

CP2/22 Appendix 2: Proposed technical standards instrument

PRA STANDARDS INSTRUMENT: THE TECHNICAL STANDARDS (OWN FUNDS) INSTRUMENT 2022

Powers exercised

- A. The PRA makes this instrument in the exercise of powers under section 138P (Technical Standards) of the Act.
- B. For the purposes of section 138P of the Act, the power to make technical standards which the PRA relies on is conferred on the PRA by Articles 26(4), 27(2), 28(5), 29(6), 32(2), 36(3) and (4), 41(2), 52(2), 76(4), 78(5), 79(2), 83(2) and 487(3) of Regulation (EU) 575/2013, as transferred to the PRA by The Capital Requirements (Amendment) (EU Exit) Regulations 2018.
- C. Pursuant to section 138P(2)(b) of the Act, the power to make technical standards includes the power to modify, amend or revoke any EU tertiary legislation made by an EU entity under the original EU power which forms part of retained EU law. Commission Delegated Regulation (EU) 241/2014 constitutes EU tertiary legislation (as defined in section 20 of the EUWA) for these purposes.
- D. Pursuant to the Capital Requirements (No. 3) Instrument, Commission Delegated Regulation (EU) 241/2014 has been split into two parts, an FCA and a PRA part. This instrument revokes Part 2 (PRA) of Commission Delegated Regulation (EU) 241/2014.
- E. The powers referred to above are specified for the purpose of section 138Q(2) (Standards instruments) of the Act.

Pre-conditions to making

- F. The FCA have been consulted on this instrument pursuant to section 138P(4) of the Act and has consented pursuant to section 138P(3) of the Act.
- G. In accordance with section 138J of the Act as applied by section 138S(2)(g) of the Act, the PRA published a draft of the proposed instrument and had regard to representations made.
- H. A draft of this instrument has been approved by the Treasury, as required by section 138R of the Act.

Interpretation

- I. In this instrument, any reference to any provision of direct EU legislation is a reference to it as it forms part of retained EU law.
- J. In this instrument:
 - “Capital Requirements (No. 3) Instrument” means the PRA’s Technical Standards (Capital Requirements) (EU Exit) (No. 3) Instrument 2019;
 - “EUWA” means the European Union (Withdrawal) Act 2018;
 - “PRA” means the Prudential Regulation Authority;
 - “retained EU law” has the meaning given in section 6 of the EUWA; and
 - “the Act” means the Financial Services and Markets Act 2000.

Revocation

K. The PRA revokes Part 2 (PRA) of Commission Delegated Regulation (EU) 241/2014.

Commencement

L. This instrument comes into force on [2022].

Citation

M. This instrument may be cited as PRA Standards Instrument: The Technical Standards (Own Funds) Instrument 2022.

By order of the Prudential Regulation Committee

[Date]