

EU EXIT INSTRUMENT: THE TECHNICAL STANDARDS (CAPITAL REQUIREMENTS) (EU EXIT) (No. 2) INSTRUMENT 2019

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 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 2 of the Schedule to the Regulations under the headings “Capital Requirements Directive” and “Capital Requirements 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.

Modifications

- F. In each of the Capital Requirements EU Regulations that are not deleted in Annex C 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

Deletions

- H. The Capital Requirements EU Regulation listed in Annex C is deleted.

Commencement

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

Thursday 28 February: This document is near-final. The final version will be made and published close to exit day.
We expect that the made instrument will be materially similar to this version.
For more information, see: <https://www.bankofengland.co.uk/eu-withdrawal/transitioning-to-post-exit-rules-and-standards>.

Citation

J. This instrument may be cited as the Technical Standards (Capital Requirements) (EU Exit) (No.2) Instrument 2019.

By order of the Prudential Regulation Committee
[DATE] MARCH 2019

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 R~~relevant authorities 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.
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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.

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Article 6

Indicators

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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.

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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.

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Annex C

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

3 DELETION OF 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 is deleted.