

## **EU EXIT INSTRUMENT: THE TECHNICAL STANDARDS (CAPITAL REQUIREMENTS) (EU EXIT) (No. 3) INSTRUMENT 2019**

### **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 T 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” that are not deleted by the Technical Standards (Capital Requirements) (EU Exit) (No.1) Instrument 2019;
  - (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-authorized 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 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”.
- K. Additionally, the PRA makes the modifications in the Annex listed in column (2) below to the corresponding Capital Requirements EU Regulation (or part thereof) listed in column (1) below.

(1)	(2)
Part 2 (PRA) of Commission Delegated Regulation (EU) 527/2014	A
Part 2 (PRA) of Commission Delegated Regulation (EU) 604/2014	B
Part 2 (PRA) of Commission Delegated Regulation (EU) 1152/2014	C
Part 2 (PRA) of Commission Implementing Regulation (EU) 2016/2070	D
Part 2 (PRA) of Commission Delegated Regulation (EU) 2017/180	E
Part 2 (PRA) of Commission Delegated Regulation 241/2014	F
Part 2 (PRA) of Commission Delegated Regulation 523/2014	G
Part 2 (PRA) of Commission Delegated Regulation 525/2014	H
Part 2 (PRA) of Commission Delegated Regulation 529/2014	I
Part 2 (PRA) of Commission Delegated Regulation 680/2014	J
Part 2 (PRA) of Commission Implementing Regulation 1030/2014	K
Part 2 (PRA) of Commission Delegated Regulation 1187/2014	L
Part 2 (PRA) of Commission Delegated Regulation 2015/1555	M
Part 2 (PRA) of Commission Delegated Regulation 2015/1556	N
Part 2 (PRA) of Commission Delegated Regulation 2018/171	O

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>.

Part 2 (PRA) of Commission Delegated Regulation 2018/728	P
Part 2 (PRA) of Commission Delegated Regulation 602/2014	Q
Part 2 (PRA) of Commission Delegated Regulation 625/2014	R
Part 2 (PRA) of Commission Delegated Regulation 2016/1801	S
Part 2 (PRA) of Commission Delegated Regulation 2018/959	T

### **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.3) Instrument 2019.

### **By order of the Prudential Regulation Committee**

[ ] March 2019

## Annex A

### CLASSES OF INSTRUMENTS TO BE USED FOR VARIABLE REMUNERATION

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

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- 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

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

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- 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 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 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 and rule 19D.3.52 of the Senior Management Arrangements, Systems and Controls sourcebook;
    - (b) in the case of other authorised persons, rule 19A.3.44D of the Senior Management Arrangements, Systems and Controls sourcebook.

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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

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

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- 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.

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## Annex D

### BENCHMARKING: REPORTING

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

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- 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

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

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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;
  - (b) the effect of the supervisory actions not contemplated in the data collected ~~by EBA.~~

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## Annex F

### DEFINITION OF OWN FUNDS

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

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- 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;
  - (4) “UK-adopted international accounting standards” has the same meaning it has in section 474(1) of the Companies Act 2006.
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 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, ~~under the applicable national law,~~ they may also have the right to put the capital instrument back to the institution, but only subject to the restrictions of the applicable law of the United Kingdom (or any part of it)~~national law, company/its~~ statutes, of Regulation (EU) No 575/2013, and of this Regulation.

This does not prevent the institution from issuing, under the applicable law of the United Kingdom (or any part of it), or of a third country~~applicable national law~~, Common Equity Tier 1 instruments complying with Article 29 of Regulation (EU) No 575/2013 to members and non-members that do not grant a right to put the capital instrument back to the institution.

## Article 5

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

1. Competent authorities may determine that a type of undertaking recognised under ~~applicable national law~~ the applicable law of the United Kingdom (or any part of it) qualifies as a savings institution for the purpose of Part Two of Regulation (EU) No 575/2013, where all the conditions in paragraphs 2, 3 and 4 are met.
2. ~~To qualify as a savings institution for the purposes of paragraph 1, the institution's legal status shall fall within one of the following categories:~~
  - (a) ~~in Austria: institutions registered as 'Sparkasse' under para. 1 (1) of the 'Bundesgesetz über die Ordnung des Sparkassenwesens (Sparkassengesetz—SpG)';~~
  - (b) ~~in Denmark: institutions registered as 'Sparekasser' under the Danish Financial Business Act;~~
  - (c) ~~in Finland: institutions registered as 'Säästöpankki' or 'Sparbank' under 'Säästöpankkilaki' or 'Sparbankslag';~~
  - (d) ~~in Germany: institutions registered as 'Sparkasse' as follows:~~
    - (1) ~~Sparkassengesetz für Baden Württemberg (SpG)';~~
    - (2) ~~'Gesetz über die öffentlichen Sparkassen (Sparkassengesetz—SpkG) in Bayern';~~
    - (3) ~~'Gesetz über die Berliner Sparkasse und die Umwandlung der Landesbank Berlin—Girozentrale— in eine Aktiengesellschaft (Berliner Sparkassengesetz—SpkG)';~~
    - (4) ~~'Brandenburgisches Sparkassengesetz (BbgSpkG)';~~
    - (5) ~~'Sparkassengesetz für öffentlich rechtliche Sparkassen im Lande—Bremen (Bremisches Sparkassengesetz)';~~
    - (6) ~~'Hessisches Sparkassengesetz';~~
    - (7) ~~'Sparkassengesetz des Landes Mecklenburg Vorpommern (SpkG)';~~
    - (8) ~~'Niedersächsisches Sparkassengesetz (NSpG)';~~
    - (9) ~~'Sparkassengesetz Nordrhein Westfalen (Sparkassengesetz—SpkG)';~~
    - (10) ~~Sparkassengesetz (SpkG) für Rheinland Pfalz';~~
    - (11) ~~'Saarländisches Sparkassengesetz (SSpG)';~~
    - (12) ~~'Gesetz über die öffentlich rechtlichen Kreditinstitute im Freistaat—Sachsen und die— Sachsen Finanzgruppe';~~
    - (13) ~~'Sparkassengesetz des Landes Sachsen Anhalt (SpkG LSA)';~~
    - (14) ~~'Sparkassengesetz für das Land Schleswig Holstein (Sparkassengesetz—SpkG)';~~
    - (15) ~~'Thüringer Sparkassengesetz (ThürSpkG)';~~

- (e) ~~in Spain: institutions registered as ‘Cajas de Ahorros’ under ‘Real Decreto Ley 2532/1929, de 21 de noviembre, sobre Régimen del Ahorro Popular’;~~
  - (f) ~~in Sweden: institutions registered as ‘Sparbank’ under ‘Sparbankslag (1987:619)’.~~
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 ~~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 ~~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 according to Regulation (EC) No 1606/2002 of the European Parliament and of the Council as applied under UK-adopted international accounting standards,~~ 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 on the annual accounts and consolidated accounts of banks and other financial institutions~~ the applicable accounting framework (as that term is defined in Regulation 575/2013).

...

### *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 of 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~~ law of the relevant 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~~ UK-adopted international accounting standards, 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~~ UK-adopted international accounting standards. 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 Council 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 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 there has not, in respect of the supervisory regime of that third country, been a later determination of equivalence by the Treasury under Article 379A of the Solvency II Delegated Regulation (EU) 2015/35 or by the PRA under regulation 19 of the

Solvency 2 Regulations 2015, or 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

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

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- 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

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

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- 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

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

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- 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

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

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- 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~~ section 403(1) of the Companies Act 2006 and other credit institutions not subject to that section applying UK-adopted international accounting standards ~~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 UK-adopted international accounting standards ~~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

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

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- 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

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

---

- 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

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- 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

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

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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.

...



## Annex Q

### ADDITIONAL RISK WEIGHTS

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#### MODIFICATIONS TO PART 2 (PRA) OF EU REGULATION 602/2014

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- 16.3 In this Annex new text is underlined and deleted text is struck through.
- 16.4 Part 2 (PRA) of EU Regulation No 602/2014 means Commission Delegated Regulation (EU) No 602/2014 of 4 June 2014 laying down implementing technical standards for facilitating the convergence of supervisory practices with regard to the implementation of additional risk weights 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 B1

#### **Definitions**

In this Regulation, references to “Regulation (EU) No 575/2013” are to be read as references to the version of Regulation (EU) No 575/2013 applicable on 31 December 2018, together with any amendments made to such provisions by the Capital Requirements (Amendment) (EU Exit) Regulations 2018.

#### *Article 1*

#### **General considerations**

...

6. When assessing whether institutions have failed to meet the requirements set out in Articles 405, 406 or 409 of Regulation (EU) No 575/2013, in any material respect for reasons of negligence or of omission, for securitisation positions issued on or after 1 January 2011 and before 1 January 2014, competent authorities may take into account whether those institutions complied continuously between the date of issuance and 31 December 2013 with the requirements specified in those elements of the Capital Requirements Directive (Handbook Amendments) Instrument 2010 (FSA 2010/29) which implemented Article 122a of Directive 2006/48/EC of the European Parliament and of the Council and in the Guidelines to Article 122a of Directive 2006/48/EC of the Committee of European Banking Supervisors dated 31 December 2010.

## Annex R

### REQUIREMENTS RELATING TO EXPOSURES TO TRANSFERRED CREDIT RISK

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#### MODIFICATIONS TO PART 2 (PRA) OF EU REGULATION 625/2014

---

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

16.6 Part 2 (PRA) of EU Regulation 625/2014 means Commission Delegated Regulation (EU) No 625/2014 of 13 March 2014 supplementing Regulation (EU) No 575/2013 of the European Parliament and of the Council by way of regulatory technical standards specifying the requirements for investor, sponsor, original lenders and originator institutions relating to exposures to transferred credit risk 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:

- (a) references to “Regulation (EU) No 575/2013” are to be read as references to the version of Regulation (EU) No 575/2013 applicable on 31 December 2018, together with any amendments made to such provisions by the Capital Requirements (Amendment) (EU Exit) Regulations 2018; and
- (b) 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 31 December 2018 under FSMA.

...

#### *Article 4*

#### **Fulfilment of the retention requirement through a synthetic or contingent form of retention**

...

2. Where an entity other than a credit institution as defined in Article 4(1)(1) of Regulation (EU) No 575/2013 acts as a retainer through a synthetic or contingent form of retention, the interest retained on a synthetic or contingent basis shall be fully collateralised in cash and held on a segregated basis as ‘clients’ funds as referred to in rule 7.12.1R of the Client Assets sourcebook~~Article 13(8) of Directive 2004/39/EC of the European Parliament and of the Council (1).~~

## Annex S

### MAPPING CREDIT ASSESSMENTS OF EXTERNAL CREDIT ASSESSMENT INSTITUTIONS FOR SECURITISATION

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#### MODIFICATIONS TO PART 2 (PRA) OF EU REGULATION 2016/1801

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- 16.7 In this Annex new text is underlined and deleted text is struck through.
- 16.8 Part 2 (PRA) of EU Regulation 2016/1801 means Commission Delegated Regulation (EU) No 2016/1801 of 11 October 2016 on laying down implementing technical standards with regard to the mapping of credit assessments of external credit assessment institutions for securitisation in accordance with Regulation (EU) No 575/2013 of the European Parliament and of the Council as it forms part of domestic law by virtue of section 3 of the Act and this Instrument, is modified as follows:

...

#### *Article 1*

##### **Mapping tables under the standardised approach**

The correspondence of the rating categories of each ECAI for securitisation positions subject to the standardised approach with the credit quality steps under the standardised approach set out in Table 1 of Article 251 of Regulation (EU) No 575/2013 (in the version of that Regulation applicable on 31 December 2018, together with any amendments made to such provision by the Capital Requirements (Amendment) (EU Exit) Regulations 2018) is that set out in Annex I to this Regulation.

#### *Article 2*

##### **Mapping tables under the ratings-based method**

The correspondence of the rating categories of each ECAI for securitisation positions subject to the IRB approach with the credit quality steps set out in Table 4 of Article 261(1) of Regulation (EU) No 575/2013 (in the version applicable on 31 December 2018, together with any amendments made to such provision by the Capital Requirements (Amendment) (EU Exit) Regulations 2018) is that set out in Annex II to this Regulation.

## Annex T

### OPERATIONAL RISK

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#### MODIFICATIONS TO PART 2 (PRA) OF REGULATION (EU) 2018/959

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

16.10 Part 2 (PRA) of EU Regulation No 2018/959 means Commission Delegated Regulation (EU) No 2018/959 of 14 March 2018 supplementing Regulation (EU) No 575/2013 of the European Parliament and of the Council with regard to regulatory technical standards of the specification of the assessment methodology under which competent authorities permit institutions to use Advanced Measurement Approaches for operational risk, 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*

#### **Definitions**

For the purposes of this Delegated Act, the following definitions shall apply:

...

(15) 'model risk' means the potential loss an institution may incur, as a consequence of decisions that could be principally based on the output of internal models, due to errors in the development, implementation or use of such models;

(16) 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;

(17) 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 4*

#### **Operational risk events related to model risk**

Competent authorities shall confirm the following when assessing that an institution identifies, collects and treats data on operational risk events and losses that are related to model risk, ~~as defined in point (11) of Article 3(1) of Directive 2013/36/EU of the European~~

~~Parliament and of the Council of 26 June 2013~~, for the purposes of both management of operational risk and calculation of the AMA own funds requirement:

...

### *Article 8*

#### **Independent operational risk management function**

1. Competent authorities shall assess the independence of the operational risk management function from the institution's business units by confirming at least the following:

...

(d) that the head of the operational risk management function meets at least the following requirements:

...

(v) allocation of a budget for the operational risk management function by the head of risk management referred to in ~~the fourth subparagraph of Article 76(5) of Directive 2013/36/EU~~ rule 3.5 of the Risk Control Part of the PRA Rulebook and rule 7.1.22 of the Senior Management Arrangements, Systems and Controls sourcebook or a member of the management body in a supervisory capacity and not by a business unit or executive function.

...

### *Article 11*

#### **Use of the AMA**

...

(c) that the operational risk measurement system is used also for the purposes of the institution's internal capital adequacy assessment process referred to in ~~Article 73 of Directive 2013/36/EU~~ rules 3.1(1) and 3.4 of the Internal Capital Adequacy Assessment Part of the PRA Rulebook and rules 2.2.7R, 2.2.12R and 2.2.13R of the Prudential sourcebook for Investment Firms.

...