70D of the Banking Act 2009 where applicable;

- (c) the confirmation of the ordinary course of contractual commitments, including repayment schedules, not subject to suspensions ~~under Articles 69, 70 and 71 of Directive 2014/59/EU;~~
- (d) the point of contact within the institution where customers and creditors can seek further information and updates on the ~~institution~~ or recovery and resolution entity and its operations;

For purposes of this article, termination rights should be interpreted with reference to sections 48Z and 70C of the Banking Act 2009.

...

EU EXIT INSTRUMENT: THE TECHNICAL STANDARDS (SOLVENCY II DIRECTIVE & INSTITUTIONS FOR OCCUPATIONAL RETIREMENT PROVISION DIRECTIVE) (AMENDMENT ETC.) (EU EXIT) INSTRUMENT [YEAR]

Powers exercised

- A. The Prudential Regulation 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 Regulations”), having carried out consultations required by regulation 5 of the Regulations and with the approval of the Treasury, makes this instrument in exercise of the power conferred by regulation 3 of the Regulations.

Pre-conditions to making

- B. The PRA is the appropriate regulator for the Solvency II EU Regulations specified in Part 2 of the Schedule to the Regulations.
- C. The PRA has consulted the Bank of England and FCA in accordance with regulation 5 of the Regulations.
- D. 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

- E. In this instrument –
- (a) “the Act” means the European Union (Withdrawal) Act 2018;
 - (b) “the Solvency II EU Regulations” means the EU Regulations specified in Part 2 of the Schedule to the Regulations under the heading “Solvency II” that are not listed in Annex N, as they form part of domestic law by virtue of section 3 of the Act;
 - (c) “exit day” has the meaning given in the Act;
 - (d) “the PRA” means the Prudential Regulation Authority;
 - (c) “specified EU Regulations” has the meaning given in regulation 2(l) of the Regulations.

Modifications

- F. The PRA makes the modifications specified in Annex A to each of the Solvency II EU Regulations.
- G. The PRA makes the modifications contained in the Annex to this instrument listed in column (2) below to the corresponding Solvency II EU Regulation listed in column (1) below.

(1)	(2)
Commission Implementing Regulation 2015/460	B
Commission Implementing Regulation 2015/462	C
Commission Implementing Regulation 2015/498	D
Commission Implementing Regulation 2015/499	E
Commission Implementing Regulation 2015/500	F
Commission Implementing Regulation 2015/2011	G
Commission Implementing Regulation 2015/2012	H
Commission Implementing Regulation 2015/2015	I
Commission Implementing Regulation 2015/2016	J
Commission Implementing Regulation 2015/2450	K

Commission Implementing Regulation 2015/2452	L
Commission Implementing Regulation 2016/1630	M

Deletions

H. The specified EU Regulations listed in Annex N are deleted.

Commencement

I. This instrument comes into force on exit day.

Citation

J. This instrument may be cited as the Technical Standards (Solvency II Directive & Institutions for Occupational Retirement Provision Directive Directive) (EU Exit) Instrument [YEAR].

By order of the Prudential Regulation Committee

[DATE]

Annex A

GENERAL MODIFICATIONS

1 INTERPRETATIVE PROVISIONS

- 1.1 In the Solvency II EU Regulations, unless the context otherwise provides, -
- 1.1.1 a reference to the “supervisory authority” or to “supervisory authorities” is a reference to the Prudential Regulation Authority;
- 1.1.2 a reference to “the 2000 Act” is to the Financial Services & Markets Act 2000;
- 1.1.3 a reference to “the 2015 Regulations” is a reference to the Solvency 2 Regulations 2015 (S.I.2015/575) as amended;
- 1.1.4 a reference to the PRA Rulebook is a reference to rules made by the PRA under the 2000 Act and as amended at any time under the Financial Regulators’ Powers (Technical Standards etc.) (Amendment etc.) (EU Exit) Regulations 2018;
- 1.1.5 a reference to the “Solvency 2 Regulation” is a reference to the Solvency 2 and Insurance (Amendment etc.) (EU Exit) Regulations 2018
- 1.1.6 a reference to “the Regulated Activities Order” is a reference to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (S.I. 2001/544).
- 1.2 In each of the Solvency II EU Regulations omit the words “This Regulation shall be binding in its entirety and directly applicable in all Member States”.

2 LANGUAGE OF APPLICATIONS FOR APPROVAL

- 2.1 In the specified articles of the Solvency II EU Regulations listed in 2.2 below, for the references to “one of the official languages of the Member State in which the insurance or reinsurance undertaking has its head office” substitute “an official language of the United Kingdom”.
- 2.2 The specified articles are:
- 2.2.1 Article 2(2) of Commission Implementing Regulation (EU) 2015/460 of 19 March 2015 laying down implementing technical standards with regard to the procedure concerning the approval of an internal model in accordance with Directive 2009/138/EC of the European Parliament and of the Council;
- 2.2.2 Article 1(2) of Commission Implementing Regulation (EU) 2015/498 of 24 March 2015 laying down implementing technical standards with regard to the supervisory approval procedure to use undertaking-specific parameters in accordance with Directive 2009/138/EC of the European Parliament and of the Council;
- 2.2.3 Article 1(2) of Commission Implementing Regulation (EU) 2015/499 of 24 March 2015 laying down implementing technical standards with regard to the procedures to be used for granting supervisory approval for the use of ancillary own-fund items in accordance with Directive 2009/138/EC of the European Parliament and of the Council; and
- 2.2.4 Article 1(2) of Commission Implementing Regulation (EU) 2015/500 of 24 March 2015 laying down implementing technical standards with regard to the procedures to be followed for the supervisory

approval of the application of a matching adjustment in accordance with Directive 2009/138/EC of the European Parliament and of the Council.

Annex B

APPROVALS OF INTERNAL MODELS

3 MODIFICATIONS TO 2015/460/EU

- 3.1 In this Annex new text is underlined and deleted text is struck through.
- 3.2 Commission Implementing Regulation (EU) 2015/460 of 19 March 2015 laying down implementing technical standards with regard to the procedure concerning the approval of an internal model in accordance with Directive 2009/138/EC of the European Parliament and of the Council as it forms part of domestic law by virtue of section 3 of the Act, is modified as follows:

Article 1

Subject matter

This Regulation specifies:

- (a) the procedure referred to in regulation 48 of the 2015 Regulations and Chapters 2 to 4 of the Solvency Capital Requirement – Internal Models Part of the PRA Rulebook ~~Article 112 of Directive 2009/138/EC~~ as regards the approval of applications submitted by insurance and reinsurance undertakings to use full and partial internal models for the calculation of the Solvency Capital Requirement;
- (b) the procedure as regards the approval of applications submitted by insurance and reinsurance undertakings for a major change to the internal model and of changes to the policy for changing the internal model according to rule 6.3 of Solvency Capital Requirement - Internal Models Part of the PRA Rulebook. ~~Article 115 of Directive 2009/138/EC.~~

Article 2

Application to calculate the Solvency Capital Requirement using an internal model

....

3. Where applying to use an internal model to calculate the Solvency Capital Requirement, insurance and reinsurance undertakings shall submit documentary evidence setting out how the internal model fulfils the requirements set out in rules 3.2 to 3.5 of the Solvency Capital Requirement – General Provisions of the PRA Rulebook and Chapters 10 to 15 of the Solvency Capital Requirement – Internal Models of the PRA Rulebook ~~Articles 101 and 120 to 125 of Directive 2009/138/EC~~, and in the case of a partial internal model also rule 4.2 and Chapter 5 of the Solvency Capital Requirement – Internal Models of the PRA Rulebook ~~Article 113 of Directive 2009/138/EC~~. The supervisory authority may request additional information in accordance with Article 3.
4. The documentary evidence referred to in paragraph 3 shall include, at least, the following:
- (a) a cover letter including:

...

(ii) a confirmation of the period prior to the application for which the internal model has been used in the risk management system and decision making processes in accordance with the requirements set out in Chapter 10 of Solvency Capital Requirement - Internal Models Part of the PRA Rulebook Article 120 of Directive 2009/138/EC;

...

(v) a list of other applications submitted by the insurance or reinsurance undertaking or currently foreseen within the next 6 months for approval under Part 4 of the 2015 Regulations and of special purpose vehicles to be established to carry out the regulated activity specified at article 13A of the Regulated Activities Order of any of the items listed in Article 308a(1) of Directive 2009/138/EC, together with the corresponding application dates;

...

(b) an explanation of how the internal model covers all the material and quantifiable risks of the insurance or reinsurance undertaking. Where the application for the approval relates to a partial internal model, the explanation shall be limited to the material and quantifiable risks within the scope of the partial internal model and the insurance or reinsurance undertaking shall also provide an explanation of how the additional conditions referred to in rule 4.2 and Chapter 5 of the Solvency Capital Requirement - Internal Models Part of the PRA Rulebook Article 113 of Directive 2009/138/EC have been satisfied;

(c) an explanation of the adequacy and effectiveness of the integration of the internal model into the risk management system and the role it plays in the system of governance, including how the internal model allows the insurance or reinsurance undertaking to identify, measure, monitor, manage and report risks on a continuous basis; for this purpose, the application shall include the relevant extracts of the risk management policy referred to in rule 2.5 of the Conditions Governing Business Part of the PRA Rulebook Article 41(3) of Directive 2009/138/EC;

...

(i) the policy for changing the internal model referred to in rule 3.3 of Solvency Capital Requirement - Internal Models Part of the PRA Rulebook Article 115 of Directive 2009/138/EC;

(j) a description of the process which ensures the consistency between the methods used to calculate the probability distribution forecast with the methods used to calculate technical provisions according to rules 11.2 to 11.3 of the Solvency Capital Requirement - Internal Models Part of the PRA Rulebook Article 121(2) of Directive 2009/138/EC;

(l) the results of the last profit and loss attribution and the specification of the profit and loss attribution in accordance with rules 13.1 to 13.3 of the Solvency Capital Requirement - Internal Models Part of the PRA Rulebook Article 123 of Directive 2009/138/EC including the profit and loss, the major business units of the undertaking and the attribution of the overall profit or loss to the risk categories and major business units;

- (m) a description of the independent validation process of the internal model and a report of the results of the last validation in accordance with rule 14.1 of the Solvency Capital Requirement – Internal Models Part of the PRA Rulebook Article 124 of Directive 2009/138/EC, including what recommendations were made and how they were acted upon;
- (n) the inventory of the documents that form part of the documentation of the internal model set out in rule 15.1 to 15.2 of the Solvency Capital Requirement – Internal Models Part of the PRA Rulebook Article 125 of Directive 2009/138/EC;
- (o) where an insurance or reinsurance undertaking uses a model or data obtained from a third party as referred to in rule 16.1 of the Solvency Capital Requirement – Internal Models Part of the PRA Rulebook Article 126 of Directive 2009/138/EC, a demonstration that the use of such external model or data does not impair the ability of the insurance or reinsurance undertaking to meet the requirements set out in rules 3.2 to 3.5 of the Solvency Capital Requirement – General Provisions Part of the PRA Rulebook and Chapters 10 to 15 of the Solvency Capital Requirement – Internal Models Part of the PRA Rulebook 101 and 120 to 125 of that Directive and in the case of a partial internal model pursuant to rules 4.2 and Chapter 5 of the Solvency Capital Requirement – Internal Models Part of the PRA Rulebook Article 113 of that Directive, the suitability for the use of that model or data within the internal model and an explanation of the preference of external models or data to internal models or data;

...

- (r) in the case of partial internal models, an explanation of how the integration technique proposed fulfils the requirements set out in rule 4.2 of the Solvency Capital Requirement – Internal Models Part of the PRA Rulebook Article 113(1) of Directive 2009/138/EC, and, in case of a technique different from the default one referred to in Article 239(1) of the Commission Delegated Regulation (EU) 2015/35, a justification of the integration technique proposed;

- 5. The insurance and reinsurance undertaking shall submit documentary evidence of the approval of the application by the administrative, management or supervisory bodies as set out in rule 7.1 of the Solvency Capital Requirement – Internal Models Part of the PRA Rulebook Article 116 of Directive 2009/138/EC.

...

Article 3

Assessment of the application

....

- 6. The insurance or reinsurance undertaking shall ensure that all documents referred to in rules 15.1 to 15.2 of the Solvency Capital Requirement – Internal Models Part of the PRA Rulebook Article 125 of Directive 2009/138/EC are made available, including in electronic form whenever possible, to the supervisory authorities throughout the assessment of the application.
- 7. The assessment of the application shall involve ongoing communication with the insurance or reinsurance undertaking and may include requests for adjustments to the internal model and,

in the case of a partial internal model, for a transitional plan as set out in rule 4.2 and Chapter 5 of the Solvency Capital Requirement – Internal Models Part of the PRA Rulebook Article 113 of Directive 2009/138/EC.

...

9. Where supervisory authorities requests further information or adjustments to the internal model, the insurance or reinsurance undertaking may request a suspension of the 6-month approval period referred to in regulation 48 of the 2015 Regulations Article 112(4) of Directive 2009/138/EC. That suspension shall end once the insurance or reinsurance undertaking has made the necessary adjustments and the supervisory authorities have received an amended application providing documentary evidence of the adjustments. The supervisory authorities shall then inform the insurance or reinsurance undertaking of the new expiry date of the approval period.

...

Article 5

Decision on the application

1. The supervisory authority shall only approve the application for the use of an internal model if it is satisfied that the systems of the insurance or reinsurance undertaking for identifying, measuring, monitoring, managing and reporting risk are adequate, and in particular if it is satisfied that the internal model fulfils the requirements set out in rules 3.2 to 3.5 of the Solvency Capital Requirement – General Provisions Part of the PRA Rulebook, and Chapters 2 to 3 and rule 4.1 and Chapters 10 to 15 of the Solvency Capital Requirement – Internal Models Part of the PRA Rulebook and regulation 48 of the 2015 Solvency 2Articles 101, 112 and 120 to 125 of Directive 2009/138/EC and also rules 4.2 and Chapter 5 of the Solvency Capital Requirement – Internal Models Part of the PRA Rulebook Article 113 of that Directive in the case of a partial internal model.
2. In addition, the supervisory authority shall only approve the application for the use of an internal model if it is satisfied that the policy for changing the model fulfils the requirements set out in rules 3.3, 6.1, 6.2, 6.3 of the Solvency Capital Requirement – Internal Models Part of the PRA Rulebook Article 115 of Directive 2009/138/EC. When the supervisory authority has reached a decision on an application, it shall, without delay, notify its decision in writing to the insurance or reinsurance undertaking. That decision shall include:

...

- (d) where the supervisory authority has requested a transitional plan in accordance with rule 5 of the Solvency Capital Requirement – Internal Models Part of the PRA Rulebook Article 113 of Directive 2009/138/EC, a decision about the approval of the transitional plan referred to in Article 6

...

Article 6

Transitional plan to extend the scope of the model

1. In the case referred to in rule 5 of the Solvency Capital Requirement – Internal Models Part of the PRA Rulebook Article 113(2) of Directive 2009/138/EC, the supervisory authority shall explain the reasons for requiring a transitional plan and set the minimum scope which the internal model must cover after the implementation of the transitional plan.
...
3. When the undertaking fails to implement the transitional plan to extend the scope of the model, the supervisory authority may, without prejudice to any other available supervisory measures, take any of the following measures:
...
 - (c) require the insurance or reinsurance undertaking to calculate the Solvency Capital Requirement according to the standard formula set out in Chapters 2 to 7 of the Solvency Capital Requirement – Standard Formula Part of the PRA Rulebook Articles 103 to 111 of Directive 2009/138/EC;...

Article 7

Changes to the internal model

1. The insurance or reinsurance undertaking shall include in the application for approval of a major change to the internal model documentary evidence that after applying the major changes to the internal model the requirements set out in rules 3.2 to 3.5 of the Solvency Capital Requirement – General Provisions Part of the PRA Rulebook, and Chapters 2 to 3 and rule 4.1 and Chapters 10 to 16 of the Solvency Capital Requirement – Internal Models Part of the PRA Rulebook and regulation 48 of the 2015 Regulations Articles 101, 112 and 120 to 126 of Directive 2009/138/EC and also Article 113 of that Directive in the case of a partial internal model rules 4.2 and Chapter 5 of the Solvency Capital Requirement – Internal Models Part of the PRA Rulebook, would be complied with.
...

Article 8

Changes to the policy for changing the internal model

2. Supervisory authorities shall approve the application to change the policy for changing the internal model only if they are satisfied that the scope of the policy is comprehensive and that the procedures described in the policy for changing the internal model ensure that the internal model meets on a continuous basis the requirements set out in rules 3.2 to 3.5 of the Solvency Capital Requirement – General Provisions Part of the PRA Rulebook, Chapters 2 to 4 and 10 to 15 of the Solvency Capital Requirement – Internal Models Part of the PRA Rulebook and regulation 48 of the 2015 Regulations Articles 101, 112 and 120 to 125 of Directive 2009/138/EC and, in the case of a partial internal model, also rules 4.2 and Chapter 5 of the Solvency Capital Requirement – Internal Models Part of the PRA Rulebook ~~113 of that Directive~~....

Annex C

APPROVALS TO ESTABLISH SPECIAL PURPOSE VEHICLES

4 MODIFICATIONS TO 2015/462/EU

4.1 Commission Implementing Regulation (EU) 2015/462 of 19 March 2015 laying down implementing technical standards with regard to the procedures for supervisory approval to establish special purpose vehicles, for the cooperation and exchange of information between supervisory authorities regarding special purpose vehicles as well as to set out formats and templates for information to be reported by special purpose vehicles in accordance with Directive 2009/138/EC of the European Parliament and of the Council as it forms part of domestic law by virtue of section 3 of the Act, is modified as follows:

4.1.1 Article 1(b) and Articles 8 to 12 are deleted.

4.1.2 In Articles 3 and 4 new text is underlined and deleted text is struck through as shown:

Article 3

Supervisory approval to establish special purpose vehicles

The special purpose vehicle shall seek authorisation from the supervisory authority ~~of the Member State to establish its head office within the territory of that Member State.~~

Article 4

Decision of the supervisory authority

1. The supervisory authority ~~of the Member State in which the special purpose vehicle is established or is to be established~~ shall decide on an application for authorisation within six months of the date of its receipt.

...

Annex D

APPROVALS TO USE UNDERTAKING-SPECIFIC PARAMETERS

5 MODIFICATIONS TO 2015/498/EU

- 5.1 In this Annex new text is underlined and deleted text is struck through.
- 5.2 Articles 1 and 6 of Commission Implementing Regulation (EU) 2015/498 of 24 March 2015 laying down implementing technical standards with regard to the supervisory approval procedure to use undertaking-specific parameters in accordance with Directive 2009/138/EC of the European Parliament and of the Council as it forms part of domestic law by virtue of section 3 of the Act, are modified as follows:

Article 1

Application for approval of the use of undertaking-specific parameters

...

2. The application by the insurance or reinsurance undertaking shall contain the following:

...

- (g) a justification that each standardised method to calculate the undertaking-specific parameter for a single segment provides the most accurate result for the fulfilment of the requirements set out in rules 3.2 to 3.5 of the Solvency Capital Requirement - General Provisions Part of the PRA Rulebook ~~Article 101 of Directive 2009/138/EC~~.

4. In addition to the material specified in paragraph 3, the application shall also list all other applications submitted by the insurance or reinsurance undertaking, or currently foreseen within the next six months, for approval under Part 4 of the 2015 Regulations and of special purpose vehicles to be established to carry out the regulated activity specified at article 13A of the Regulated Activities Order ~~of any of the items listed in Article 308a(1) of Directive 2009/138/EC~~ together with the corresponding application dates.

...

Article 6

Revocation of approval by the supervisory authority

The supervisory authority may revoke its approval granted to an insurance or reinsurance to use the USP method, when

- (a) an undertaking which has been granted approval to use undertaking-specific parameters has ceased to comply with the conditions set out in rules 3.2 to 3.5 of the Solvency Capital Requirement - General Provisions Part of the PRA Rulebook ~~Article 101 of Directive 2009/138/EC~~ and Articles 218, 219 and 220 of Commission Delegated Regulation (EU) 2015/35;

...

Annex E

APPROVALS TO USE ANCILLARY OWN FUNDS ITEMS

6 MODIFICATIONS TO 2015/499/EU

- 6.1 In this Annex new text is underlined and deleted text is struck through.
- 6.2 Articles 2 to 4 of Commission Implementing Regulation (EU) 2015/499 of 24 March 2015 laying down implementing technical standards with regard to the procedures to be used for granting supervisory approval for the use of ancillary own-fund items in accordance with Directive 2009/138/EC of the European Parliament and of the Council as it forms part of domestic law by virtue of section 3 of the Act, are modified as follows:

Article 2

Cover letter

The insurance or reinsurance undertaking shall submit a cover letter. That cover letter shall confirm all of the following:

...

- (b) the amount ascribed to the ancillary own-fund item in the application complies with rule 2.7 of the Own Funds Part of the PRA Rulebook ~~Article 90(2) of Directive 2009/138/EC~~;

...

The cover letter shall also list other applications submitted by the insurance or reinsurance undertaking or currently foreseen within the next 6 months for approval under Part 4 of the 2015 Regulations and of special purpose vehicles to be established to carry out the regulated activity specified at article 13A of the Regulated Activities Order ~~of any items listed in Article 308a(1) of Directive 2009/138/EC~~, together with corresponding application dates.

Article 3

Supporting evidence regarding the amount or method

....

Where the insurance or reinsurance undertaking seeks approval of a specified monetary amount, the application shall include an explanation of the calculation of the amount, based on prudent and realistic assumptions in accordance with rule 2.7 of the Own Funds Part of the PRA Rulebook ~~Article 90(2) of Directive 2009/138/EC~~.

...

Article 4

Supporting evidence regarding the criteria for approval

The supporting evidence shall contain sufficient information to allow the supervisory authority to assess whether the application complies with the criteria determined in rules 2.5 to 2.7 of the Own Funds Part of the PRA Rulebook ~~Article 90 of Directive 2009/138/EC~~ and Articles 62 to 65 of Commission Delegated Regulation (EU) 2015/35. It shall contain at least the information described in the second to seventh paragraphs of this Article.

...

Where the counterparty is a member of the same group or subgroup as the insurance or reinsurance undertaking by virtue of rules 2.1, 2.2 and 2.4 of the Group Supervision Part of the PRA Rulebook ~~Article 213 of Directive 2009/138/EC~~ and has commitments under ancillary own-fund items to different entities within the group, the information in points (b) to (f) of the third paragraph shall include evidence of the ability of the counterparty to satisfy multiple calls on ancillary own-funds items at the same time, having regard to the circumstances and the entities of the group.

...

Annex F

APPROVALS TO APPLY A MATCHING ADJUSTMENT

7 MODIFICATIONS TO 2015/500/EU

- 7.1 In this Annex new text is underlined and deleted text is struck through.
- 7.2 Commission Implementing Regulation (EU) 2015/500 of 24 March 2015 laying down implementing technical standards with regard to the procedures to be followed for the supervisory approval of the application of a matching adjustment in accordance with Directive 2009/138/EC of the European Parliament and of the Council as it forms part of domestic law by virtue of section 3 of the Act, is modified as follows:

...

Article 2

Content of the application relating to the assigned portfolio of assets

In relation to the assigned portfolio of assets required by regulation 42(4)(a) and (b) of the Solvency 2 Regulations 2015 ~~paragraph 1(a) of Article 77b of Directive 2009/138/EC~~, the application shall include at least the following:

- (a) evidence that the assigned portfolio of assets meets all of the relevant conditions specified in regulation 42(4)-(6) of the Solvency 2 Regulations 2015 ~~Article 77b(1) of Directive 009/138/EC~~;
- (b) details of the assets within the assigned portfolio, which shall consist of line-by-line asset information together with the procedure used to group such assets by asset class, credit quality and duration for the purposes of determining the fundamental spread referred to in rule 7.2(2) of the Technical Provisions Part of the PRA Rulebook ~~paragraph 1(b) of Article 77c of Directive 2009/138/EC~~;
- (c) a description of the process used to maintain the assigned portfolio of assets in accordance with regulation 42(4)(a) and (b) of the Solvency 2 Regulations 2015 ~~paragraph 1(a) of Article 77b of Directive 2009/138/EC~~, including the process for maintaining the replication of expected cash-flows where these have materially changed.

Article 3

Content of the application relating to the portfolio of insurance or reinsurance obligations

In relation to the portfolio of insurance or reinsurance obligations to which the matching adjustment is intended to apply, the application shall contain at least the following:

- (a) evidence that the insurance or reinsurance obligations meet all of the criteria specified in points (d), (e), (g) and (j) of regulations 42(4) to 42(6) of the Solvency 2 Regulations 2015 ~~paragraph 1 of Article 77b of Directive 2009/138/EC~~;

....

Article 4

Content of the written application relating to cash-flow matching and portfolio management

In relation to the cash-flow matching and management of the eligible portfolio of obligations and the assigned portfolio of assets, the application shall contain at least the following:

- (a) quantitative evidence that the criteria of regulation 42(4)(e) and (f) of the Solvency 2 Regulations 2015 paragraph 1(c) of Article 77b of Directive 2009/138/EC are met, including a quantitative and qualitative assessment of whether any mismatch gives rise to risks which are material in relation to the risks inherent in the insurance business to which the matching adjustment is intended to be applied;
- (b) evidence that adequate processes will be in place to properly identify, organise and manage the portfolio of obligations and assigned portfolio of assets separately from other activities of the undertaking, and to ensure that the assigned assets will not be used to cover losses arising from other activities of the undertaking, in accordance with regulation 42(4)(c) and (d) of the Solvency 2 Regulations 2015 paragraph 1(b) of Article 77b of Directive 2009/138/EC;
- (c) evidence of how the own funds will be adjusted in accordance with Article 81 of Directive 2009/138/EC Chapter 11 of the Technical Provisions Part of the PRA Rulebook to reflect any reduced transferability;

....

Article 5

Additional content of the written application

In addition to the information specified in Articles 3 to 4 of this Regulation, the application shall also include the following:

- (a) confirmation that the conditions of regulation 42(4)(l) and (m) of the 2015 Regulations Article 77b(3) of Directive 2009/138/EC will be met if supervisory approval to apply a matching adjustment is granted;
- (b) the liquidity plan required under rules 2.5 and 3.1(2) of the Conditions Governing Business Part of the PRA Rulebook Article 44(2) of Directive 2009/138/EC;
- (c) the assessments required under rule 3.2(2) of the Conditions Governing Business Part of the PRA Rulebook Article 44(2a)(b) of Directive 2009/138/EC;
- (d) the assessments required under rule 3.8(4) of the Conditions Governing Business Part of the PRA Rulebook Article 45(2a) of Directive 2009/138/EC;
- (e) a detailed explanation and demonstration of the calculation process used to determine the matching adjustment in accordance with the requirements of rules 7.2 - 7.5 of the Technical Provisions Part of the PRA Rulebook Article 77e of Directive 2009/138/EC;

- (f) a list of the other applications submitted by the insurance or reinsurance undertaking, or currently foreseen within the next six months, for approval of any of the items of the phasing-in listed in Article 308a(1) of Directive 2009/138/EC Part 4 of the 2015 Regulations and of special purpose vehicles to be established to carry out the regulated activity specified at article 13A of the Regulated Activities Order.

...

Article 7

Decision on the application

1. The supervisory authority may consider other evidence than that listed in Articles 2-5 of this Regulation, where this evidence is relevant for assessing compliance with the conditions set out in regulation 42(4)-(6) of the 2015 Regulations and rules 7.2 - 7.5 of the Technical Provisions Part of the PRA Rulebook Article 77b(1) and 77e of Directive 2009/138/EC when reaching a decision on the approval of the application.

...

5. Where insurance and reinsurance undertakings are granted approval to apply a matching adjustment to a portfolio of insurance and reinsurance obligations, the scope of that approval decision shall be considered to cover future insurance and reinsurance obligations and assets that are added to that matching portfolio, provided that undertakings can demonstrate the following:

...

- (b) the matching portfolio continues to meet the relevant conditions ~~of Directive 2009/138/EC~~ in the PRA Rulebook and the 2015 Regulations.

Article 8

Revocation of approval by the supervisory authority

Where the supervisory authority considers that an insurance or reinsurance undertaking granted approval to use a matching adjustment has ceased to comply with the conditions set out in regulations 42(4) to 42(6) of the 2015 Regulations or rules 7.1 to 7.5 of the Technical Provisions Part of the PRA Rulebook Articles 77b(1) or 77e of Directive 2009/138/EC, that the supervisory authority shall inform the insurance or reinsurance undertaking immediately and explain the nature of the non-compliance.

Annex G

STANDARD FORMULA: LIST OF REGIONAL GOVERNMENTS

8 MODIFICATIONS TO 2015/2011/EU

- 8.1 In this Annex new text is underlined and deleted text is struck through.
- 8.2 Article 1 of Commission Implementing Regulation (EU) 2015/2011 of 11 November 2015 laying down implementing technical standards with regard to the lists of regional governments and local authorities, exposures to whom are to be treated as exposures to the central government in accordance with Directive 2009/138/EC of the European Parliament and of the Council as it forms part of domestic law by virtue of section 3 of the Act, is modified as follows:

Article 1

Lists of regional governments ~~and local authorities~~

The Scottish Parliament, the National Assembly for Wales and the Northern Ireland Assembly following regional governments and local authorities shall be considered as entities, exposures to whom are to be treated as exposures to the central government of the United Kingdom for the calculation of the market risk and the counterparty default risk modules of the solvency capital requirement standard formula ~~jurisdiction in which they are established, as referred to in point (a) of Article 109a(2) of Directive 2009/138/EC:~~

- (1) ~~in Austria: any 'Land' or 'Gemeinde';~~
- (2) ~~in Belgium: any 'communauté' or 'gemeenschap', 'région' or 'gewest', 'province' or 'provincie', or 'commune' or 'gemeente';~~
- (3) ~~in Denmark: any 'region' or 'kommune';~~
- (4) ~~in Finland: any 'kaupunki' or 'stad', 'kunta' or 'kommun', or the 'Ahvenanmaan maakunta' or the 'Landskapet Åland';~~
- (5) ~~in France: any 'région', 'département' or 'commune';~~
- (6) ~~in Germany: any 'Land', 'Gemeindeverband' or 'Gemeinde';~~
- (7) ~~in Liechtenstein: any 'Gemeinde';~~
- (8) ~~in Lithuania: any 'savivaldybė';~~
- (9) ~~in Luxembourg: any 'commune';~~
- (10) ~~in the Netherlands: any 'provincie', 'waterschap' or 'gemeente';~~
- (11) ~~in Poland: any 'województwo', 'związek powiatów', 'powiat', 'związek międzygminny', 'gmina', or the 'miasto stołeczne Warszawa';~~
- (12) ~~in Portugal: the 'Região Autónoma dos Açores' or the 'Região Autónoma da Madeira';~~
- (13) ~~in Spain: any 'comunidad autónoma' or 'corporación local';~~
- (14) ~~in Sweden: any 'region', 'landsting' or 'kommun';~~
- (15) ~~in the United Kingdom: the Scottish Parliament, the National Assembly for Wales or the Northern Ireland Assembly.~~

Annex H

CAPITAL ADD-ONS

9 MODIFICATIONS TO 2015/2012/EU

- 9.1 In this Annex new text is underlined and deleted text is struck through.
- 9.2 Article 5 of Commission Implementing Regulation (EU) 2015/2012 of 11 November 2015 laying down implementing technical standards with regard to the procedures for decisions to set, calculate and remove capital add-ons in accordance with Directive 2009/138/EC of the European Parliament and of the Council as it forms part of domestic law by virtue of section 3 of the Act, is modified as follows:

Article 5

Progress report

~~In the cases set out in Article 37(1)(b) and (e) of Directive 2009/138/EC~~ Where the supervisory authority concludes that either:-

- (a) the risk profile of the insurance or reinsurance undertaking deviates significantly from the assumptions underlying the Solvency Capital Requirement, as calculated using an internal model or partial internal model, because certain quantifiable risks are captured insufficiently and the adaptation of the model to better reflect the given risk profile has failed within an appropriate timeframe; and
- (b) the system of governance of an insurance or reinsurance undertaking deviates significantly from the rules set out in Chapters 2 and 4 of Insurance - Fitness and Propriety Part of the PRA Rulebook, and Chapters 2 to 7 of the Conditions Governing Business Part of the PRA Rulebook, and that those deviations prevent it from being able to properly identify, measure, monitor, manage and report the risks that it is or could be exposed to and that the application of other measures is in itself unlikely to improve the deficiencies sufficiently within an appropriate timeframe, and

if requested by the supervisory authority, the insurance or reinsurance undertaking shall inform the supervisory authority about the progress it has made in remedying the deficiencies that led to the setting of the capital add-on and what relevant actions it has taken.

...

Annex I

PROCEDURES FOR ASSESSING EXTERNAL CREDIT ASSESSMENTS

10 MODIFICATIONS TO 2015/2015/EU

- 10.1 In this Annex new text is underlined and deleted text is struck through.
- 10.2 Articles 1 and 4 of Commission Implementing Regulation (EU) 2015/2015 of 11 November 2015 laying down implementing technical standards on the procedures for assessing external credit assessments in accordance with Directive 2009/138/EC of the European Parliament and of the Council as they form part of domestic law by virtue of section 3 of the Act, are modified as follows:

Article 1

Policy on risk management

For the purpose of assessing the appropriateness of external credit assessments used in the calculation of technical provisions and the Solvency Capital Requirement by way of additional assessments referred to in rule 3.6 of the Conditions Governing Business Part of the PRA Rulebook ~~Article 44(4a) of Directive 2009/138/EC~~, insurance and reinsurance undertakings shall include in their policy on risk management the following:

...

Article 4

Review of additional assessments

1. In accordance with rule 2.4 of the Conditions Governing Business Part of the PRA Rulebook ~~Article 41(3) of Directive 2009/138/EC~~, insurance and reinsurance undertakings shall at least annually review their additional assessments.

...

Annex J

ADJUSTMENT OF THE STANDARD EQUITY CAPITAL CHARGE

11 MODIFICATIONS TO 2015/2016/EU

- 11.1 In this Annex new text is underlined and deleted text is struck through.
- 11.2 Commission Implementing Regulation (EU) 2015/2016 of 11 November 2015 laying down the implementing technical standards with regard to the equity index for the symmetric adjustment of the standard equity capital charge in accordance with Directive 2009/138/EC of the European Parliament and of the Council as it forms part of domestic law by virtue of section 3 of the Act, is modified as follows:

Article 2

Calculation of the equity index

1. The level of the equity index referred to in ~~Article 106(2) of Directive 2009/138/EC~~ article 172 of the Solvency 2 Regulation shall be determined for each working day.

...

Annex K

REPORTING TO SUPERVISORY AUTHORITIES

12 MODIFICATIONS TO 2015/2450/EU

- 12.1 Commission Implementing Regulation (EU) 2015/2450 of 2 December 2015 laying down implementing technical standards with regard to the templates for the submission of information to the supervisory authorities according to Directive 2009/138/EC of the European Parliament and of the Council as it forms part of domestic law by virtue of section 3 of the Act, is modified as follows:
- 12.2 For each reference to “Article 35(6) of Directive 2009/138/EC”, “Article 35(7) of Directive 2009/138/EC”, “the second subparagraph of Article 254(2) of Directive 2009/138/EC”; and “the third subparagraph of Article 254(2) of Directive 2009/138/EC” substitute “a direction given by the PRA under section 138A of the 2000 Act”.
- 12.3 For each reference to Article 75 of Directive 2009/138/EC substitute “rules 2.1 and 2.2 of the Valuation Part of the PRA Rulebook”.
- 12.4 For each reference to “Article 230 of Directive 2009/138/EC” substitute “rules 11.1, 11.2 and 11.3 of the Group Supervision Part of the PRA Rulebook”.
- 12.5 For each reference to “Article 233 of that Directive” or “Article 233 of Directive 2009/138/EC” substitute “rules 12.1 - 12.5 and 13.1 - 13.2 of the Group Supervision Part of the PRA Rulebook”.
- 12.6 For each reference to “Article 245(3) of Directive 2009/138/EC” substitute “regulation 24(1)(a) of the 2015 Regulations”.
- 12.7 For each reference to “points (a), (b) or (c) of Article 213(2) of Directive 2009/138/EC” substitute “rule 2.1(1)-(3) of the Group Supervision Part of the PRA Rulebook”.
- 12.8 For each reference to “Article 265 of that Directive” substitute “Regulation 37 of the 2015 Regulations and rule 21.1 of the Group Supervision Part of the PRA Rulebook”.
- 12.9 For each reference to “Article 244(3) of Directive 2009/138/EC” and “Article 244(3) of that Directive” substitute “regulation 24 of the 2015 Regulations”.
- 12.10 For each reference to “second subparagraph of Article 245(2) of that Directive” occurring in Article 20 and 21 substitute “rule 16.2 of the Group Supervision Part of the PRA Rulebook”.
- 12.11 In the remainder of this Annex new text is underlined and deleted text is struck through:

Article 1

Subject matter

This Regulation lays down implementing technical standards on regular supervisory reporting by establishing the templates for the submission of information to the supervisory authorities ~~referred to in Article 35(1) and (2) of Directive 2009/138/EC~~ required by rule 2.1 of the Reporting Part of the PRA Rulebook for individual insurance and reinsurance undertakings and in rules 16.1 and 16.2 of the Group Supervision Part of the PRA Rulebook ~~Article 244(2) and Article 245(2) of Directive 2009/138/EC~~ for groups.

...

Article 7

Simplifications allowed on quarterly reporting for individual undertakings

1. With regard to the information referred to in point (c) of Article 6(1), quarterly measurements may rely on estimates and estimation methods to a greater extent than measurements of annual financial data. The measurement procedures for the quarterly reporting shall be designed to ensure that the resulting information is reliable and complies with the standards laid down in laws of the United Kingdom (or a part of the United Kingdom) that were relied on immediately before exit day to implement Directive 2009/138/EC and that all material information that is relevant for the understanding of the data is reported.

Article 9

Annual quantitative templates for individual undertakings — Balance sheet and other general information

Insurance and reinsurance undertakings shall submit annually the information referred to in Article 304(1)(d) of Delegated Regulation (EU) 2015/35 using the following templates:

...

- (g) template S.04.02.01 of Annex I, specifying information on class 10 in Part 1 of Schedule 1 of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 ~~Part A of Annex I of Directive 2009/138/EC~~, excluding carrier's liability, following the instructions set out in section S.04.02 of Annex II to this Regulation;

...

Article 24

Simplifications allowed on quarterly reporting for groups

With regard to the information referred to in point (c) of Article 23(1), quarterly measurements may rely on estimates and estimation methods to a greater extent than measurements of annual financial data. The measurement procedures for the quarterly reporting shall be designed to ensure that the resulting information is reliable and complies with the standards laid down in the laws of the United Kingdom (or a part of the United Kingdom) that were relied on immediately before exit day to implement Directive 2009/138/EC and that all material information that is relevant for the understanding of the data is reported.

...

Article 36

Quantitative templates for groups — intra-group transactions and risk concentrations

Participating insurance and reinsurance undertakings, insurance holding companies and mixed financial holding companies shall report:

- (a) significant and very significant intra-group transactions referred to in rules 16.2(1) and (2) of the Group Supervision Part of the PRA Rulebook~~the first and second subparagraphs of Article 245(2) of Directive 2009/138/EC~~ and intra-group transactions to be reported in all circumstances referred to in Article 245(3) of that Directive using, as appropriate, templates S.36.01.01, S.36.02.01, S.36.03.01 and S.36.04.01 of Annex I to this Regulation, following the instructions set out in section S.36.01 to S.36.04 of Annex III to this Regulation;
- (b) significant risk concentrations referred to in rule 16.1 of the Group Supervision Part of the PRA Rulebook~~Article 244(2) of Directive 2009/138/EC~~ and risk concentrations to be reported in all circumstances referred to in Article 244(3) of that Directive using template S.37.01.04 of Annex I to this Regulation, following the instructions set out in section S.37.01 of Annex III to this Regulation.

Annex L

SOLVENCY & FINANCIAL CONDITION REPORT

13 MODIFICATIONS TO 2015/2452/EU

- 13.1 In this Annex new text is underlined and deleted text is struck through.
- 13.2 Commission Implementing Regulation (EU) 2015/2452 of 2 December 2015 laying down implementing technical standards with regard to the procedures, formats and templates of the solvency and financial condition report in accordance with Directive 2009/138/EC of the European Parliament and of the Council and as it forms part of domestic law by virtue of section 3 of the Act, is modified as follows:

Article 1

Subject matter

This Regulation lays down implementing technical standards on the solvency and financial condition report by establishing procedures, formats and the templates for the disclosure of information referred to in rules 3.1 to 3.7 of the Reporting Part ~~Article 51 of Directive 2009/138/EC~~ for individual insurance and reinsurance undertakings and in ~~Article 256 of Directive 2009/138/EC~~ rule 18.1 of the Group Supervision Part of the PRA Rulebook for groups.

...

Article 4

Templates for the solvency and financial condition report of individual undertakings

Insurance and reinsurance undertakings shall publicly disclose as part of their solvency and financial condition report at least the following templates:

- (a) template S.02.01.02 of Annex I specifying balance sheet information using the valuation in accordance with rules 2.1 and 2.2 of the Valuation Part of the PRA Rulebook ~~Article 75 of Directive 2009/138/EC~~, following the instructions set out in section S.02.01 of Annex II to this Regulation;

....

Article 5

Templates for the solvency and financial condition report of groups

Participating insurance and reinsurance undertakings, insurance holding companies or mixed financial holding companies shall publicly disclose as part of their group solvency and financial condition report at least the following templates:

...

- (b) where, for the calculation of the group solvency, the group uses method 1 ~~as defined in Article 230 of Directive 2009/138/EC~~, either exclusively or in combination with method 2 as those methods are defined in rule 1.2 of the Group Supervision Part of the PRA Rulebook ~~Article 233 of Directive 2009/138/EC~~, template S.02.01.02 of Annex I

to this Regulation, specifying balance sheet information, using the valuation in accordance with rules 2.1-2.2 of the Valuation Part of the PRA Rulebook ~~Article 75 of Directive 2009/138/EC~~, following the instructions set out in section S.02.01 of Annex III to this Regulation;

...

- (g) where, for the calculation of group solvency, the group uses method 1 ~~as defined in Article 230 of Directive 2009/138/EC~~, either exclusively or in combination with method 2 as those methods are defined in rule 1.2 of the Group Supervision Part of the PRA Rulebook ~~Article 233 of that Directive~~, template S.25.01.22 of Annex I to this Regulation, specifying information on the Solvency Capital Requirement, calculated using the standard formula, following the instructions set out in section S.25.01 of Annex III to this Regulation;
- (h) where, for the calculation of group solvency, the group uses method 1 ~~as defined in Article 230 of Directive 2009/138/EC~~, either exclusively or in combination with method 2 as those methods are defined in rule 1.2 of the Group Supervision Part of the PRA Rulebook ~~Article 233 of that Directive~~, template S.25.02.22 of Annex I to this Regulation, specifying information on the Solvency Capital Requirement, calculated using the standard formula and a partial internal model, following the instructions set out in section S.25.02 of Annex III to this Regulation;
- (i) where, for the calculation of group solvency, the group uses method 1 ~~as defined in Article 230 of Directive 2009/138/EC~~, either exclusively or in combination with method 2 as those methods are defined in rule 1.2 of the Group Supervision Part of the PRA Rulebook ~~Article 233 of that Directive~~, template S.25.03.22 of Annex I to this Regulation, specifying information on the Solvency Capital Requirement, calculated using a full internal model, following the instructions set out in section S.25.03 of Annex III to this Regulation.

Annex M

TRANSITIONAL MEASURE FOR THE EQUITY RISK SUB-MODULE

14 MODIFICATIONS TO 2016/1630/EU

- 14.1 In this Annex new text is underlined and deleted text is struck through.
- 14.2 Commission Implementing Regulation (EU) 2016/1630 of 9 September 2016 laying down implementing technical standards with regard to the procedures for the application of the transitional measure for the equity risk sub-module in accordance with Directive 2009/138/EC of the European Parliament and of the Council as it forms part of domestic law by virtue of section 3 of the Act, is modified as follows:

Article 1

1. Where the weight for the standard parameter referred to in rule 5.2(2) of the Transitional Measures Part of the PRA Rulebook ~~point (b) of the first subparagraph of Article 308b(13) of Directive 2009/138/EC~~ is lower than 100%, insurance and reinsurance undertakings shall keep a record of the equities referred to in Article 173 of Delegated Regulation (EU) 2015/35 and the dates of their purchase. Where those equities are held within a collective investment undertaking or other investments packaged as funds and the look-through approach is not possible, undertakings shall only keep a record of the units or shares of the collective investment undertaking or other investment packaged as funds to which Article 173(2) applies and the dates of their purchase.
-
3. The records referred to in paragraph 1 shall be updated each time the insurance or reinsurance undertaking calculates the solvency capital requirement using the transitional measure set out in rules 5.2 to 5.4 of the Transitional Measures Part of the PRA Rulebook ~~Article 308b(13) of Directive 2009/138/EC~~.

...

Annex N

DELETIONS

15 DELETION OF EU REGULATIONS, 643/2014/EU, 2015/461/EU, 2015/2013/EU, 2015/2014/EU AND 2015/2451/EU

- 15.1 The following specified EU Regulations, as they as they form part of domestic law by virtue of section 3 of the Act, are deleted:
- 15.1.1 Commission Implementing Regulation (EU) 643/2014 of 16 June 2014 laying down implementing technical standards with regard to the reporting of national provisions of prudential nature relevant to the field of occupational pension schemes according to Directive 2003/41/EC of the European Parliament and of the Council;
 - 15.1.2 Commission Implementing Regulation (EU) 2015/461 of 19 March 2015 laying down implementing technical standards with regard to the process to reach a joint decision on the application to use a group internal model in accordance with Directive 2009/138/EC of the European Parliament and of the Council;
 - 15.1.3 Commission Implementing Regulation (EU) 2015/2013 of 11 November 2015 laying down implementing technical standards with regard to standard deviations in relation to health risk equalisation systems in accordance with Directive 2009/138/EC of the European Parliament and of the Council;
 - 15.1.4 Commission Implementing Regulation (EU) 2015/2014 of 11 November 2015 laying down implementing technical standards with regard to the procedures and templates for the submission of information to the group supervisor and for the exchange of information between supervisory authorities in accordance with Directive 2009/138/EC of the European Parliament and of the Council;
 - 15.1.5 Commission Implementing Regulation (EU) 2015/2451 of 2 December 2015 laying down implementing technical standards with regard to templates and structure of the disclosure of specific information by supervisory authorities in accordance with Directive 2009/138/EC of the European Parliament and of the Council.

EU EXIT INSTRUMENT: THE TECHNICAL STANDARDS (FINANCIAL CONGLOMERATES) INSTRUMENT [YEAR]

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 “Regulations”), having carried out the consultations required by regulation 5 of the Regulations and with the approval of the Treasury, makes this instrument in exercise of the powers conferred by regulations 3 and 4 of the Regulations.

Pre-conditions to making

- B. The PRA and the FCA are the appropriate regulators for the FiCOD EU Regulations.
- C. The PRA proposes to exercise the power in regulation 3 of the Regulations to modify the FiCOD EU Regulations and considers that (a) Condition A is satisfied and (b) the modifications to the FiCOD EU Regulations can most appropriately be made by using the procedure set out in regulation 4 of the Regulations.
- D. The PRA has consulted the FCA on a division of responsibility and on the modifications contained in Annexes A to B to this instrument in accordance with regulations 3 and 5 of the Regulations.
- E. [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

- F. In this instrument –
- (a) “the Act” means the European Union (Withdrawal) Act 2018;
 - (b) “the FiCOD EU Regulations” means the EU Regulations specified in Part 4 of the Schedule to the Regulations under the heading “Financial Conglomerates Directive”;
 - (c) “Condition A” means the condition defined in regulation 4(2) of the Regulations;
 - (d) “exit day” has the meaning given in the Act;
 - (e) “the FCA” means the Financial Conduct Authority;
 - (f) “the PRA” means the Prudential Regulation Authority;
 - (g) “the Regulations” means the Financial Regulators’ Powers (Technical Standards) (Amendment etc.) (EU Exit) Regulations 2018.

Division

- G. Each FiCOD EU Regulation, as it has effect in domestic law by virtue of section 3 of the Act, is divided into two identical versions of the same, headed “Part 1 (FCA)” and “Part 2 (PRA)” respectively.
- H. Immediately before Article 1 in Part 1 (FCA) in those regulations is inserted:

“Article A1

This Part of the Regulation applies to persons regulated solely by the FCA.”

- I. Immediately before Article 1 in Part 2 (PRA) is inserted:

“Article A1

This Part of the Regulation applies to PRA-authorised persons (within the meaning of section 2B(5) of the Financial Services and Markets Act 2000).”

Modifications to Part 2 (PRA)

- J. The PRA makes the modifications in the Annex listed in column (2) to the corresponding FiCOD EU Regulation (or part thereof) listed in column (1) below.

(1)	(2)
Part 2 (PRA) of Commission Delegated Regulation (EU) 342/2014	A
Part 2 (PRA) of Commission Delegated Regulation (EU) 2015/2303	B

Commencement

- K. This instrument comes into force on exit day.

Citation

- L. This instrument may be cited as the Technical Standards (Financial Conglomerates) (EU Exit) Instrument [YEAR].

By order of the Prudential Regulation Committee

[DATE]

Annex A

Calculation Methods for Capital Adequacy

1 MODIFICATIONS TO PART 2 (PRA) OF REGULATION (EU) 342/2014

- 1.1 Part 2 (PRA) of Regulation 342/2014/EU means Commission Delegated Regulation (EU) No 342/2014 of 21 January 2014 supplementing Directive 2002/87/EC of the European Parliament and of the Council and Regulation (EU) No 575/2013 of the European Parliament and of the Council with regard to regulatory technical standards for the application of the calculation methods of capital adequacy requirements for financial conglomerates, as it has effect in domestic law by virtue of section 3 of the Act and this Instrument, is modified as follows:

...

Article 1

Subject matter

This Regulation specifies the technical principles and technical calculation methods listed in Annex I to Directive 2002/87/EC Annex 2 of the Financial Conglomerates Part of the PRA Rulebook and Annex 1R, Chapter 3 of the FCA General Prudential sourcebook for the purposes of the alternatives to deduction referred to Article 49(1) of Regulation (EU) No 575/2013 and for the purposes of calculating own funds and supplementary capital adequacy requirement as provided for in Article 6(2) of Directive 2002/87/EC Capital Adequacy Rule 3 of the Financial Conglomerates Part of the PRA Rulebook and rules 3.1.25R to 3.1.31R of the FCA General Prudential sourcebook.

Article 2

Definitions

For the purposes of ~~In~~ this Regulation, the following definitions shall apply:

- (1) ~~'insurance-led financial conglomerate' means a financial conglomerate the most important financial sector of which is insurance, in accordance with Article 3(2) of Directive 2002/87/EC~~ has the meaning defined in Rule 1.4 (Application and Definitions) of the Financial Conglomerates Part of the PRA Rulebook and the FCA Handbook Glossary of definitions;
- (2) ~~'banking-led or investment-led financial and investment services conglomerate' means a financial conglomerate the most important financial sector of which is either the banking sector or the investment services sector, in accordance with Article 3(2) of Directive 2002/87/EC~~ has the meaning in Annex 2 (Table 3) of the Financial Conglomerates Part of the PRA Rulebook

and Annex 1R (Table 6) of Chapter 3 of the FCA General Prudential sourcebook.

- (3) 'Directive 2013/36/EU UK law' means the law of the United Kingdom (or any part of it) which, immediately before exit day, implemented Directive 2013/36/EU as that law has effect on exit day;
- (4) 'FSMA' means the Financial Services and Markets Act 2000;
- (5) 'PRA' means the Prudential Regulation Authority;
- (6) 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 exit 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;
- (7) a reference to an FCA sourcebook or manual is to the rules and guidance made by the FCA under FSMA as amended by rule-making instruments made before exit 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;
- (8) a reference to the Solvency 2 Regulations 2015 is to The Solvency 2 Regulations 2015, SI 2015/575 as amended by regulations made under section 8 of the European Union (Withdrawal) Act 2018.

...

Article 4

Transferability and availability of own funds

...

2. The entity referred to in ~~the fifth subparagraph of Article 6(2) of Directive 2002/87/EC~~ Rule 12.1 of the Regulatory Reporting Part of the PRA Rulebook and rules 16.12.32R and 16.12.33R of the FCA Supervision manual shall, when submitting the results of the calculation and the relevant data for the calculation referred to in that ~~subparagraph~~ Rule to the coordinator, confirm and provide evidence to the coordinator that paragraph 1 is complied with.

...

Article 5

Sector specific own funds

...

2.

- ...
- (b) basic own-fund items of ~~undertakings subject to the requirements of Directive 2009/138/EC~~ insurance undertakings or reinsurance undertakings within the meaning of section 417 of FSMA where those items are classified in Tier 1 or in Tier 2 in accordance with ~~Article 94(1) and (2) of that Directive~~ Rules 3.1 and 3.2 of the Own Funds Part of the PRA Rulebook.
- ...

Article 6

Deficit of own funds at the financial conglomerate level

...

2.

The own funds referred to in paragraph 1 are the following:

- (a) Common Equity Tier 1 capital as defined in Article 50 of Regulation (EU) No 575/2013;
- (b) basic own-fund items where those items ~~are classified~~ may be included in Tier 1 own funds in accordance with ~~Article 94(1) of Directive 2009/138/EC~~ Rule 3.1 of the Own Funds Part of the PRA Rulebook and the inclusion of those items is not limited by ~~the delegated acts adopted in accordance with Article 99 of that Directive~~ Article 82 of Regulation (EU) 2015/35;
- (c) ...
- (d) basic own-fund items where those items ~~are classified~~ may be included in Tier 1 own funds in accordance with ~~Article 94(1) of Directive 2009/138/EC~~ Rule 3.1 of the Own Funds Part of the PRA Rulebook and the inclusion of those items is limited by ~~the delegated acts adopted in accordance with Article 99 of that Directive~~ Article 82 of Regulation (EU) 2015/35;
- (e) ...
- (f) basic own-fund items where those items may be included in Tier 2 in accordance with ~~Article 94(2) of Directive 2009/138/EC~~ Rule 3.2 of the Own Funds Part of the PRA Rulebook.
- ...

Article 8

Consolidation

In relation to insurance-led financial insurance conglomerates, method 1 for calculating the group solvency of insurance and reinsurance undertakings, as laid down in ~~Articles 230, 231 and 232 of Directive 2009/138/EC~~ Chapter 11 of the Group Supervision Part of the PRA Rulebook, shall be considered as equivalent to method 1 for calculating the supplementary capital adequacy requirements of the regulated entities in a financial conglomerate, as laid down in ~~Annex I to Directive 2002/87/EC~~ Annex 2 (Table 1) of the Financial Conglomerates Part of the PRA Rulebook and Annex 1R (Table 1) of Chapter 3 of the FCA General Prudential sourcebook, provided that the scope of group supervision under ~~Title III of Directive 2009/138/EC~~ the Group Supervision Part of the PRA Rulebook and the Solvency 2 Regulations 2015 (Part 3) is not materially different from the scope of supplementary supervision under ~~Chapter II of Directive 2002/87/EC~~ UK legislation implementing Chapter II of Directive 2002/87/EC.

Article 9

Solvency requirement

1. Where the rules for the insurance sector are to be applied, the Solvency Capital Requirement referred to in ~~Articles 100 and 218 of Directive 2009/138/EC~~ Chapters 2 and 3 of the Solvency Capital Requirement – General Provisions Part and Chapter 4 of the Group Supervision Part of the PRA Rulebook including any capital add-on applied in accordance with ~~Article 37 of that Directive~~, following from ~~Article 216(4), Article 231(7), Article 232, Article 233(6), Article 238(2) and (3) of that Directive~~ Regulation 20 of the Solvency 2 Regulations 2015 or under sections 55L or 55M of FSMA shall be considered to be the solvency requirements; for the purpose of the calculation of the supplementary capital adequacy requirements.
2. Where the rules for the banking or investment services sector are to be applied,
 - (a) own funds requirements as laid down in Chapter 1 of Title I of Part Three of Regulation (EU) No 575/2013, and
 - (b) requirements pursuant to that Regulation or to Directive 2013/36/EU UK law to hold own funds in excess of those requirements, including
 - (i) a requirement arising from the internal capital adequacy assessment process in ~~Article 73 of that Directive~~ the Internal Capital Adequacy Assessment Part of the PRA Rulebook and section 2.2 of the FCA Prudential sourcebook for Investment Firms,
 - (ii) any requirement imposed by a competent authority pursuant to ~~Article 104(1)(a) of that Directive~~ Regulation 34 of the Capital Requirements Regulations 2013 or under sections 55L or 55M of FSMA,
 - (iii) the combined buffer requirement as defined in ~~Article 128(6) of that Directive~~ Regulation 2 of the Capital Requirements (Capital Buffers and Macro-prudential Measures) Regulations 2014, and

- (iv) measures adopted pursuant to Articles 458 or 459 of Regulation (EU) No 575/2013

shall be considered to be the solvency requirements for the purpose of the calculation of the supplementary capital adequacy requirements.

...

Article 10

The financial conglomerate's own funds and solvency requirements

1. ...
2. The own funds of asset management companies shall be calculated in accordance with the UK legislation implementing Article 2(1)(l) of Directive 2009/65/EC of the European Parliament and of the Council. The solvency requirements of asset management companies shall be the requirements set out in the UK legislation implementing Article 7(1)(a) of that Directive.
3. The own funds of alternative investment fund managers shall be calculated in accordance with the UK legislation implementing Article 4(1)(ad) of Directive 2011/61/EU of the European Parliament and of the Council. The solvency requirements of alternative investment fund managers shall be the requirements set out in the UK legislation implementing Article 9 of that Directive.

...

Article 14

Specification of technical calculation under method 1 pursuant to Directive 2002/87/EC Annex 2 (Table 1) of the Financial Conglomerates Part of the PRA Rulebook and Annex 1R (Table 1) of Chapter 3 of the FCA General Prudential sourcebook

1. The own funds of a financial conglomerate shall be calculated on the basis of the consolidated accounts according to the relevant accounting framework applied to the scope of supplementary supervision under the laws of the United Kingdom that implemented Directive 2002/87/EC and shall take paragraph 5 into account where applicable.
2. With regard to ~~banking led or investment led financial~~ banking and investment services conglomerates the following treatments shall be applied to unconsolidated investments when calculating the own funds of the financial conglomerate:

...
5. ~~Where an entity within the scope of Directive 2009/138/EC~~ an insurance undertaking or reinsurance undertaking within the meaning of section 417 of the Financial Services and Markets Act 2000 forms part of a financial conglomerate, the calculation of the supplementary capital adequacy requirements at the level of the financial conglomerate shall be based on the valuation of assets and liabilities calculated in

accordance with ~~Section 1 and 2 of Chapter VI of Title I of Directive 2009/138/EC~~
the Valuation and Technical Provisions Parts of PRA Rulebook.

...

9. For the purpose of calculating thresholds or limits, regulated entities in a financial conglomerate which fall within the scope of group supervision according to ~~Title III of Directive 2009/138/EC~~ the Group Supervision Part of the PRA Rulebook and Part 3 of the Solvency 2 Regulations 2015 shall be considered together.

...

Article 15

Specification of technical calculation under method 2 pursuant to Directive 2002/87/EC Annex 2 (Table 2) of the Financial Conglomerates Part of the PRA Rulebook and Annex 1R (Table 2) of Chapter 3 of the FCA General Prudential sourcebook

1. Where the own funds of a regulated entity are subject to a prudential filter pursuant to the relevant sectoral rules, one of the following treatments shall apply:
 - (a) the filtered amount, being the net amount that shall be taken into account in the calculation of own funds of participations, shall be added to the book value of participations in accordance with ~~subparagraph 2 of Article 6(4) of Directive 2002/87/EC~~ Annex 2 of the Financial Conglomerates Part of the PRA Rulebook and Annex 1R of Chapter 3 of the FCA General Prudential sourcebook, if the filtered amount increases regulatory capital;
 - (b) the filtered amount referred to in point (a) shall be deducted from the book value of participations in accordance with ~~subparagraph 2 of Article 6(4) of Directive 2002/87/EC~~ Annex 2 of the Financial Conglomerates Part of the PRA Rulebook and Annex 1R of Chapter 3 of the FCA General Prudential sourcebook, if the filtered amount decreases regulatory capital.
2. For banking and investment services conglomerates, significant investment in a financial sector entity within the meaning of Article 43 of Regulation (EU) No 575/2013, which belongs to the insurance sector and which is not a participation shall be fully deducted from the own funds items of the entity holding the instrument, in accordance with sectoral rules applicable to that entity.

...

Article 16

Specification of circumstances for the use of Method 3 pursuant to Directive 2002/87/EC a combination of methods 1 and 2

1. Competent authorities may only allow the application of ~~method 3 as referred to in Annex I to Directive 2002/87/EC~~ a combination of method 1 and method 2 as referred to in the Financial Conglomerates Part of the PRA Rulebook and method 3 as referred to in section 3.1 of the FCA General Prudential sourcebook in either of the following circumstances:

- (a) it is not reasonably feasible to apply either method 1 as referred to in ~~Annex I to Directive 2002/87/EC Annex 2 (Table 1) of the Financial Conglomerates Part of the PRA Rulebook and Annex 1R (Table 1) of Chapter 3 of the FCA General Prudential sourcebook~~ to all entities or method 2 as referred to in ~~Annex I to Directive 2002/87/EC Annex 2 (Table 2) of the Financial Conglomerates Part of the PRA Rulebook and Annex 1R (Table 2) of Chapter 3 of the FCA General Prudential sourcebook~~ to all entities within a financial conglomerate, in particular because method 1 cannot be used for one or more entities because they are outside the scope of consolidation, or because a regulated entity is established in a third country and it is not possible to obtain sufficient information to apply one of the methods to that entity;

...

3. The application of ~~method 3 allowed by a competent authority~~ a combination of method 1 and method 2 in relation to a financial conglomerate shall be consistent over time.

...

Article 17

Entry into force

...

~~This Regulation shall be binding in its entirety and directly applicable in all Member States.~~

...

ANNEX

Calculation methodology for Method 2 pursuant to ~~Directive 2002/87/EC Annex 2 (Table 2) of the Financial Conglomerates Part of the PRA Rulebook and Annex 1R (Table 2) of Chapter 3 of the FCA General Prudential sourcebook~~

Deduction and aggregation method

...

In the case of non-regulated financial sector entities, a notional solvency requirement shall be calculated in accordance with Article 12. Own funds and solvency requirements shall be taken into account for their proportional share (x) as provided for in the UK legislation implementing Article 6(4) of Directive 2002/87/EC. ~~and in accordance with Annex I to that Directive~~

...

Annex B

Risk Concentration and Intra-Group Transactions

1 MODIFICATIONS TO PART B (PRA) OF REGULATION 2015/2303

- 1.1 Part 2 (PRA) of Commission Delegated Regulation (EU) 2015/2303 of 28 July 2015 supplementing Directive 2002/87/EC of the European Parliament and of the Council with regard to regulatory technical standards specifying the definitions and coordinating the supplementary supervision of risk concentration and intra-group transactions, as it has effect in domestic law by virtue of section 3 of the Act and this Instrument, is modified as follows:-

...

Article 1

Subject matter

This Regulation lays down rules regarding:

- (a) the establishment of a more precise formulation of the definitions of 'intra-group transactions' and 'risk concentration' set out in ~~points (18) and (19) of Article 2 of Directive 2002/87/EC~~ the Glossary to the PRA Rulebook and in the FCA Handbook Glossary of definitions by laying down criteria for assessing when they are of a significant character
- (b) the coordination of the ~~provisions adopted pursuant to UK legislation implementing~~ Articles 7 and 8 and Annex II of Directive 2002/87/EC with respect to:
 - (i) the information to be provided by regulated entities or mixed financial holding companies to the coordinator and ~~other relevant competent authorities~~ the other regulator for the purpose of supervisory overview of risk concentration and intra-group transaction;
 - (ii) the methodology to be applied by the coordinator and ~~relevant competent authorities~~ the other regulator for the purposes of identifying types of significant risk concentration and intra-group transactions;
 - (iii) ~~the supervisory measures to be applied by competent authorities as referred to in Articles 7(3) and 8(3) of Directive 2002/87/EC~~ any quantitative limits or other supervisory measures which would achieve the objectives of supplementary supervision, with regard to any risk concentration at the level of a financial conglomerate;
 - (iv) any quantitative limits and qualitative requirements or other supervisory measures that would achieve the objectives of supplementary supervision, with regard to intra-group transactions of regulated entities within a financial conglomerate.

Article 2

Significant intra-group transactions

...

2. With respect to regulated entities and mixed financial holding companies, when identifying types of significant intra-group transactions, defining appropriate thresholds, periods for reporting and overviewing significant intra-group transactions, the coordinator and ~~the other relevant competent authorities~~ the other regulator shall, in particular, take into account:

...

3. The coordinator and ~~the other relevant competent authorities~~ the other regulator shall agree on the form and content of the significant intra-group transactions report, including language, remittance dates and channels of communication.
4. The coordinator and ~~the other relevant competent authorities~~ the other regulator shall at least require regulated entities or mixed financial holding companies to report on the following:

...

5. Transactions that are executed as part of a single economic operation shall be aggregated for the purpose of ~~calculating the thresholds pursuant to Article 8(2) of Directive 2002/87/EC~~ determining whether an intra-group transaction is significant.

Article 3

Significant risk concentration

...

3. With respect to regulated entities and mixed financial holding companies, when identifying types of significant risk concentration, defining appropriate thresholds, periods for reporting and overviewing significant risk concentration, the coordinator and ~~the other relevant competent authorities~~ the other regulator shall, in particular, take into account:

...

4. The coordinator and ~~the other relevant competent authorities~~ the other regulator shall agree on the form and content of the significant risk concentration report, including language, remittance dates and channels of communication.

5. The coordinator and ~~the other relevant competent authorities~~ the other regulator shall at least require regulated entities or mixed financial holding companies to report the following:

...

Article 4

Supervisory measures

Without prejudice to any other supervisory powers conferred on them, competent authorities shall, in particular,

1. require, where appropriate, regulated entities or mixed financial holding companies to:
 - (a) ...
 - (b) approve intra-group transactions of the financial conglomerate through specified internal procedures with the involvement of its management body as ~~referred to defined in Article 3(1) of Directive 2013/36/EU of the European Parliament and of the Council (5), or of its administrative, management or supervisory body as referred to in Article 40 of Directive 2009/138/EC of the European Parliament and of the Council (6)~~ the Glossary of the PRA Rulebook and the FCA Handbook Glossary of definitions;
 - (c) report more frequently than required under ~~Article 7(2) and Article 8(2) of Directive 2002/87/EC~~ Regulatory Reporting Rule 12 of the of the PRA Rulebook and rule 16.12.33 of the FCA Supervision manual on significant risk concentration and significant intra-group transactions;

...

Article 5

...

~~This Regulation shall be binding in its entirety and directly applicable in all Member States.~~

...