



BANK OF ENGLAND
PRUDENTIAL REGULATION
AUTHORITY

Consultation Paper | CP26/18

UK withdrawal from the EU: Changes to PRA Rulebook and onshored Binding Technical Standards

October 2018



BANK OF ENGLAND
PRUDENTIAL REGULATION
AUTHORITY

Consultation Paper | CP26/18

UK withdrawal from the EU: Changes to PRA Rulebook and onshored Binding Technical Standards

October 2018

By responding to this consultation, you provide personal data to the Bank of England. This may include your name, contact details (including, if provided, details of the organisation you work for), and opinions or details offered in the response itself.

The response will be assessed to inform our work as a regulator and central bank, both in the public interest and in the exercise of our official authority. We may use your details to contact you to clarify any aspects of your response.

The consultation paper will explain if responses will be shared with other organisations (for example, the Financial Conduct Authority). If this is the case, the other organisation will also review the responses and may also contact you to clarify aspects of your response. We will retain all responses for the period that is relevant to supporting ongoing regulatory policy developments and reviews. However, all personal data will be redacted from the responses within five years of receipt. To find out more about how we deal with your personal data, your rights or to get in touch please visit bankofengland.co.uk/legal/privacy.

Information provided in response to this consultation, including personal information, may be subject to publication or disclosure to other parties in accordance with access to information regimes including under the Freedom of Information Act 2000 or data protection legislation, or as otherwise required by law or in discharge of the Bank's functions.

Please indicate if you regard all, or some of, the information you provide as confidential. If the Bank of England receives a request for disclosure of this information, we will take your indication(s) into account, but cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system on emails will not, of itself, be regarded as binding on the Bank of England.

Responses are requested by Wednesday 2 January 2019.

Please address any comments or enquiries to:

Nationalising the Acquis
Prudential Regulation Authority
20 Moorgate
London
EC2R 6DA
Email: CP26_18@bankofengland.co.uk

Contents

1	Overview	1
2	Interpreting PRA approach documents, PRA Supervisory Statements, and PRA Statements of Policy	5
3	Approach to reporting and disclosure requirements	6
4	Proposals relating to PRA-regulated banks, building societies and designated investment firms	8
5	Proposals relating to PRA-regulated insurers	14
6	Proposals relating to credit unions	16
7	Proposals relating to firms in the temporary permission regime (TPR)	17
8	Proposals relating to FSCS protection	20
9	The PRA's obligations under the Regulations	28
	Appendices	29

1 Overview

1.1 The UK's withdrawal from the European Union (EU) requires changes to be made to UK legislation to ensure that it remains functional. The European Union (Withdrawal) Act 2018 (the 'Act') converts directly applicable EU law (eg EU Regulations) into UK law and preserves domestic law that relates to EU membership (including domestic law that was introduced to implement EU Directives). This body of law is referred to as 'retained EU law'. The Act also provides Government ministers powers to make changes to the law so that it continues to operate effectively after the UK's withdrawal from the EU – these processes are often referred to as 'onshoring' or 'Nationalising the Acquis'¹ (NtA).²

1.2 This consultation paper (CP) sets out the Prudential Regulation Authority's (PRA) proposals to fix deficiencies arising from the UK's withdrawal from the EU in the PRA Rulebook, and in relation to Binding Technical Standards (BTS) within the PRA's remit that will be converted, or 'onshored', into UK law. It also sets out the PRA's proposals on how existing non-binding PRA materials, including supervisory statements (SS),³ statements of policy (SoP),⁴ and the PRA approach documents⁵ should be read by firms when the UK leaves the EU. The changes proposed in this CP are amendments to ensure an operable legal framework after the UK leaves the EU.

1.3 This CP is relevant to all firms authorised and regulated by the PRA, as well as firms that are expected to have deemed permission under the 'temporary permissions regime' (TPR) or that seek to apply for PRA authorisation in future.

1.4 This CP is published as part of the Bank of England's (Bank) consultation package on amending financial services legislation under the European Union (Withdrawal) Act 2018 (the 'Act').⁶ As explained in CP25/18 'The Bank of England's approach to amending financial services legislation under the European Union (Withdrawal) Act 2018' (the 'NtA approach CP'), HM Treasury intends to delegate a power, under the Act, to the financial services regulators (Financial Conduct Authority (FCA), PRA, Bank and Payment Systems Regulator (PSR))⁷ giving them responsibility for fixing deficiencies in onshored BTS.⁸ The delegated power can also be used by the regulators to amend deficiencies within their respective rules. Therefore, the PRA

¹ Acquis refers to the 'acquis communautaire'.

² HM Treasury has set out its approach to onshoring EU financial services regulation in 'HM Treasury's approach to financial services legislation under the European Union (Withdrawal) Act', June 2018:

<https://www.gov.uk/government/publications/financial-services-legislation-under-the-eu-withdrawal-act>.

³ Available at: <https://www.bankofengland.co.uk/news/prudential-regulation?NewsTypes=65d34b0d42784c6bb1dd302c1ed63653&Taxonomies=65a33f20fd5241d58bd01d5fb54bde8&Direction=Latest%27>.

⁴ Available at: <https://www.bankofengland.co.uk/news/prudential-regulation?NewsTypes=65d34b0d42784c6bb1dd302c1ed63653&Taxonomies=7d299a7477874858849990ea23f885c0&Direction=Latest%27>.

⁵ Available at:

<https://www.bankofengland.co.uk/news?NewsTypes=65d34b0d42784c6bb1dd302c1ed63653&Taxonomies=973f7bc68fd74abc30287f8a0a15fa3&Direction=Latest>.

⁶ The full Bank consultation package comprises:

- a joint Bank and PRA CP25/18 on the overall approach, setting out the Bank's general approach to fixing deficiencies in rules and onshored BTS, and setting out its expectations on how EU Guidelines and Recommendations should be interpreted <http://www.bankofengland.co.uk/paper/2018/the-boes-approach-to-amending-financial-services-legislation-under-the-eu-withdrawal-act-2018>;
- this PRA CP26/18 on changes to PRA rules and changes to onshored BTS within the PRA's remit;
- a Bank CP on changes to Financial Market Infrastructure (FMI) rules and onshored BTS within the remit of the Bank as FMI supervisor <http://www.bankofengland.co.uk/paper/2018/uk-withdrawal-from-the-eu-changes-to-fmi-rules-and-onshored-binding-technical-standards>; and
- a Bank CP on changes to onshored BTS within the remit of the Bank as resolution authority <http://www.bankofengland.co.uk/paper/2018/uk-withdrawal-from-the-eu-boes-approach-to-resolution-sop-and-onshored-binding-technical-standards>.

⁷ 'The Financial Regulators' Powers (Technical Standards etc.) (Amendment etc.) (EU Exit) Regulations 2018' draft SI (the 'Regulations'). <https://www.legislation.gov.uk/ukdsi/2018/978011171394/contents>.

⁸ In addition to the power to address deficiencies, the Regulations also delegate to the regulators (FCA, PRA, Bank and PSR) an ongoing power to make and maintain BTS. These powers cannot be exercised until after the UK has left the EU.

intends to make ‘EU Exit Instruments’ where appropriate, to prevent, remedy or mitigate any failure of the onshored BTS within the PRA’s remit or PRA rules to operate effectively, or any other deficiency in these BTS or PRA rules arising from the UK’s withdrawal from the EU.

1.5 As set out in the NtA approach CP, HM Treasury is responsible for addressing deficiencies in EU regulations that are onshored under the Act, apart from BTS. HM Treasury is also responsible for addressing deficiencies in primary and secondary UK financial services legislation that arise as a result of the UK’s withdrawal from the EU. The changes proposed to the PRA Rulebook and onshored BTS in this CP are consistent with changes that HM Treasury proposes to make to relevant legislation, and should be read in conjunction with those changes. This CP focuses on changes where the PRA proposes to depart from the general approach described in Chapter 3 of the NtA approach CP (in particular, where the PRA proposes to depart from the general principle of treating the EU and its Member States⁹ as ‘third countries’¹⁰), or where the PRA considers that an explanation would be appropriate to make clear the rationale for the changes. This CP and the NtA approach CP should be read together.

1.6 The power delegated to the PRA under the Act can only be used to fix ‘deficiencies’ that arise as a result of the UK’s withdrawal from the EU. Therefore the PRA cannot use the power as the basis for policy changes unrelated to the UK’s withdrawal from the EU. Because the PRA is proposing to use the delegated power for the changes proposed in this CP, the format and content of this CP has different elements compared to a usual PRA consultation on PRA rules under the Financial Services and Markets Act 2000 (FSMA). In particular, FSMA requirements to undertake a cost benefit analysis and the duty to have regard to certain regulatory principles do not apply to the exercise of the delegated power under the Act. However, the PRA has chosen to consult stakeholders, and will continue to do so as far as possible, to help inform the changes to onshored BTS and the PRA Rulebook.

1.7 In this CP, the PRA is consulting on changes to onshored BTS that the PRA will be responsible for under the Schedule to the ‘The Financial Regulators’ Powers (Technical Standards etc.) (Amendment etc.) (EU Exit) Regulations 2018’ draft Statutory Instrument (SI) (the ‘Regulations’).¹¹ A full list of the onshored BTS in the PRA’s remit being consulted on in this CP is included in Appendix 5. The responsibility for some onshored BTS is shared between the FCA and PRA (‘joint BTS’). Where this is the case, the approach is that one regulator will take the lead in proposing amendments, in close consultation with the other relevant regulator, based on which regulator’s remit and objectives are most relevant to the joint BTS. For example, the majority of Capital Requirements Regulation (575/2013) (CRR), Capital Requirements Directive (CRD),¹² and Financial Conglomerates Directive (FICOD)¹³ BTS are shared with the FCA as they apply to populations of firms covered by both regulators.

1.8 Under the Regulations, regulators have the option to retain the joint BTS as joint, or ‘divide’ them so that, for example, there is a PRA version of the onshored BTS for PRA-regulated firms and an FCA version for FCA-regulated firms. With the exception of one European Market Infrastructure Regulation (648/2012) (EMIR) BTS,¹⁴ all of the joint PRA/FCA

⁹ References in this CP to the EU and/or its Member States include, as appropriate, the European Economic Area (EEA) States of Norway, Iceland and Liechtenstein.

¹⁰ ‘Third country’ is defined in relation to each piece of EU legislation but is broadly any non-EEA jurisdiction. On exit those definitions will be altered to any non-UK jurisdiction.

¹¹ Laid in Parliament on the 16 July 2018: <https://www.legislation.gov.uk/ukdsi/2018/9780111171394>.

¹² Directive 2013/36/EU.

¹³ Directive 2002/87/EC.

¹⁴ Commission Delegated Regulation (EU) 2016/2251 – BTS on OTC derivatives, central counterparties and trade repositories with regard to regulatory technical standards for risk-mitigation techniques for OTC derivative contracts not cleared by a central counterparty.

BTS covered in this CP are proposed to be divided. This allows separate provision to be made for PRA-regulated and FCA-regulated firms (and where relevant their parent undertakings), and aligns with the operational independence of the regulators. It follows a similar model to the separate rulebooks maintained by each regulator. Following the division, the PRA and FCA propose to make an identical set of amendments to their part of each onshored BTS. However, to avoid duplication, the detail of the proposed changes to the relevant BTS will only be set out in one of the PRA's or FCA's consultation packages. This consultation includes the proposed changes to the joint PRA/FCA BTS that relate to the Bank Recovery and Resolution Directive (BRRD),¹⁵ CRD, CRR and FICOD. The FCA will include the proposed changes to the joint PRA/FCA BTS that relate to the Markets in Financial Instruments Directive (MiFID)¹⁶ in a forthcoming consultation paper. Firms authorised and regulated by the PRA can provide feedback on the proposed changes to the joint MiFID BTS to the PRA.

1.9 As set out in the NtA approach CP, the changes proposed in this CP would take effect at 11:00pm on Friday 29 March 2019 ('exit day')¹⁷ only in the event that there is no Implementation Period.¹⁸ If the draft Withdrawal Agreement agreed between the UK and EU is ratified and the Implementation Period commences on Friday 29 March 2019, the proposed changes would not take effect until after the end of the Implementation Period. Further modifications to the PRA Rulebook and onshored BTS may be required to reflect any agreement that is reached between the UK and EU on their future relationship.

1.10 HM Treasury has committed¹⁹ to give the financial services regulators a temporary transitional power to enable firms to adjust to changes made as a result of onshoring. As set out in the NtA approach CP, the PRA is considering exercising the temporary transitional power in a broad way to delay the application of onshoring changes that will alter the regulatory standards that apply to firms, in the event that there is no Implementation Period. However, the PRA is not proposing to delay certain specific changes – these are highlighted in both the NtA approach CP and this CP. The PRA is considering further the duration of transitional relief provided.

1.11 The PRA proposes in this CP only to make changes to PRA rules and onshored BTS that were applied before Sunday 1 July 2018.²⁰ The changes proposed in this CP are based on draft SIs (or relevant explanatory policy materials) that have been published by HM Treasury or laid before Parliament before publication of this CP. Further amendments will be required in due course. The PRA will propose further changes to the PRA Rulebook and onshored BTS after relevant SIs which reflect Government's policy in relation to these issues have been published.

1.12 For example, this CP does not propose changes to BTS and the PRA Rulebook that would follow from future Government SIs that are expected to cover areas such as accounting, audit, state aid, the Securitisation Regulation,²¹ the EU-Swiss General Insurance Agreement, and the treatment of Gibraltar.

¹⁵ Directive 2014/59/EU.

¹⁶ Directive 2014/65/EU.

¹⁷ As defined in the Act.

¹⁸ A draft Withdrawal Agreement was agreed between the UK and EU March 2018: <http://www.gov.uk/government/publications/draft-withdrawal-agreement-19-march-2018>. The draft Withdrawal Agreement provides for an implementation period ending on Thursday 31 December 2020 (the 'Implementation Period').

¹⁹ 'HM Treasury's approach to financial services legislation under the European Union (Withdrawal) Act', June 2018: <https://www.gov.uk/government/publications/financial-services-legislation-under-the-eu-withdrawal-act>.

²⁰ The draft Regulations that were laid before Parliament included BTS that were in force on 1 July 2018. Any BTS that come into force after this date will be considered in later CPs.

²¹ Regulation (EU) 2017/2402.

1.13 The rest of this document is structured as follows:

- Chapter 2 is relevant to all PRA-regulated firms and explains how existing PRA non-binding materials should be interpreted after exit day.
- Chapter 3 is relevant to all PRA-regulated firms and sets out the PRA's proposed approach to reporting and disclosure requirements.
- Chapter 4 sets out proposals relating to PRA-regulated banks, building societies and designated investment firms.
- Chapter 5 sets out proposals relating to PRA-regulated insurers.
- Chapter 6 sets out proposals relating to credit unions.
- Chapter 7 sets out proposals relating to firms in the TPR.
- Chapter 8 sets out proposals relating to Financial Services Compensation Scheme (FSCS) coverage.
- Chapter 9 sets out the PRA's obligations under the Regulations.

1.14 The appendices to this CP consist of:

- Appendix 1: Draft SS 'Non-binding PRA materials: the Prudential Regulation Authority's approach after the UK's exit from the EU'.
- Appendix 2: Draft SS 'Approach to interpreting reporting and disclosure requirements after the UK's exit from the EU'.
- Appendix 3: Draft update to SS18/15 'Depositor and dormant account protection'.
- Appendix 4: Draft PRA Rulebook EU Exit Instrument.
- Appendix 5: List of onshored BTS in the PRA's remit and Draft BTS EU Exit Instruments.

Responses and next steps

1.15 This consultation closes on Wednesday 2 January 2019. The PRA invites feedback on the proposals set out in this consultation. Please address any comments or enquiries to CP26_18@bankofengland.co.uk.

1.16 Responses to this CP will be shared with the FCA.

2 Interpreting PRA approach documents, PRA Supervisory Statements, and PRA Statements of Policy

2.1 This chapter is relevant to all firms and explains how existing PRA non-binding materials, that will continue to have effect after exit day, should be interpreted. The draft SS in Appendix 1 sets out the PRA's proposed expectations on how the following non-binding materials should be read when the UK leaves the EU:

- the PRA approach documents;
- all PRA SSs as at exit day;
- all PRA SoPs as at exit day; and
- any other guidance (including Financial Services Authority guidance previously adopted by the PRA) that is in force.

2.2 The draft SS sets out that the PRA will not be making detailed amendments to these materials ahead of the UK's withdrawal from the EU. Firms would be expected to continue to apply them to the extent they remain relevant in light of the UK's withdrawal from the EU. The draft SS states that firms should interpret these materials in the context of the UK's exit from the EU, the changes made to related legislation and the proposed amendments to the PRA Rulebook and onshored BTS under the Act, and any relevant transitional relief. The draft SS highlights key legislative changes which will be relevant to firms when interpreting these materials.

2.3 While the PRA is not generally making detailed amendments to SSs, the PRA proposes to update SS18/15 'Depositor and dormant account protection'. This is due to the complexity of changes being made to the PRA rules that this SS relates to, which mean that it may be difficult for firms to interpret the existing SS correctly in light of those changes. Further information on these proposed rule changes can be found in Chapter 8 of this CP.

2.4 Reporting and disclosure requirements are covered in a separate SS.

3 Approach to reporting and disclosure requirements

3.1 This chapter covers the PRA's proposals on reporting and disclosure requirements (and any instructions for completing them) in the PRA Rulebook, published on the PRA website, and in onshored CRR and Solvency II²² BTS. This is relevant to all PRA-regulated firms.

3.2 As set out in Chapter 4 of the NtA approach CP, the PRA is considering exercising the temporary transitional power in a broad way to delay the application of onshoring changes that will alter the regulatory standards that apply to firms. Proposals in this chapter should be considered in light of that proposal.

3.3 The PRA does not propose to make line-by-line changes to reporting or disclosure requirements at this stage. Instead, the PRA proposes to set out in a new SS the approach it expects firms to take after the UK's withdrawal from the EU to cases where reporting and disclosure fields or definitions relate to the EU.

3.4 Regulatory reporting requirements provide data for supervisors to monitor the risks faced by firms, and Pillar 3 disclosures encourage market discipline. Reporting and disclosure requirements therefore support the PRA's primary objective of ensuring the safety and soundness of firms, and it will be important to ensure that these continue to be effective after the UK's withdrawal from the EU. Due to the volume of reporting and disclosure requirements, and the costs to firms and the PRA of changing reporting templates, the PRA is not proposing, on exit day, to make line-by-line changes to these requirements. Instead, the PRA considers that the proposed approach set out in this chapter and in the draft SS in Appendix 2 is a proportionate way to ensure that reporting and disclosure requirements continue to be effective. The PRA's proposed approach provides clarity for firms on how they should be complying with reporting and disclosure requirements, without imposing additional implementation costs by making changes to templates on exit day.

3.5 The draft SS (Appendix 2) is structured as follows:

- Chapter 1 provides a brief overview of the purpose of the SS;
- Chapter 2 sets out the PRA's proposed approach to interpreting EU references in reporting and disclosure requirements; and
- Chapters 3, 4 and 5 set out the PRA's proposed approach to specific reporting and disclosure requirements: Chapter 3 deals with requirements in CRR BTS; Chapter 4 deals with reporting and disclosure requirements in Solvency II BTS; and Chapter 5 deals with reporting and disclosure requirements in the PRA Rulebook.

3.6 The effect of the approach set out in the draft SS is to retain, in most cases, the current reporting and disclosure definitions. In some cases, minor changes are required to reflect the UK's withdrawal from the EU. But firms should bear in mind that even where current definitions are maintained, the information that needs to be provided in the relevant reporting and disclosure templates may, subject to transitional relief being granted via the temporary transitional power, need to change because of changes in the underlying regulatory requirements arising from the UK's withdrawal from the EU. For example, changes to the capital treatment of exposures to the EU or its Member States may result in different data needing to be reported.

²² Directive 2009/138/EC.

3.7 The approach proposed here aligns with the approach the FCA proposes to take to CRR BTS relating to reporting and disclosure, as set out in the FCA consultation paper CP18/28.²³

²³ 'Brexit: proposed changes to the Handbook and Binding Technical Standards – first consultation', October 2018: <https://www.fca.org.uk/publications/consultation-papers/cp18-28-brexit-proposed-changes-handbook-bts-first-consultation#header>.

4 Proposals relating to PRA-regulated banks, building societies and designated investment firms

4.1 This chapter covers the PRA's proposals on prudential rules for banks, building societies and designated investment firms in the PRA Rulebook.

4.2 As set out in Chapter 4 of the NtA approach CP, the PRA is considering exercising the temporary transitional power in a broad way to delay the application of onshoring changes that will alter the regulatory standards that apply to firms. Proposals in this chapter would need to be considered in light of the proposed use of the power to delay onshoring changes relating to PRA-regulated banks, building societies and designated investment firms. However, the PRA does not expect to use the power to delay certain onshoring changes relating to contractual recognition of bail-in and stay in resolution because of the importance of these rules in executing resolution.

4.3 The majority of proposed changes to PRA rules relevant to banks, building societies and designated investment firms reflect changes expected to be made by the CRR SI²⁴ published on Tuesday 21 August 2018 and the Bank Recovery and Resolution Directive (BRRD) SI²⁵ laid on Tuesday 23 October 2018. Also of relevance to some firms are changes relating to the EMIR SI,²⁶ Central Securities Depositories Regulation (CSDR) SI,²⁷ and the HM Treasury policy notes on Ring-fencing²⁸ and the Financial Conglomerates Directive (FICOD)²⁹ published on Monday 22 October 2018. The changes in the CRR and BRRD SIs are explained in the policy notes³⁰ published by HM Treasury alongside the published SIs. Most of these changes follow the general approach set out in the NtA approach CP where it is assumed that European Economic Area (EEA) states would be treated as 'third country' by the UK and the EU would treat the UK as a 'third country'.

i) Contractual recognition of bail-in and stay in resolution

4.4 This section is relevant to all firms to which the Contractual Recognition of Bail-In Part and Stay in Resolution Part of the PRA Rulebook apply. The proposed changes to PRA rules on Contractual Recognition of Bail-In are set out in Appendix 4. The FCA will be consulting on the changes to its rules on Contractual Recognition of Bail-In³¹ in a forthcoming consultation paper. This section sets out two proposals in relation to these PRA rules.

24 'Capital Requirements (Amendment) (EU Exit) Regulations 2018' draft SI:

<https://www.gov.uk/government/publications/draft-capital-requirements-amendment-eu-exit-regulations-2018>.

25 'The Bank Recovery and Resolution and Miscellaneous Provisions (Amendment) (EU Exit) Regulations 2018' SI:

<http://www.legislation.gov.uk/ukdsi/2018/9780111173732>.

26 https://www.gov.uk/government/publications/draft-over-the-counter-derivatives-central-counterparties-and-trade-repositories-amendment-etc-and-transitional-provision-eu-exit-regulations?utm_source=a29be6e2-b719-404d-86f1-78f6ef865e1a&utm_medium=email&utm_campaign=govuk-notifications&utm_content=immediate.

27 https://www.gov.uk/government/publications/draft-central-securities-depositories-amendment-eu-exit-regulations-2018?utm_source=af6e83e8-5a54-4d41-a66e-e4789f5dae77&utm_medium=email&utm_campaign=govuk-notifications&utm_content=immediate.

28 <https://www.gov.uk/government/publications/draft-ring-fenced-bodies-amendment-eu-exit-regulations-2018/ring-fenced-bodies-amendment-eu-exit-regulations-2018-explanatory-information>.

29 <https://www.gov.uk/government/publications/draft-financial-conglomerates-and-other-financial-groups-amendment-eu-exit-regulations-2018/draft-financial-conglomerates-and-other-financial-groups-amendment-eu-exit-regulations-2018-explanatory-information>.

30 Capital Requirements (Amendment) (EU Exit) Regulations 2018: explanatory information, August 2018:

<https://www.gov.uk/government/publications/draft-capital-requirements-amendment-eu-exit-regulations-2018/capital-requirements-amendment-eu-exit-regulations-2018-explanatory-information>. BRRD explanatory information:

<https://www.gov.uk/government/publications/draft-bank-recovery-and-resolution-and-miscellaneous-provisions-amendment-eu-exit-regulations-2018-explanatory-information>.

31 IFPRU 11.6. <https://www.handbook.fca.org.uk/handbook/IFPRU/11/6.html%3Fdate%3D2016-06-30>.

Contractual Recognition of Bail-In

4.5 The existing PRA rules on the contractual recognition of bail-in aim to ensure the effectiveness of resolution. The rules require firms to include in third country law contracts governing certain liabilities a term by which the creditor or party to the agreement recognises that the liability may be written down or converted by the Bank as the UK resolution authority. The rules require firms to comply with the requirement in respect of liabilities created or materially amended after Thursday 31 December 2015 (or after Thursday 19 February 2015 for liabilities under debt instruments).

4.6 The PRA proposes to amend Rule 2.1 of the Contractual Recognition of Bail-In Part of the PRA Rulebook, so that the requirement does not apply in respect of EEA law³² governed liabilities that were created before exit day. To support cross-border resolution, firms would be required to comply with the contractual recognition of bail-in requirement in respect of new or materially amended EEA law governed liabilities created after exit day. Firms' existing stock of EEA law governed liabilities at exit day would not need to be updated under the proposed rule amendment.

4.7 The PRA considers that this proposal is consistent with taking a proportionate approach and does not create an unnecessary burden on firms. This proposal avoids the potential costs for firms of renegotiating existing EEA law governed liabilities to include the contractual recognition of bail-in term, unless they are materially amended after exit day.

4.8 The PRA estimates that the resultant risk of not requiring firms to renegotiate existing EEA law governed liabilities to the resolvability of firms is low. Consistent with international standards, the BRRD provides resolution authorities in EU states with the statutory power to recognise a resolution action taken by a third country. The PRA further assesses that the amount of EEA law governed instruments, eligible to count towards the minimum requirement for own funds and eligible liabilities (MREL) is relatively low.

4.9 It is nevertheless possible that a particular firm could have existing EEA law governed liabilities or instruments which might constitute a substantive impediment to resolution. In this circumstance, the Bank may use its power of direction to direct the firm to endeavour to re-negotiate liabilities or instruments it may have issued, for the purpose of ensuring that any decision by the Bank to write-down or convert the liability or instrument concerned would have effect under the law which governs that liability or instrument.³³

Use of temporary transitional power

4.10 The contractual recognition of bail-in requirement is important to support an orderly resolution. The PRA does not propose to grant transitional relief in respect of liabilities that are intended to count towards a firm's MREL. Therefore EEA law governed liabilities, other than phase two liabilities,³⁴ that are issued or materially amended after exit day and that are subject to the PRA's Contractual Recognition of Bail-In rules, would not be subject to the temporary transitional power and would be required to include a contractual recognition term.

4.11 The PRA does propose to use the temporary transitional power to delay the obligation to include a contractual recognition of bail-in term in new or materially amended EEA law governed phase two liabilities after exit day.

³² In this Chapter, the reference to EEA law is as it would be after exit day and does not cover UK-law.

³³ See section 3A of the Banking Act 2009.

³⁴ Phase two liabilities means an unsecured liability that is not a debt instrument (as defined in the PRA Rulebook).

4.12 As firms already have in place the procedures and governance to comply with the existing Contractual Recognition of Bail-In rules, the PRA considers that its proposed use of transitional powers strikes the right balance between the potential risk to the resolvability of firms and the expected costs for firms.

Stay in Resolution

4.13 The PRA rules on Stay in Resolution aim to ensure that a firm's entry in resolution does not, by itself, trigger contractual early termination rights or other rights under a contract that are normally triggered by a default. The PRA rules require firms to include in new financial arrangements (or materially amended existing financial arrangements) which are governed by third country law, a contractual recognition term under which the counterparty agrees to restrictions on their early termination and security enforcement rights similar to those that would apply if the financial arrangement were governed by the laws of any part of the UK.

4.14 The PRA's proposal relates to obligations under EEA law governed financial arrangements, as set out in the Stay in Resolution Part of the PRA Rulebook. The PRA proposes not to amend its Stay in Resolution rules and clarifies that firms would be required to comply with these rules in respect of new EEA law governed financial arrangements (or existing financial arrangements materially amended) after exit day. The existing stock of financial arrangements governed by EEA law at exit day would not need to be updated under the PRA Stay in Resolution rules.

4.15 The PRA considers that this proposal is consistent with taking a proportionate approach and does not create an unnecessary burden on firms. This proposal avoids the potential costs for firms of renegotiating existing EEA law governed financial arrangements to include the appropriate contractual recognition term, unless they are materially amended after exit day.

4.16 The PRA estimates that the resultant risk of not requiring firms to renegotiate existing EEA law governed financial arrangements to the resolvability of firms is low. Consistent with international standards, the BRRD provides resolution authorities in EU states with the statutory power to recognise a resolution action taken by a third country. The PRA also assesses that amount of EEA law governed financial arrangements, in scope of the PRA's Stay in Resolution rules, is low.

4.17 It is nevertheless possible that a particular firm could have existing EEA law governed financial arrangements which might constitute a substantive impediment to resolution. In this circumstance, the Bank may use its power of direction to direct the relevant firm to remove the impediment, for example by requiring the firm to include a contractual recognition term in existing financial arrangements.³⁵

Use of temporary transitional power

4.18 The PRA does not propose to use the temporary transitional power in respect of the Stay in Resolution rules given their importance to support an orderly resolution. As firms already have in place the procedures and governance to comply with the existing Stay in Resolution rules, the PRA considers that its proposed approach strikes the right balance between the potential risk to the resolvability of firms and the expected costs for firms.

³⁵ See section 3A of the Banking Act 2009.

ii) Regulatory technical standards for risk-mitigation techniques for OTC derivative contracts not cleared by a central counterparty (bilateral margining RTS)

4.19 This section is relevant to all firms for which the Regulatory Technical Standard (RTS) on risk mitigation techniques for Over the Counter (OTC) derivative contracts not cleared by a central counterparty apply. The bilateral margining RTS³⁶ imposes risk management obligations on firms for non-cleared OTC derivative transactions. These obligations apply to firms individually. However, in practice compliance with some obligations of the RTS is achieved through the terms of a bilateral contract between counterparties.

4.20 The PRA proposes to apply HM Treasury's general approach of treating EU Member States as third countries for its proposed changes to the bilateral margining RTS. This approach to onshoring might require repapering of bilateral agreements, as well as changes to the arrangements counterparties have in place in respect of collateral for these derivative transactions. The PRA welcomes feedback on the effects of this approach, especially as to the significance of any potential adverse effects, and on the costs of implementing these changes.

4.21 In line with HM Treasury's general approach, the PRA proposes in particular to amend:

- The range of eligible collateral in Articles 4 and 5 of the RTS. In particular:
 - EU Member State government debt securities would cease to be eligible on the same basis as UK government equivalent instruments under Article 4(c) to (d). These securities may be eligible as third country debt securities under 4(j) to (l) but this would depend on the credit quality assessment under Article 6. A similar limitation would also apply to other EU issued instruments.
 - eligibility criteria for units or shares in Undertakings for Collective Investment in Transferable Securities (UCITS) is also adjusted. Following the general approach, eligibility criteria would be linked to the UK UCITS.³⁷
- The range of credit institutions where cash collected as initial margin can be maintained under Article 19(e) of the RTS. References in Article 19(e) of the RTS to credit institutions which are authorised in accordance with CRD (or authorised in a third country whose supervisory and regulatory arrangements have been found to be equivalent) will be replaced with references to credit institutions authorised by the PRA to carry on the regulated activity of accepting deposits (or authorised in a third country whose supervisory and regulatory arrangements have been found to be equivalent). This may pose issues where credit institutions that currently provide services to UK counterparties subject to the initial margin requirements are based in EU Member States other than the UK.
- The covered bond exemption in Article 30 of the RTS. Under Article 30 of the RTS, counterparties may currently, where certain conditions are met, in their risk management procedures provide the following in relation to OTC derivative contracts concluded in connection with covered bonds: (i) variation margin is not posted by the covered bond issuer or cover pool but is collected from its counterparty in cash and returned to its counterparty when due; and (ii) initial margin is not posted or collected (the 'covered

³⁶ COMMISSION DELEGATED REGULATION (EU) 2016/2251 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council on OTC derivatives, central counterparties and trade repositories with regard to regulatory technical standards for risk-mitigation techniques for OTC derivative contracts not cleared by a central counterparty.

³⁷ <https://www.gov.uk/government/publications/draft-eu-exit-sis-for-investment-funds-and-their-managers>.

bond exemption'). The conditions include, among others, that the covered bond to which the OTC derivative contract is associated meets certain requirements in Article 129 of the CRR. Article 129 of the CRR currently relates to covered bonds issued by credit institutions with a registered office in the EU only, but will be onshored in such a way that it will relate instead to covered bonds issued by credit institutions with a registered office in the UK.

- Onshored references to UCITS and alternative investment fund managers in Articles 28, 29 and 39 of the RTS in connection with calculations of initial margin thresholds. When calculating these thresholds, UCITS and alternative investment funds managed by alternative investment fund managers authorised or registered in accordance with Directive 2011/61/EU are currently considered as distinct entities where certain conditions are met. The onshored provisions will refer to UK UCITS and to Alternative Investment Funds (AIFs) managed by Alternative Investment Fund Managers (AIFMs) authorised or registered in accordance with the UK's Alternative Investment Fund Managers Regulations 2013. This is aligned with the onshored limbs of the definition of 'financial counterparty' that relate to UK UCITS and AIFs managed by AIFMs authorised or registered in accordance with the UK's Alternative Investment Fund Managers Regulations 2013.

4.22 The PRA recognises that the general approach may have an impact on bilateral agreements, operational or financial arrangements, or cross-border agreements. The PRA is seeking feedback on the challenges applying the general approach may cause to bilateral agreements, operational or financial arrangements, or cross-border agreements (including firms' views on how they may approach them). For example, where firms currently transact across jurisdictions, they may in practice apply the 'higher of' or 'more restrictive' requirements to their risk margining arrangements. This ensures both counterparties meet their respective obligations. As such, it is possible that some of the proposed changes can be implemented under existing practices.

4.23 As discussed in the Bank CP on changes to Financial Market Infrastructure (FMI) rules and onshored BTS,³⁸ HM Treasury is proposing to provide for a temporary regime for certain intragroup exemptions in the onshored EMIR. A consequence of this is the deletion of derogations in respect of certain intragroup transactions in Articles 36 and 37 of the bilateral margining BTS.

4.24 The bilateral margin RTS contains a number of phase-in provisions (including initial margin under Article 36, and the application of the requirements to single-stock equity options under Article 38). As a matter of law, these provisions are not onshored under the Act. As such, they do not form part of the onshored domestic legislation. However, note that the Bank set out on Wednesday 27 June 2018³⁹ that firms should plan on the assumption that requirements arising from new EU legislation that comes into effect during an Implementation Period lasting until 31 December 2020 would apply to them.

³⁸ <http://www.bankofengland.co.uk/paper/2018/uk-withdrawal-from-the-eu-changes-to-fmi-rules-and-onshored-binding-technical-standards>.

³⁹ 'Bank of England's approach to financial services legislation under the European Union (Withdrawal) Act': <https://www.bankofengland.co.uk/news/2018/june/boes-approach-to-financial-services-legislation-under-the-eu-withdrawal-act>.

iii) Ring-fenced banks

4.25 As set out by HM Treasury in its policy note,⁴⁰ ring-fenced bodies (RFBs) would be permitted to continue operating through a branch or a subsidiary in the EEA immediately after exit day. This is a proportionate approach given the proximity to the ring-fencing regime coming into effect and the significant work firms have undertaken to be ready by the 1 January 2019 deadline. The outcome of the independent statutory review of ring-fencing due to commence in 2020/2021 may serve as an appropriate point to reconsider this stance.

4.26 The PRA proposes to amend Rule 16.3 of the Ring-fenced Bodies Part of the PRA Rulebook in line with the Government's general approach of treating the EU as a third country. The proposed changes would require that RFBs using non-UK central counterparties (CCPs) or central securities depositories (CSDs) would need to ensure comparable outcomes in respect of account segregation to those specified for UK-based CCPs and CSDs. This aligns with the principle that, after exit, comparative references such as these should, where possible, be to the relevant UK regime, rather than the future EU regime. Given that the relevant EU and UK regimes for account segregation will be the same at exit, the PRA does not expect this change to affect firms' choice of CCP or CSD accounts at exit.

4.27 These changes are set out in the draft PRA Rulebook EU (Exit) Instrument in Appendix 4.

iv) Other BTS

4.28 A list of BTS within the PRA's remit, and the related BTS EU Exit Instruments that are being consulted on in this CP, are set out in Appendix 5.

4.29 Where a CRD IV/CRR BTS is in the joint remit of the PRA and FCA, the FCA is consulting on its portion of each split BTS in their CP18/28 published on Wednesday 10 October 2018.⁴¹ FCA firms are requested to make reference to the amendments to relevant joint BTS made in this CP. For the shared BRRD BTS in this CP, the FCA intends to consult on these in its upcoming CP due for publication later in the Autumn and will direct stakeholders to the amendments in this CP.

4.30 A number of CRD BTS⁴² within the joint remit of the PRA and FCA will need to be deleted in their entirety, as they will be redundant after exit. This applies, for example, to provisions covering passporting, exchange of information between supervisory authorities, joint decision processes on institution-specific prudential requirements, and the functioning of colleges.

40 https://www.gov.uk/government/publications/draft-ring-fenced-bodies-amendment-eu-exit-regulations-2018?utm_source=3959ebdd-2651-4987-a4a9-036fa0d50408&utm_medium=email&utm_campaign=govuk-notifications&utm_content=immediate.

41 <https://www.fca.org.uk/publications/consultation-papers/cp18-28-brexite-proposed-changes-handbook-bts-first-consultation>.

42 BTS come in two forms, Regulatory Technical Standards (RTS) and Implementing Technical Standards (ITS).

5 Proposals relating to PRA-regulated insurers

5.1 This chapter covers the PRA's proposals on prudential rules relating to insurers in the PRA Rulebook. The majority of changes made to PRA rules in the draft PRA Rulebook EU Exit Instrument are consequential to changes expected to be made by the draft Solvency II⁴³ SI⁴⁴ published on Thursday 11 October. As such these changes should be viewed in light of that SI and the Explanatory Memorandum⁴⁵ published by HM Treasury alongside it. The majority of these follow the general approach whereby it is assumed that each EU and EEA state would be treated as a 'third country' by the UK, and the EU would treat the UK as a 'third country'.

5.2 As set out in Chapter 4 of the NtA approach CP, the PRA is considering exercising the transitional powers in a broad way to delay the application of onshoring changes that will alter the regulatory standards that apply to firms. Under the PRA's proposed approach to the exercise of the transitional power, the below changes in relation to location of branch assets and location of admissible assets would be delayed for the duration of the transitional relief.

i) Location of branch assets

5.3 Current third country branch undertakings, except Swiss general insurers, are required to keep assets up to the branch Solvency Capital Requirement (SCR) within the EEA, of which assets up to the branch Minimum Capital Requirement (MCR) must be kept in the UK.

5.4 The PRA proposes that assets up to the branch SCR are required to be kept in the UK. The PRA does not consider the proposal unduly burdensome for firms and does not consider there to be sufficient justification to diverge from the Government's general approach of treating the EEA as a third country. The proposal would not lead to additional capital requirements if the home supervisor treats assets in the UK as available to absorb losses of the firm as no additional assets would be needed to meet whole-firm requirements. The risk-adjusted return on assets in the UK should be similar to the risk-adjusted return on assets held in the EEA so there is not expected to be significant cost impact to holding UK assets rather than EEA assets.

ii) Non-Directive firms: location of admissible assets

5.5 Currently non-Directive firms⁴⁶ are permitted to hold admissible assets in the EEA to meet their sterling denominated technical provisions. Admissible assets meeting technical provisions denominated in currency other than sterling, must be held in the EEA or in the country of that currency. There are no localisation requirements for business carried on by a UK firm outside the EEA.

5.6 The PRA proposes that admissible assets being held to meet sterling denominated technical provisions of business written in the UK, be located in the UK after exit. The PRA proposes to follow the Government's general approach of treating the EEA as a third country in this context because it does not consider that there would be sufficient justification to allow firms to hold assets to meet sterling denominated technical provisions in the EEA, but not in other third countries. The proposed changes will still allow firms to hold assets in the EEA to meet any outstanding euro-denominated liabilities and there will be no localisation of asset requirements for business written outside the UK after exit.

⁴³ Directive 2009/138/EC.

⁴⁴ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/747552/181010_Solvency_2_draft_SI.pdf

⁴⁵ <https://www.gov.uk/government/publications/draft-solvency-ii-and-insurance-amendment-etc-eu-exit-regulations-2018/solvency-ii-and-insurance-amendments-eu-exit-regulations-2018-explanatory-information>.

⁴⁶ Non-directive insurer means a firm with Part 4A permission to effect contracts of insurance or carry out contracts of insurance other than: (1) a UK Solvency II firm; and (2) a third country branch undertaking.

5.7 These changes are set out in the draft PRA Rulebook EU Exit Instrument in Appendix 4.

iii) Other BTS

5.8 A list of BTS within the PRA's remit, and the related BTS EU Exit Instruments that are being consulted on in this CP, are set out in Appendix 5.

5.9 A number of onshored BTS relevant to insurers will need to be deleted, as these BTS will be redundant after exit day. This includes BTS covering exchange of information between supervisory authorities and joint decision processes.

6 Proposals relating to credit unions

6.1 This chapter covers the PRA's proposals on prudential rules relating to credit unions in the PRA Rulebook.

6.2 As set out in Chapter 4 of the NtA approach CP, the PRA is considering exercising the temporary transitional power in a broad way to delay the application of onshoring changes that will alter the regulatory standards that apply to firms. Under the PRA's proposed approach to the exercise of the power, the change below to requirements for credit unions' exposures to EEA credit institutions would be delayed for the duration of the transitional relief.

Requirements for credit unions' exposures to EEA credit institutions

6.3 The PRA proposes to substitute all references to 'an EEA state' in Chapter 6 of the Credit Unions Part of the PRA Rulebook with 'the UK'.

6.4 Currently, credit unions may only place funds with UK or other EEA credit institutions. Normally required terms are that a deposit or investment shall be repayable within at most 12 months from the date on which it is made. Credit unions that comply with specific requirements as to capital and governance may instead invest for a maximum of five years.

6.5 The PRA is aware that 55 credit unions currently have deposits and investments with non-UK (EEA) providers. All but one of these EEA providers has confirmed that they intend to apply for authorisation in the UK following its exit from the EU. Therefore it seems likely that credit unions which have placed funds with these institutions will be able to keep them there (albeit that the funds may be transferred to a different entity of the same banking group).

6.6 The PRA does not propose to depart from the Government's general approach of treating the EEA as a third country in this context. The PRA requests to be advised of any firm-specific impacts.

7 Proposals relating to firms in the temporary permissions regime (TPR)

7.1 This chapter covers the PRA's proposals on prudential rules relating to firms in the UK TPR.

7.2 Government has laid the EEA Passport Rights (Amendment, etc., and Transitional Provisions) (EU Exit) Regulations 2018 (the 'TPR SI') under the Act.⁴⁷ This SI repeals the rights EEA firms have to passport under EU Directives and Regulations. The PRA is proposing to amend its Rulebook accordingly. The definitions of 'incoming EEA firm', 'incoming firm' and 'incoming Treaty firm' would become redundant and be deleted. Any exceptions to the application of Parts in the PRA Rulebook relating to these definitions would no longer apply.

7.3 The TPR SI also sets out a 'temporary permissions regime' (TPR) for EEA firms currently operating in the UK. The aim of the TPR is to allow firms that currently access the UK market via the EU passporting regime to continue to operate in the UK for a limited period after withdrawal while they seek authorisation from UK regulators. A firm which is authorised to carry on regulated activities in the UK through Freedom of Establishment (FOE) or Freedom of Services (FOS) passporting can obtain a deemed Part 4A permission to carry on those activities for a maximum of three years (subject to HM Treasury's power to extend the duration of the regime by increments of 12 months).

7.4 As a consequence, EEA firms operating in the UK under the FOE or FOS passport that enter TPR will become, and be treated as, third country firms. For firms in TPR with a branch in the UK, the PRA expects these firms to comply with the same rules that apply to other third country branches. For cross-border service providers in TPR with no UK branch, a more limited set of rules will apply. These will include rules that could apply, as currently written, to a PRA-authorized third country firm without a UK branch. These include rules in the Fundamental Rules, Auditors, Change in Control, Close Links, Fees, General Provisions, Information Gathering, Interpretation, Notifications and Use of Skilled Persons Parts, SM&CR requirements, and FSCS rules with adjustments as set out in Chapter 8 of this CP.

7.5 The PRA and FCA will have the same powers in relation to TPR firms as if they were Part 4A authorised firms. These firms will be subject to the same obligations and supervisory framework as if they were Part 4A authorised firms. However, some of the rules that TPR firms will need to comply with for the first time will need to be amended to ensure that they are effective and operable.

Rule changes to ensure operability after withdrawal

7.6 PRA Rulebook changes particularly relevant to the firms in TPR include adjustments to the definition of non-Directive insurer and those related to the applicability of the Senior Manager and Certification Regime (SM&CR) to firms without a branch in the UK.

Insurance undertakings – non-Directive insurers

7.7 On entering the TPR, insurers currently operating in the UK under a FOS passport would fall under the definition of a non-Directive insurer. The PRA does not consider PRA non-Directive insurer rules to be effective or easily operable for firms entering TPR since they are based on a Solvency I regime and the insurers in question are currently operating under a

⁴⁷ <https://www.gov.uk/government/publications/temporary-permissions-regime-for-firms>.

Solvency II regime. The PRA therefore proposes to amend the definition of non-Directive insurer so it does not capture these firms.

Senior Managers and Certification Regime (SM&CR) requirements

7.8 In order to ensure appropriate and proportionate accountability, the PRA proposes to apply the SM&CR to firms in the TPR. In particular, the PRA proposes to apply the SM&CR rules for UK branches of third country firms (third country branches) to firms in the TPR including, with appropriate modifications, to cross-border service providers without a UK branch.

7.9 The PRA proposes that all firms in the TPR (including cross-border service providers) will be required to have one or more individuals approved to perform the Head of Overseas Branch (Senior Management Function (SMF) 19) function in the Senior Management Functions 7/ Insurance – Senior Management Functions 6 Parts of the PRA Rulebook ('Provisional SMF19'). In some circumstances the PRA Rulebook requires third country branches also to have persons approved to perform other PRA SMFs (eg Chief Risk function (SMF4) or With-Profits Actuary function (SMF20a)). Where those circumstances arise for firms in the TPR (including cross-border service providers), the PRA proposes that they will be required to have persons approved to perform the relevant additional senior management functions.

7.10 For firms in the TPR, the TPR SI gives discretion to the PRA (with the FCA's consent) to treat as approved an individual whose SMF application has been submitted. These 'deemed approvals' are to be conferred by the PRA giving notice to the firm and may last for up to three years from exit day.⁴⁸ Where a firm has submitted a Part 4A permission application accompanied by the relevant SMF application(s) prior to exit day, the PRA can decide whether to treat the individuals as approved with effect from exit day. To facilitate the process for seeking deemed approvals where a firm has not applied prior to exit day, the PRA proposes to direct firms in the TPR to use a specific form for SMF approval applications. The form would be an adapted version of Short Form A and would include a short Statement of Responsibilities. Using the information provided in this application, the PRA would decide whether to give a notice conferring deemed approval.

7.11 The PRA proposes to provide firms in TPR with a period of up to 12 weeks from exit day in which to obtain deemed (or full) approval for individuals who require it. During that period, a function performed by a person who could be given a deemed approval would not be treated as an SMF. This transitional period would end when the PRA gives a deemed approval notice, or determines the SMF application, or 12 weeks from exit day, whichever is earlier.

7.12 The PRA also proposes to apply the Certification Regime, and Regulatory References to cross-border service providers without a UK branch which enter into the TPR (as well as to branches in the TPR). The PRA is considering using its temporary transitional power to provide for transitional relief for firms without a UK branch in relation to Certification Regime, Conduct, and Regulatory References requirements.

Approach to use of temporary transitional power for incoming EEA branches

7.13 If there is no Implementation Period, EEA firms operating in the UK under the FOS or FOE passport that enter TPR will become, and be treated as, third country firms.

7.14 Firms entering the TPR may find it challenging to comply immediately after exit day with some requirements in PRA rules that will apply to them for the first time. Therefore, at this

⁴⁸ Subject to HM Treasury's power to extend the duration of the regime by increments of 12 months

stage, the PRA is considering the use of possible transitional relief in relation to certain aspects of the following third country branch requirements:

- Branch Solvency and Minimum Capital Requirements for insurance branches (but the PRA would expect them to comply with branch security deposit requirements);
- PRA remuneration rules where they go beyond minimum CRD IV⁴⁹ requirements;
- certain reporting obligations where they involve the segregation of branch data and the reporting and review of this data where this is not already required; and
- certain composite rules for insurance branches.

7.15 The PRA welcomes comments on any particular aspects of the UK third country regime and any particular obligations in the PRA Rulebook with which readers consider EEA firms would find it particularly challenging to comply from exit day.

⁴⁹ Capital Requirements Directive (2013/36/EU) (CRD) and Capital Requirements Regulation (575/2013) (CRR) – jointly ‘CRD IV’.

8 Proposals relating to FSCS protection

8.1 This chapter sets out proposed changes to PRA rules on the protection provided by the FSCS to depositors and insurance policyholders in light of the UK's withdrawal from the EU.⁵⁰ It also includes proposals to amend SS18/15 'Depositor and dormant account protection'.

8.2 After-exit, the PRA expects that EEA firms that were previously passporting into the UK will become authorised under FSMA (with Part 4A permissions granted by the PRA, or deemed under the TPR). These firms will be members of the FSCS and will need to comply with the Depositor Protection Part and the Policyholder Protection Part of the PRA Rulebook.

8.3 This chapter is relevant to:

- depositors of deposit-takers and policyholders of insurers that operate cross-border between the UK and EEA;
- UK banks, building societies and credit unions (including those operating in the EEA under a passport), overseas firms with a PRA permission to accept deposits, as well as EEA credit institutions that operate in the UK under a FOE passport;
- UK insurers (including those operating in the EEA under a passport), EEA insurers that operate in the UK under a passport, Channel Islands insurers and Isle of Man insurers with FSMA authorisation and risks or commitments situated in the UK, Channel Islands or Isle of Man, and firms that have assumed responsibility for liabilities from the foregoing insurers (successors);
- the Society of Lloyd's; and
- the Financial Services Compensation Scheme Limited, as scheme manager.

8.4 Government has announced the intention to provide, if necessary, future legislation to ensure that contractual obligations, such as insurance contracts, which would not be covered by the TPR, can continue to be met.⁵¹ The proposals in this chapter take account of the published proposals for the TPR⁵² but do not take account of any future legislation. The PRA's proposed approach to the TPR is set out in Chapter 7 of this CP.

8.5 The PRA does not propose to grant transitional relief under the temporary transitional power in respect of proposals in this chapter. This includes changes to the FSCS rules in the Depositor Protection Part and Policyholder Protection Part in the PRA Rulebook (Appendix 4) and changes to SS18/15 (Appendix 3). Therefore, the changes would apply in full from exit day in the event that there is no Implementation Period agreed.⁵³

⁵⁰ The PRA is responsible for the rules that provide FSCS protection for depositors and policyholders ('PRA classes'). The FCA is responsible for the rules that determine FSCS protection for FCA classes of regulated activities, including investment provision, investment intermediation, insurance intermediation, debt management and home finance intermediation. The FCA intends to consult on its proposed rule changes to FSCS protection of FCA classes in due course.

⁵¹ 'Financial Services Update: Written statement - HCWS382', December 2017: <https://www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Commons/2017-12-20/HCWS382/>.

⁵² 'EEA Passport Rights (Amendment, etc., and Transitional Provisions) (EU Exit) Regulations 2018' draft SI.

⁵³ Similarly, the PRA does not propose to use the temporary transitional power in relation to the Dormant Account Scheme, FSCS Management Expenses Levy Limit and Base Costs, and Management Expenses in Respect of Relevant Schemes Parts of the PRA Rulebook if no Implementation Period is agreed.

8.6 As described in the NtA approach CP, if an Implementation Period is agreed, existing FSCS (and EEA deposit guarantee scheme) protection will continue during that period and the proposals in this chapter would not take effect.

Summary of proposals

8.7 The proposals in this chapter follow the general approach of treating EEA States as ‘third countries’ as set out in the NtA approach CP, but the PRA proposes to continue to provide FSCS protection for policyholders that have existing insurance policies at exit day, provided that the insurer continues to be a ‘relevant person’ under Part XV FSMA after exit day.

8.8 The policy proposals included in this chapter are:

- that from exit day, FSCS depositor protection would only protect depositors with eligible deposits held by UK establishments of firms with Part 4A permissions to accept deposits;⁵⁴
- to provide rules and expectations for firms regarding notification and disclosure to depositors about changes to their depositor protection;
- that for insurance policies issued⁵⁵ after exit day by insurers in the TPR, the scope of FSCS protection would be narrowed to exclude policies covering EEA risks;
- that for insurance policies issued after exit day by other insurers with Part 4A permissions, the scope of FSCS protection would be narrowed to protect policyholders with policies covering UK risks written from UK establishments of such insurers;⁵⁶
- that for insurance policies issued before exit day, the existing FSCS protection for policyholders with EEA and UK risks would be continued until the risks are run off, as long as the insurer remains a ‘relevant person’ under FSMA;
- that the PRA’s current policy would be continued, to maintain existing FSCS protection for policyholders with insured events arising prior to the transfer of insurance liabilities out of the UK in case of ‘successors’⁵⁷ that are not ‘relevant persons’ under FSMA; and
- to remove references in rules that are no longer appropriate following the UK’s withdrawal from the EU.

8.9 As set out in Chapter 4 of the NtA approach CP, the PRA does not propose to use the temporary transitional power in relation to FSCS protection. Proposals in this chapter would apply immediately upon exit.

8.10 The proposals in this chapter do not address FSCS protection for depositors or policyholders in respect of inbound passporting firms from Gibraltar or UK firms passporting into Gibraltar. Readers should not draw conclusions as to future FSCS protection in relation to Gibraltar from current PRA rules or these proposed changes. As described in Chapter 1 of this

54 Including deemed Part 4A permission to accept deposits under the ‘EEA Passport Rights (Amendment, etc., and Transitional Provisions) (EU Exit) Regulations 2018’ draft SI.

55 For purposes of the Policyholder Protection Part of the PRA Rulebook, “issued” includes a re-issuance of a policy or a renewal.

56 Policies issued by ‘relevant persons’ under FSMA after exit day through an establishment in the UK, the Channel Islands or the Isle of Man, where the risk is situated in the UK, the Channel Islands or the Isle of Man will also be eligible for protection.

57 Rule 11.1 of the Policyholder Protection Part in the PRA Rulebook.

CP, the PRA will consult on further changes to address issues related to Gibraltar after relevant SIs have been published by Government. This will include changes to the PRA Rulebook to address FSCS issues related to Gibraltar.

8.11 The PRA published CP24/18 ‘Occasional Consultation Paper’ (the ‘OCP’)⁵⁸ on Monday 22 October 2018 which proposed minor changes to certain rules in the Depositor Protection and Policyholder Protection Parts of the PRA Rulebook. These changes include amendments to rules 2.2(4)(f) and 28.3 in the Depositor Protection Part, changes to which are also being consulted on in the attached instrument. These proposals have not been included in the instrument associated with this CP because this CP proposes only to make changes to PRA rules that applied before Sunday 1 July 2018. Accordingly, readers should also refer to the OCP.

Structure of this chapter

8.12 This chapter is structured as follows:

- (i) Depositor protection: sets out proposals relating to the FSCS protection of depositors after exit; and
- (ii) Policyholder protection: sets out proposals relating to the FSCS protection of policyholders after exit that will differ depending upon when policies were issued relative to exit day.

1.12 Draft rules are set out in Appendix 4 and a draft update to SS18/15 is set out in Appendix 3.

(i) Depositor protection

8.13 Depositor protection in the EEA (including the UK) is currently governed by the Deposit Guarantee Schemes Directive (DGSD).⁵⁹ Protection is harmonised among EU Member States and responsibility for providing protection is on a home-state basis. This means that in the event of default, the UK industry (through the FSCS) funds the compensation of eligible deposits held by UK deposit-takers’ UK establishments as well as deposits held by their passported branches elsewhere in the EEA. Similarly, deposit guarantee schemes in EEA Member States protect deposits held by EEA banks’ branches in the UK.

8.14 When the UK leaves the EU, it will no longer be subject to the interconnected depositor protection provided by EU Member States pursuant to the DGSD, and changes to the UK’s deposit guarantee scheme, the FSCS, will be necessary.

8.15 The proposals below will be implemented through changes to the Depositor Protection Part of the PRA Rulebook and an update to SS18/15.

Scope

8.16 The PRA proposes to change its rules to provide that from exit day, FSCS depositor protection would only protect depositors with eligible deposits held by UK establishments of firms with FSMA Part 4A permissions to accept deposits.

8.17 This proposal is consistent with the UK’s current treatment of third country firms and the general approach set out in the NtA approach CP. It would ensure that the FSCS provides

⁵⁸ <https://www.bankofengland.co.uk/prudential-regulation/publication/2018/occasional-consultation-paper>.

⁵⁹ Directive 2014/49/EU.

protection to all eligible deposits held by UK establishments of authorised deposit-takers regardless of whether deposits are held by a UK branch or UK subsidiary.

Deposits held by UK establishments of EEA firms

8.18 Firms that currently hold deposits in the UK through a passported branch or a freedom of services passport will be eligible to apply to establish a third country branch in the UK and receive a FSMA Part 4A permission to accept deposits.⁶⁰ But, given that it may not be possible for such branches to be established and permissions granted immediately upon the UK's exit, HM Treasury has proposed the TPR⁶¹ as set out in Chapter 7 of this CP. Firms in the TPR will be deemed to have Part 4A permission in relation to regulated activities that were previously passported. In this chapter, references to Part 4A permission include both granted and deemed Part 4A permission.

8.19 Firms with an establishment in the UK that obtain Part 4A permission to accept deposits automatically become members of the FSCS and are required to comply with the PRA's depositor protection rules (including the UK's Single Customer View (SCV) requirements).⁶² Protection for eligible deposits held by these UK branches would be provided by the FSCS. This means that when the UK becomes a third country, depositor protection will not be dependent on decisions made by the home EEA Member States for those branches.

8.20 Because the DGSD and BRRD⁶³ will no longer be applicable to the UK, the ranking of deposits held by UK branches of EEA deposit-takers may be lower in the EEA Member States' creditor hierarchy than at present. This could result in greater losses for depositors to the extent deposits exceed the covered amount. It could also result in reduced recoveries for the FSCS in the insolvency of an EEA deposit-taker, thereby increasing the financial burden on the UK industry that funds the FSCS. The PRA's approach to authorising international banks to operate in the UK takes into account the exposure of the FSCS.⁶⁴

Deposits held by UK firms' branches in the EEA

8.21 The PRA proposes to amend its rules such that depositors' deposits held by UK firms' branches in the EEA will no longer be protected by the FSCS. This is consistent with the existing position for branches of UK firms that are located in third countries. Under the DGSD, EEA States will need to consider whether to require that these branches join their deposit guarantee scheme. Where EEA States require branches to join, depositor protection would shift from the FSCS to that EEA deposit guarantee scheme. Depending upon the actions of EEA States and the scope of depositor protection in each EEA State, some depositors could lose protection.

8.22 As a result of the interaction between the removal of FSCS protection, the creditor hierarchy in the Insolvency Act 1986, and the Banking Act 2009 definition of deposits that are exempt from the bail-in tool,⁶⁵ deposits held by UK firms' EEA branches (and the relevant EEA deposit guarantee schemes that obtain assignments of rights) will drop in the UK's creditor hierarchy and will no longer be automatically exempt from the Bank's application of the bail-in tool.

60 Subject to SS1/18 'International banks: the Prudential Regulation Authority's approach to branch authorisation and supervision' March 2018: <https://www.bankofengland.co.uk/prudential-regulation/publication/2018/international-banks-pras-approach-to-branch-authorisation-and-supervision-ss>.

61 Under the 'EEA Passport Rights (Amendment, etc., and Transitional Provisions) (EU Exit) Regulations 2018' draft SI.

62 The SCV is an electronic file prepared by a firm that contains aggregated information on each depositor. It is designed to facilitate the transmission of information to the FSCS in order to enable fast pay-out in the case a deposit-taker fails.

63 Directive 2014/59/EU.

64 See SS1/18 referenced above.

65 'The Bank Recovery and Resolution and Miscellaneous Provisions (Amendment) (EU Exit) Regulations 2018' draft SI.

Customer notification and disclosure

8.23 The Depositor Protection Part of the PRA Rulebook includes various requirements on firms to ensure depositors are informed about their protection and the particular scheme that is responsible for protection in the event of failure.⁶⁶ This information must be provided at the time of account opening and at least annually. It also must be highlighted in branches, on websites, and via posters and stickers. In addition, firms must confirm that deposits are eligible deposits on depositors' statements of account.

8.24 The PRA proposes that these requirements will apply immediately from exit day to EEA firms that have Part 4A permission to accept deposits upon exit day, in relation to deposits held at UK establishments.

*Deposits held by UK establishments of EEA firms**New customer disclosure and acknowledgements*

8.25 Depositor Protection 16⁶⁷ requires firms to maintain up-to-date information sheets and exclusions lists in prescribed form, to provide these to an intending depositor, and to obtain an acknowledgment of receipt from the intending depositor, before entering into a contract on deposit-taking. The information sheet will need to be updated to reflect the new provider of depositor protection. The PRA also proposes to amend the exclusions list. The PRA proposes that these rules will apply immediately to EEA firms which have Part 4A permission upon exit day.

8.26 The PRA also proposes to clarify that Depositor Protection 16 applies only in relation to deposits held by firms' UK establishments.

Disclosure to existing depositors

8.27 Depositor Protection 17.1(3) requires firms to provide the prescribed information sheet and exclusions list to depositors at least annually. The PRA proposes that all EEA firms that have Part 4A permission with effect from exit day will be required to provide this updated information to depositors within two months beginning on the day after exit day. This is to ensure that depositors are promptly made aware of any changes to their depositor protection. Compliance with this requirement will also count for the purposes of the annual obligation.

8.28 The PRA also proposes to clarify that Depositor Protection 17 applies only in relation to deposits held by firms' UK establishments.

Posters and stickers

8.29 EEA firms that have Part 4A permission upon exit day would immediately be required to display updated posters and stickers in the prescribed form. The rules concerning the content of these posters and stickers are proposed to be amended to reflect the removal of passporting by EEA firms into the UK and the changes in the provider of depositor protection proposed in this chapter.

8.30 The PRA proposes to update SS18/15 to include an expectation that firms do not make this change until the day following exit day.

⁶⁶ See Chapters 16, 17 and 23 of the Depositor Protection Part of the PRA Rulebook.

⁶⁷ See also Article 16 of the DGSD.

Training

8.31 The PRA proposes to update SS18/15 to include an expectation that UK establishments of EEA firms train customer-facing staff that depositor protection has shifted to the FSCS so that staff are equipped to answer questions from customers by the day following exit day.

Deposits held by UK firms' branches in the EEA

8.32 The PRA proposes to require UK firms that have branches in the EEA and whose depositors will no longer be protected by the FSCS following exit day to notify affected depositors within one month beginning on the day following exit day.

Single Customer View (SCV)

8.33 Since 31 December 2010, the SCV rules have been used to operationalise faster payout and to help ensure that the FSCS could pay out the majority of eligible deposits within a target of seven calendar days.

8.34 The PRA proposes that EEA firms that have Part 4A permission to accept deposits upon exit day will be required to comply immediately with the PRA rules on SCV in respect of deposits held by UK establishments. For example, firms will be subject to the requirements to provide an SCV file to the FSCS within three months of authorisation and within 24 hours of a request.⁶⁸

Levies

8.35 As a result of falling within the scope of the FSCS, EEA firms that have Part 4A permission with effect from exit day will be required to pay FSCS levies. The PRA intends to use its powers under FSMA for the purposes of the FSCS levy rules. A subsequent consultation will address this.⁶⁹ Depositor Protection 44.2 requires firms to provide a statement of the total amount of business which it conducts. The PRA proposes to include an expectation in SS18/15 that firms with a Part 4A permission with effect from exit day should provide the required information to the FSCS by Wednesday 1 May 2019. The required information in Depositor Protection 41.6(1) (which applies to firms that become new Deposit Guarantee Scheme (DGS) members between 1 January and 31 March, by virtue of Depositor Protection 44.3) is the projected valuation of business/deposits held prior to 31 December that would have been FSCS eligible deposits if the firms had been DGS members at that time.

ii) Policyholder protection

8.36 The FSCS provides broad protection to policyholders in the event that insurers experience financial difficulties. Currently, the FSCS protects policyholders of UK firms (including policyholders of UK firms passporting out to the EEA) as well as incoming passporting insurers (depending upon the location of the insured risk). These firms are currently members of the FSCS and are required to pay FSCS levies.

8.37 When the UK is no longer an EU Member State and passporting ceases, changes to the UK's policyholder protection scheme are required in order to be consistent with how the UK currently treats non-EEA third country firms and insurance risks, and the general approach set out in the NtA approach CP.

8.38 These proposals will be implemented through amendments to the Policyholder Protection Part of the PRA Rulebook.

⁶⁸ See Depositor Protection 12, 14.2 and 15.2.

⁶⁹ This consultation will also address levies payable made under the Dormant Account Scheme Part

Insurance policies issued prior to exit day

8.39 The PRA proposes to maintain existing FSCS protection for insurance policies issued prior to exit day such that existing FSCS protected policies maintain protection until risks are run off, as long as the insurer remains a ‘relevant person’ under FSMA. This will maintain protection for protected policies issued prior to exit day by both EEA branches of outbound UK firms as well as inbound EEA firms, so long as the firms remain ‘relevant persons’ under FSMA after exit day.

8.40 This proposal recognises that policyholders may have factored FSCS protection into their purchase decision and may struggle to replace existing policies with similar protection if there was a sudden cessation in FSCS protection on exit day.

Insurance policies issued after exit day

8.41 The PRA proposes that for insurance policies issued after exit day, the scope of FSCS protection would be narrowed to protect policyholders with policies covering UK risks written from UK establishments of insurers with FSMA Part 4A permission. This proposal is consistent with the UK’s current treatment of third country firms and third country risks, the general approach set out in the NtA approach CP, as well as the PRA’s authorisation approach which will require that all incoming EEA firms with establishments in the UK will require Part 4A permissions.

8.42 Therefore, the FSCS will no longer protect policies written after exit day by establishments outside the UK (including outbound branches of UK firms),⁷⁰ or policies written after exit day that cover EEA risks. However, for inbound EEA firms that have not yet set up a UK establishment but that have deemed Part 4A permissions to effect and/or carry out insurance business, the PRA proposes to continue to provide protection to policyholders of those firms in respect of policies insuring UK risks issued after exit day. This will ensure that there is no difference in FSCS protection for policyholders while a firm is in the process of establishing a branch in the UK, provided the firm has a Part 4A permission prior to issuing the policies.

8.43 The PRA does not currently require insurers to notify customers of FSCS protection. The PRA does not propose to create new notification requirements. However, insurers should take note of FCA Handbook COBS 13.3.1(2)(b), ICOBS 3.1.3R and 6.4.4R, and ensure documentation provided to policyholders is accurate.

Transfer of insurance policies to successors

8.44 Where a UK insurer or an inbound EEA insurer operating in the UK via passporting rights transfers its insurance liabilities to an insurer without UK authorisation, existing PRA rules provide FSCS protection only to claims in relation to acts or omissions (‘insured events’) that arose before the transfer to the ‘successor’.

8.45 The PRA proposes not to change this existing policy.⁷¹ In the context of the UK’s withdrawal from the EU, FSCS protection will continue to be available for eligible policyholders with insured events arising prior to the transfer of their insurance liabilities out of the UK, in cases where the ‘successors’ are not ‘relevant persons’ under FSMA. This means that policyholders of firms or ‘successors’ which are not ‘relevant persons’ in the UK retain the

70 Protection will continue in the case of policies written by establishments in the Channel Islands and Isle of Man, provided the firms have FSMA Part 4A permissions.

71 Statement of Policy ‘Policyholder protection’, April 2015: <https://www.bankofengland.co.uk/prudential-regulation/publication/2015/policyholder-protection-sop>.

benefit of FSCS protection for insured events arising prior to the point of transfer, but not in respect of any subsequent events arising after the point of transfer.

8.46 Unless the court were to grant a waiver from the requirement to notify all transferring policyholders on a FSMA Part VII transfer, the PRA and FCA can expect all transferring policyholders to be notified of any impact that the Part VII transfer may have on their FSCS protection, as part of the Part VII notification process.

Levies

8.47 EEA firms that have Part 4A permission with effect from exit day will continue to be required to pay FSCS levies. The PRA intends to use its powers under FSMA for the purposes of the FSCS levy rules. A subsequent consultation will address this.

9 The PRA's obligations under the Regulations

9.1 HM Treasury has delegated a power, under Section 8 of the Act, to the PRA to make changes to PRA rules and relevant BTS. As such, similar restrictions that apply to the power in Section 8 of the Act also apply to the PRA's delegated power. Different constraints will exist in relation to the temporary transitional power as highlighted in Chapter 4 of the NtA approach CP.

9.2 In accordance with those restrictions, the PRA considers that all changes proposed to Rules and BTS in this CP are appropriate to prevent, remedy or mitigate any:

- (a) failure of the relevant PRA rules or BTS to operate effectively; or
- (b) other deficiency in the relevant PRA rules or BTS, arising from the UK's withdrawal from the EU.

9.3 The types of changes that fall within the scope of 'deficiency' are listed in Section 8(2) of the Act. This list is exhaustive, ie all amendments must address deficiencies of these types or make consequential, supplementary, transitory or transitional provision in connection with them.

9.4 The PRA also confirms that the proposed Rule and BTS changes made under the Act do not:

- (a) impose or increase taxation or fees;
- (b) make retrospective provision;
- (c) create a criminal offence which is capable of leading to imprisonment of more than two years;
- (d) establish a public authority;
- (e) implement the Article 50 Withdrawal Agreement;
- (f) result in the transfer of a function of an EU authority to a UK authority;
- (g) confer any power to legislate by means of orders, rules, regulations or any other subordinate instrument; or
- (h) amend any legislation other than the relevant PRA rules or BTS.

Equality and diversity

9.5 The PRA has performed an assessment of the policy proposals and does not consider that the proposals give rise to equality and diversity implications.

Appendices

-
- 1 Draft Supervisory Statement – Non-binding PRA materials: the Prudential Regulation Authority’s approach after exit from the EU**

 - 2 Draft Supervisory Statement - Approach to interpreting reporting and disclosure requirements after the UK’s exit from the EU**

 - 3 Draft update to Supervisory Statement 18/15 ‘Depositor and dormant account protection’**

 - 4 Draft PRA Rulebook EU Exit instrument**

 - 5 List of BTS in the PRA’s remit and Draft BTS EU Exit instruments**

Appendix 1: Draft Supervisory Statement ‘Non-binding PRA materials: The PRA’s approach after the UK’s withdrawal from the EU’

1 Introduction

1.1 HM Treasury set out its intention to ensure that the UK continues to have a functioning financial services regulatory regime regardless of the outcome of negotiations with the EU.¹ This approach is to ensure that EU-derived laws and rules that are currently in place in the UK will continue to apply at the point of exit to the extent that they remain operable in a UK regime. Changes will only be made to those laws or rules that would otherwise not operate appropriately. This provides continuity and certainty for firms as the UK leaves the EU.

1.2 This supervisory statement (SS) elaborates on how firms should interpret existing non-binding PRA regulatory and supervisory materials in light of the UK’s exit from the EU. This includes the PRA’s existing approach documents, statements of policy (SoPs), and SSSs – these are collectively referred to as the PRA’s ‘non-binding materials’.

1.3 This SS is relevant to all PRA-regulated firms operating, or intending to operate, in the UK. The PRA may issue further expectations in relation to this topic.

1.4 Setting out the PRA’s approach to its non-binding materials after the UK’s withdrawal from the EU helps provide certainty to firms. Except for SS18/15 ‘Depositor and dormant account protection’, the PRA is not proposing to make line-by-line amendments to its non-binding materials at this stage to reflect the UK’s withdrawal from the EU.

2 Supervisory expectations for firms on the UK’s exit from the EU

2.1 Alongside PRA rules, the PRA also issues supervisory approach documents,² SoPs,³ and SSSs.⁴

- The supervisory approach documents set out information on the PRA’s supervisory practices including its approach to the supervision of different types of firms.
- SoPs are the formal documents in which the PRA details its policy on a particular matter. SoPs usually set out the PRA’s approach to exercising powers conferred by the Financial Services and Markets Act 2000 (‘FSMA’). They do not contain the PRA’s expectations, which are set out in supervisory statements.
- Supervisory statements set flexible frameworks for firms, incorporating new and existing expectations. They focus on the PRA’s expectations and are aimed at facilitating firm and supervisory judgement in determining whether they meet those expectations. They do not set absolute requirements – these are contained in rules.

1 <https://www.gov.uk/government/publications/financial-services-legislation-under-the-eu-withdrawal-act>.

2 Available at: <https://www.bankofengland.co.uk/prudential-regulation/publication/2016/pr-a-approach-documents-2016>.

3 Available at: <https://www.bankofengland.co.uk/news/prudential-regulation?NewsTypes=65d34b0d42784c6bb1dd302c1ed63653&Taxonomies=7d299a7477874858849990ea23f885c0&Direction=Latest%27>.

4 Available at: <https://www.bankofengland.co.uk/news/prudential-regulation?NewsTypes=65d34b0d42784c6bb1dd302c1ed63653&Taxonomies=65a33f20fd5241d58bd01d5fb54bded8&Direction=Latest%27>.

2.2 In general, the PRA is not intending to make line-by-line amendments to non-binding materials ahead of the UK's withdrawal from the EU. However, firms should read and interpret these materials in light of the UK's withdrawal from the EU, as well as the amendments that have been made to related legislation under the European Union (Withdrawal) Act 2018 (the 'Act'). This includes changes to the PRA Rulebook and Binding Technical Standards, under the Act. In particular, firms should take into account the key changes to legislation outlined in Chapter 3 of this SS. For example, Ss that set out the PRA expectations for firms in relation to European joint decision processes would no longer be relevant under the assumption that the UK would no longer participate in these processes. Firms should also interpret these materials in light of the use of any relevant transitional relief.

3 Relevant legislative changes

3.1 There are various key changes being made to legislation that firms should consider when interpreting existing PRA non-binding materials. A non-exhaustive list of these changes is set out below.

- Passporting under EU financial services legislation will no longer be available after exit. Therefore, any reference to passporting, or processes associated with passporting, are redundant.
- Functions carried on by EU authorities that exist solely to support the EU single market will be redundant and will therefore be deleted. Other roles and responsibilities that are currently being carried out by EU authorities are being reallocated to the most appropriate UK authority, to the extent that they remain relevant when the UK has left the EU. For example, HM Treasury is proposing to transfer to the PRA the European Insurance and Occupational Pensions Authority (EIOPA) function of declaring an 'Exceptional Adverse Situation'. Firms should interpret references to EU functions with reference to the new UK authority taking on that function.
- The treatment of EU firms and assets for the purposes of capital and liquidity requirements will, in most cases, be aligned with the treatment of third countries' firms and assets. Therefore, references to preferential treatment of EU assets are no longer relevant and firms should have reference to the third country treatment of those assets.
- Where capital or liquidity consolidation was only required at the EEA level previously, this will be required at the UK level after exit. (For insurance groups, firm-specific consolidation waivers remain available.) Therefore, firms should interpret any reference to the EEA consolidated group, to the UK consolidated group.

Appendix 2: Draft Supervisory Statement ‘PRA approach to interpreting reporting and disclosure requirements after the UK’s withdrawal from the EU’

1 Introduction

1.1 This supervisory statement (SS) sets out the approach the Prudential Regulation Authority (PRA) expects firms to take when interpreting EU-based references found in reporting and disclosure requirements after the UK’s withdrawal from the EU. The PRA has not made line-by-line changes to reporting or disclosure requirements as a result of the UK’s withdrawal from the EU, as it would not have been proportionate to do so. Instead, the PRA expects firms to interpret EU references in those requirements in accordance with this SS.

1.2 Chapter 2 outlines a general approach on this issue, which is in line with the approach taken more widely when making changes to retained EU law under the European Union (Withdrawal) Act 2018.¹ Chapters 3, 4 and 5 detail an expected approach on certain more specific issues. In any instance where the approach set out in Chapters 3, 4 and 5 conflicts with the approach set out in Chapter 2, the approach set out in Chapters 3, 4 and 5 should take priority.

1.3 The appendix to this SS outlines which European Binding Technical Standards (BTS) and which parts of the PRA Rulebook are in scope of this guidance.

2 General approach

2.1 Table A sets out the various different types of EU-based references, and a default approach to how these should be interpreted.

Table A: General approach to interpretation of EU-based references

Type of reference	Default interpretation
Reference to EU regulation	This should be read as a reference to the nationalised version of the regulation.
Reference to EU directive	This should be read as a reference to the UK legislation; PRA or Financial Conduct Authority (FCA) rules; or the UK, PRA or FCA processes that give effect to the directive, as amended on EU withdrawal. In some cases firms may also find it helpful to refer to the text of the EU directive as it stands on the date of UK withdrawal from the EU, to provide additional context.
Reference to EU technical standard	This should be read as a reference to the nationalised version of the technical standard.
Stand-alone reference to the European Union or EU (ie not in relation to legislation); or the European Economic Area or EEA	This should be read as a reference to the UK, except where otherwise noted below.

¹ These processes are often known as onshoring or Nationalising the Acquis (NtA)

Type of reference	Default interpretation
Reference to Member State, Member States or home Member State	This should be read as a reference to the UK, except where otherwise noted below.
Reference to third country	This should be read as a reference to a non-UK country.
Reference to Euros	<p>Where Euro is given as an example of a currency, and the same treatment is applied to other currencies (eg US dollars), no change in interpretation is required.</p> <p>Any reference to a threshold set in Euros will continue to apply.</p> <p>In any other case, further details can be found in Chapters 3, 4 and 5 of this SS of how this should be interpreted.</p>
Reference to definition based on Capital Requirements Regulation (575/2013) (CRR) or Solvency II requirements	<p>In some cases, reporting definitions are written to mirror text in level one legislation (either in addition to, or instead of, including a direct reference to the legislation). Where this happens, institutions should also refer to the relevant nationalised legislation to ensure they are interpreting the reporting requirements properly. Where this differs to the text in the technical standard, the definition in the relevant nationalised legislation should take priority.</p> <p>Example occurrence: The CRR Common Reporting (COREP) templates on Liquidity Coverage Ratio (Annexes XXIV and XXV of ITS 680/2014) use definitions based on the definitions set out in the Liquidity Commission Delegated Regulation. In most cases, the article reference is provided, but in some cases this is implicit. Firms should ensure their reporting aligns to the nationalised version of the Liquidity Commission Delegated Regulation.</p>
Reference to a specific accounting standard as endorsed by the EU (eg International Financial Reporting Standards (IFRS) 9)	This should be read as a reference to the implementation of the corresponding accounting standard that is in place in the UK after exit day.
Reference to statistical definitions set out by European bodies outside of legislation (eg by the European Central Bank (ECB), Eurostat or European Commission), or to non-binding materials such as guidelines or Q&As produced by the European Banking Authority (EBA) or the European Insurance and Occupational Pensions Authority (EIOPA)	<p>These should be read as a reference to the definitions or materials as they stand at the date of UK withdrawal from the EU.</p> <p>Example occurrences: References in CRR Financial Reporting (FINREP) templates and instructions to statistical definitions set out in the ECB BSI regulation.² References in CRR FINREP templates and instructions to the Small and Medium-sized Enterprise (SME) definition set out in the Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises.³ References in CRR COREP instructions to the definition of ISO code 3166-1-alpha-2 set out in Eurostat's 'Balance of Payments Vademecum'.⁴</p>

² <https://www.ecb.europa.eu/ecb/legal/pdf/02013r1071-20131127-en.pdf>.

³ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32003H0361>.

⁴ <http://ec.europa.eu/eurostat/documents/39118/40189/BOP+Vademecum++December+2016/a5e89ad8-254b-485d-a9cd-521885c616e4>.

Type of reference	Default interpretation
References to lists or information produced by European bodies	<p>This should be read as a reference to the equivalent list or information produced by a UK body after EU withdrawal.</p> <p>Example occurrences:</p> <p>The CRR ITS on Disclosure for Own Funds (ITS 1423/2013) refers to the EBA list of capital instruments qualifying as Common Equity Tier (CET)1, as set out in CRR article 26(3). These references should be read as a reference to the corresponding list produced by the PRA.</p> <p>The CRR COREP instructions for C17.01 and C17.02 (Annexes I and II of ITS 680/2014) contain references to supervisory disclosures published on the EBA website, and the gross domestic product at market prices data published by Eurostat. These references should be read as a reference to the corresponding disclosure produced by the PRA,⁵ and the corresponding data published by the Office for National Statistics.</p> <p>The instructions for Solvency II templates S06.02, S08.01, S30.02, S30.04, S31.01 and S31.02 include a list of credit rating agencies as registered or certified by the European Securities and Markets Authority (ESMA). This should be read as a reference to the list of credit rating agencies as registered or certified within the UK.</p>
Reference to 'freedom to provide services'	<p>On the basis that UK firms will no longer write business under the Freedom to Provide Services in the EU after exit:</p> <ul style="list-style-type: none"> • Any data relating to business performed through freedom to provide services will be a nil entry after EU withdrawal. <ul style="list-style-type: none"> ○ Example occurrences: S04.01 and S04.02 Solvency II templates. • Any references to the country where the freedom to provide services notification was made for the purposes of identifying the location where a contract is entered into should be disregarded. <ul style="list-style-type: none"> ○ Example occurrences: S05.02, S12.02 and S17.02 Solvency II templates.

3 Approach to specific cases: Reporting and disclosure requirements based on the CRR

3.1 Table B considers specific cases where CRR reporting and disclosure requirements include EU-based references, and sets out an expected approach in each instance.

Table B: Approach to interpretation of specific EU-based references in reporting and disclosure requirements based on the CRR

Reference	Template title	Legislative reference	Interpretation
Geographical splits with different treatment of EU/EEA countries	CRR IP losses (C15)	ITS 680/2014; Annexes VI and VII	The current reporting requirements relating to geographical split continue to apply. In other words, reporting should consist of a total template, one template for each national market in the EU or UK to which the institution is exposed, and one template for aggregated data for all national markets outside the EU/UK.
Row and column labels referring to EU	Leverage ratio disclosures	ITS 2016/200, Annex I	Firms have an option to either retain the reference to the EU or remove this from the row labels.
Euro conversion rate	GSII indicator reporting	ITS 1030/2014, Annex	Firms should continue to include the Euro conversion rate within their disclosures.

⁵ This can be found on the Regulatory reporting – banking sector page in the prudential regulation section of the Bank of England website: www.bankofengland.co.uk/prudential-regulation/regulatory-reporting/regulatory-reporting-banking-sector.

Reference	Template title	Legislative reference	Interpretation
Reference to Member State obligations	COREP C12.00, row 150 COREP C13.00, row 420	ITS 680/2014, Annexes I and II	The reference to ‘...Member States shall ensure that the competent authorities impose...’ should be read as ‘...the competent authority shall impose...’
Conservation buffer due to macro-prudential or systemic risk identified at the level of a Member State	COREP C04.00, row 760, C06.02, column 440	ITS 680/2014, Annexes I and II	The reference to ‘...conservation buffer due to macro-prudential or systemic risk identified at the level of a Member State...’ should be read as ‘...conservation buffer due to enhanced prudential measures...’
References to Capital Requirements Directive (2013/36/EU) (CRD) Article 140(4) within counter-cyclical capital buffer disclosure requirements	CCyB disclosures	ITS 2015/1555, Annexes I and II	References in Part II of Annex II to exposures ‘defined in accordance with Article 140(4)(a) of Directive 2013/36/EU’ shall be read as references to ‘all exposure classes (other than those referred to in points (a) to (f) of CRR Article 112) that are subject to the own funds requirements for credit risk under Part Three, Title II of that Regulation’. References in Part II of Annex II to exposures ‘defined in accordance with Article 140(4)(b) of Directive 2013/36/EU’ shall be read, where the exposure is held in the trading book, as references to ‘all exposure classes (other than those referred to in points (a) to (f) of CRR Article 112) that are subject to the own funds requirements for specific risk under Part Three, Title IV, Chapter 2 of that Regulation or incremental default and migration risk under Part Three, Title IV, Chapter 5 of that Regulation’. References in Part II of Annex II to exposures ‘defined in accordance with Article 140(4)(c) of Directive 2013/36/EU’ shall be read, where the exposure is a securitisation as references to ‘all exposure classes (other than those referred to in points (a) to (f) of CRR Article 112) that are subject to the own funds requirements under Part Three, Title II, Chapter 5 of that Regulation’. References to relevant credit exposures defined in accordance to Article 140(4) of Directive 2013/36/EU are to be read in line with the instructions above.
EU references contained within the definitions of benchmarking portfolios and corresponding reporting instructions	Benchmarking templates	2016/2070, all annexes	The definitions of the benchmarking portfolios should remain unchanged. For the avoidance of doubt, this means that any references to codes assigned by the EBA; to Euros; to Central European Time (CET); and to European OTC options should remain as they are.
Reference to joint decisions	Benchmarking template C105.01	2016/2070 Annexes III and IV	Firms should report whether a joint decision, made prior to the date of EU withdrawal, continues to apply in relation to the use of the IRB approach for exposures included in the benchmarking portfolios.

4 Approach to specific cases: Reporting and disclosure requirements based on Solvency II

4.1 Table C considers specific cases where Solvency II reporting and disclosure requirements include EU-based references, and sets out an expected approach in each instance.

Table C: Approach to interpretation of specific EU-based references in reporting and disclosure requirements based on Solvency II

Reference	Template title	Legislative reference	Interpretation
Geographical splits with different treatment of EU/EEA countries	S04.01, S04.02, S12.02, S17.02	ITS 2015/2450, Annexes I and II	The current reporting requirements relating to geographical split continue to apply. References to the EEA should be read as a reference to the EEA plus the UK, and references to non-EEA should be read as a reference to all non-EEA countries excluding the UK.
References to repealed legislation	S22.04, S22.05	ITS 2015/2450, Annexes I and II	Some Solvency II reporting and disclosure templates contain references to repealed legislation (Directive 2002/83/EC and Directive 2005/68/EC). Firms should continue to refer to this as at the date of last application.
References to repealed CRD legislation	S23.01	ITS 2015/2450, Annexes I, II and III ITS 2015/2452, Annexes I, II and III	References to 'credit institutions authorised in accordance with Directive 2006/48/EC' should be read as a reference to PRA-regulated credit institutions.
Method for allocating identifying code	Multiple templates	ITS 2015/2450, Annexes I, II and III	The instructions for assigning identifying codes distinguish between entities in the EEA and those outside the EEA. Firms should continue to use the same identifying codes as they have used previously.
Method for allocating code to be used for Issuer Country	S06.02, S06.03, S11.01	ITS 2015/2450, Annexes I, II and III	Firms should continue to use the code 'EU' for European Union Institutions.

5 Approach to specific cases: reporting and disclosure requirements set out in PRA Rulebook requirements

5.1 Table D considers specific cases where templates within the PRA Rulebook reporting and disclosure requirements include EU-based references, and sets out an expected approach in each instance.

5.2 The Appendix lists the PRA parts and subsections in scope of this guidance.

Table D: Approach to interpretation of specific EU-based references in reporting and disclosure requirements set out in PRA rules

Reference	Template title	Rulebook reference	Interpretation
Geographical splits with different treatment of EU/EEA countries	FSA016	CRR Firms; Regulatory Reporting Part	The reporting requirements for this template remain unchanged. Row 2 should report investments relating to UK and EEA countries, and row 3 should report investments related to all countries except the UK and EEA countries.
Row and column labels referring to EU	FSA083	CRR Firms; Reporting Leverage Ratio Part	No changes required to the current template; the references to 'EU' in the row and column labels should remain unchanged.
Reference to EEA branches	Branch Return	Non-CRR Firms; Incoming and Third Country Firms Part; Branch Return	The reporting requirement in row 9 of the Lending section remains unchanged.
Conservation buffer due to macro-prudential or systemic risk identified at the level of a Member State	PRA101, PRA102, PRA103	CRR Firms; Regulatory Reporting Part; Capital +	The reference to '...conservation buffer due to macro-prudential or systemic risk identified at the level of a Member State...' in the templates should be read as '...conservation buffer due to enhanced prudential measures...'

Appendix: Scope

The PRA expects firms to apply the approach set out in this SS to the Annexes of the following European Binding Technical Standards (as amended up until the date of UK withdrawal from the EU):

Firms	Title	Reference
CRR Firms	Supervisory reporting of institutions according to Regulation (EU) No 575/2013 of the European Parliament and of the Council	ITS 680/2014
CRR Firms	Disclosure of own funds requirements for institutions according to Regulation (EU) No 575/2013 of the European Parliament and of the Council	ITS 1423/2013
CRR Firms	Disclosure of the leverage ratio for institutions, according to Regulation (EU) No 575/2013 of the European Parliament and of the Council	ITS 2016/200
CRR Firms	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	ITS 1030/2014
CRR Firms	Disclosure of information in relation to the compliance of institutions with the requirement for a countercyclical capital buffer in accordance with Article 440	RTS 2015/1555
CRR Firms	Disclosure of encumbered and unencumbered assets	RTS 2017/2295
CRR Firms	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	ITS 2016/2070
SII Firms	Templates for the submission of information to the supervisory authorities according to Directive 2009/138/EC of the European Parliament and of the Council	ITS 2015/2450
SII Firms	Procedures, formats and templates of the solvency and financial condition report in accordance with Directive 2009/138/EC of the European Parliament and of the Council	ITS 2015/2452
SII SPVs	Procedures for supervisory approval to establish special purpose vehicles, for the cooperation and exchange of information between supervisory authorities regarding special purpose vehicles as well as to set out formats and templates for information to be reported by special purpose vehicles in accordance with Directive 2009/138/EC of the European Parliament and of the Council	ITS 2015/462

The PRA expects firms to apply the approach set out in this SS to templates contained within the following parts, and sub-sections, of the PRA Rulebook:

Firms	Rulebook part	Sections
CRR Firms	Regulatory Reporting	All
CRR Firms	Reporting Leverage Ratio	All
CRR Firms	Reporting Pillar 2	All
Non-CRR Firms	Credit Unions	19 Regulatory Reporting for Credit Unions
Non-CRR Firms	Incoming Firms and Third Country Firms	3 Branch Return 4 Form
Non-SII Firms	Friendly Society – Reporting	All
Non-SII Firms	Insurance Company – Reporting	All
SII Firms	Reporting	All
SII Firms	Third Country Branches	9 Reporting

Appendix 3: Draft update to Supervisory Statement 18/15 ‘Depositor and dormant account protection’

In this appendix deleted text is struck through and new text is underlined.

...

2 Eligibility

...

2.2 Regarding Depositor Protection 1.3A 2-2(2), a firm ~~can use sort codes to show~~ must confirm in SCV field 39 that a deposit has been assigned to a UK establishment ~~or a branch in another EEA state.~~

2.3 The definition of deposit in the Depositor Protection Part includes savings products evidenced by a certificate of deposit made out to a named person and which exists in the UK or a Member State on 2 July 2014. For the avoidance of doubt, the PRA expects the certificate itself to have existed on 2 July 2014 (not merely the product).

...

3 Disclosure

3.1 This chapter sets out the PRA’s expectations of how firms will disclose information about the relevant deposit guarantee scheme and is intended to be read together with the rules contained in Chapters 16, 17, 18, 19, 20, 21, 22 and 23 of the Depositor Protection Part of the PRA Rulebook. The PRA’s expectations regarding the disclosure requirements in respect of the change in the deposit protection limit are set out in Chapter 12. The PRA’s expectations regarding the disclosure requirements in respect of the UK’s withdrawal from the EU are set out in Chapter 13.

...

Application

3.3 The general principle is that rules in Chapters 16 and 17 of the Depositor Protection Part apply both per depositor and per account. For example, under Chapter 16, in respect of each account to be opened and each intending depositor on that account, firms must provide an information sheet to, and obtain acknowledgement of receipt from, the intending depositor before entering into each deposit-taking contract with that intending depositor. For the avoidance of doubt, the requirement to provide the information sheet to, and obtain acknowledgement from, a particular intending depositor (including for a joint account) is engaged where that intending depositor is entering into a deposit-taking contract and that deposit will be held by the firm in its UK establishment.

...

Information sheet and the acknowledgement of receipt

3.9 Depositor Protection 16.2(3) states that a firm must obtain an acknowledgement of receipt of the information sheet from each intending depositor before entering into a contract on deposit-taking where that deposit will be held by the firm in its UK establishment. In order to meet this requirement, prior to the contract being entered into, firms should obtain one of the following:

- (a) the intending depositor's signature on the information sheet. In this case, the PRA considers it good practice for firms to provide the depositor with a copy of the information sheet;
- (b) the intending depositor's signature on an acknowledgement contained in a separate document to the information sheet (which would allow the depositor to retain the information sheet for their reference);
- (c) the intending depositor's acknowledgement in a separate 'tick box' in the account opening documentation; or
- (d) the intending depositor's express acknowledgement over the telephone.

...

Other references to the DGS

3.27 The PRA expects firms to update or, where appropriate pursuant to Depositor Protection 18.1, delete any existing references to the DGS in advertising materials, where changes in PRA rules mean the information is either no longer accurate or permitted. Refer to Chapter 12 in respect of changes to the deposit protection limit. Refer to Chapter 13 in respect of the UK's withdrawal from the EU.

...

4 Marking eligible deposits and accounts and transitional issues

4.1 This chapter sets out the PRA's expectations of how firms will mark eligible deposits and accounts ~~and meet recast Deposit Guarantee Schemes Directive (DGSD) information requirements~~, and is intended to be read together with Chapters 11 and 13 of the Depositor Protection Part.

Requirement to mark eligible deposits

4.2 Depositor Protection 11.1 sets out that a firm must mark eligible deposits in a way that allows for immediate identification of such deposits ~~as required by Article 5(4) of the recast DGSD~~. The PRA considers that firms can meet this requirement in a number of ways, including but not limited to:

- (a) marking eligible (and/or ineligible) deposits ~~under the recast DGSD~~ at core systems level (ie flagging at account level);
- (b) a separate file showing eligible (and/or ineligible) deposits; or
- (c) using the Single Customer View (SCV) file and exclusions file.

...

4.8 If firms wish to use option 4.2(c) to meet the marking requirement, the PRA expects that firms, by 3 July 2015, have updated their SCV files to remove all ineligible deposits and include newly eligible deposits under the recast DGSD (including the eligible deposits of large corporates and small local authorities). Such an approach is not a requirement under the PRA transitional rules, but is an option for firms to use to meet Depositor Protection 11.1. Alternatively, the PRA considers it acceptable for firms to use a combination of options. For example, options 4.2(a) and 4.2(b) could be used for newly eligible deposits such as large corporate deposits and option 4.2(c) for all other eligible deposits. The requirements around the timing and content of SCV and exclusions file production remains as specified in the relevant rules.

...

Requirement to mark eligible accounts

4.12 Depositor Protection 13.2 sets out that a firm must mark accounts which hold:

- (i) eligible deposits of natural persons and micro, small and medium-sized enterprises (SMEs); and
- (ii) such deposits that would be eligible if they had not been made (ie are held in an account at a branch of the firm located outside of the ~~EEA~~ UK).

...

~~Recast DGSD~~ Information requirements during transition period

4.19 Depositor Protection 11 sets out a number of information requirements firms are expected to meet ~~in line with recast DGSD requirements~~. Depositor Protection 11.3 and 11.4 require that firms upon receipt of a request must be able to provide the FSCS with the aggregated amounts of eligible deposits of each and every depositor. Depositor Protection 11.5 and 11.6 require that a firm upon receipt of a request must be able to provide the FSCS with all information necessary to enable the FSCS to prepare for the payment of compensation and that they must provide this information to the FSCS to enable the FSCS to pay compensation within the applicable time period.

...

4.22 ~~The PRA would expect the information provided to the FSCS to specify which deposits are accepted in branches outside the United Kingdom~~ Deleted.

...

7 Calculation of levies

...

7.4 For deposit-takers newly within scope of the FSCS following the UK's withdrawal from the EU, refer to Chapter 13.

8 Single Customer View

...

Country where account is domiciled

8.21 Field 39 in Depositor Protection 12.9 requires firms to provide information in the SCV or exclusions file on the location of the branch where the account is held. This may be different to the country where the depositor has their address. ~~For example, a firm with EEA branches may indicate that an account is held with a branch in Spain. A firm with only UK branches~~ After the UK's withdrawal from the EU, deposits are only eligible if they are held by a DGS member through its UK establishment. Firms should indicate that the deposits are held in the United Kingdom using ISO 3166-1 ('GBR').

...

13 UK withdrawal from the EU

13.1 This chapter sets out the PRA's expectations around changes to the Depositor Protection Part as a result of the UK's withdrawal from the EU.

13.2 From exit day,ⁿ the scope of FSCS protection has been amended to protect eligible deposits held by deposit-takers with FSMA Part 4A permission to accept deposits, only where those deposits are held by UK establishments of such firms.

13.3 Due to the importance of depositor protection, the PRA is requiring new DGS members (firms that on exit day are granted, or deemed to have, Part 4A permission to accept deposits) to comply with the Depositor Protection Part immediately upon exit day.

Single Customer View

13.4 Depositor Protection Chapter 12 requires DGS members (including new DGS members) to be able to provide SCV and exclusions view files within 24 hours of a request by the PRA or FSCS, or within 24 hours of deposits becoming unavailable. It also requires firms to provide the FSCS with SCV and exclusions view files within three months of being granted or deemed a Part 4A permission to accept deposits.

13.5 Firms with existing Part 4A permissions prior to exit will need to revise their SCV systems to exclude deposits that are no longer eligible, namely deposits held by UK firms' branches located in the EEA.

13.6 Chapter 8 of this SS provides further expectations regarding SCV.

Informing depositors

13.7 Chapter 3 of this SS provides expectations regarding customer disclosure. The following expectations are specific to the UK's withdrawal from the EU.

Deposits held by UK establishments

New customer disclosure and acknowledgements

ⁿ Exit day is defined in the European Union (Withdrawal) Act 2018 as 11:00pm 29 March 2019.

13.8 Depositor Protection 16 requires all DGS members (including new DGS members as of exit day) to provide up-to-date information sheets and exclusions lists in prescribed form to intending depositors and to obtain an acknowledgment of receipt from the intending depositor, before entering into a contract on deposit-taking.

13.9 A new exclusions list has been included in Annex 3 of the Depositor Protection Part.

13.10 As noted in paragraphs 3.3 and 3.9, Depositor Protection 16 applies when the deposit is held by the firm in its UK establishment.

Disclosure to existing depositors

13.11 Depositor Protection 17.3 requires new DGS members to provide a revised information sheet and exclusions list to existing depositors with deposits held in the UK establishment within two months after exit day.

13.12 The provision of the information sheet and exclusion list required by Depositor Protection 17.3 will also count for the purposes of the obligation under Depositor Protection 17.1 to provide that information annually, and accordingly will 'reset' the annual obligation.

13.13 Depositor Protection 17.1(3) applies when the deposit is held by the firm in its UK establishment.

Posters and stickers

13.14 The Depositor Protection Part requires firms to display posters and stickers which refer to FSCS protection to be displayed in branches and on websites. The PRA expects new DGS members to remove previous posters and stickers (that referred to coverage by home DGSs) and meet the requirements in respect of the updated materials reflecting FSCS coverage on the day following exit day.ⁿ

Staff Training

13.15 The PRA expects new DGS members to train customer facing staff to answer questions from customers about the fact that the FSCS is now providing depositor protection for deposits held by the DGS member at its UK establishment.

Deposits held by UK firms' EEA branches

13.16 From exit day, deposits held by UK firms' establishments outside the UK will not be protected by the FSCS.

Information about removal of FSCS protection

13.17 Depositor Protection 20.2 requires UK firms with establishments in the EEA, whose deposits will no longer be protected by the FSCS following exit day to notify affected depositors within one month beginning on the day following exit day. Firms should not send these notifications before exit day.

Other references

13.18 The PRA expects both UK firms with establishments in the EEA and new DGS members to update all relevant references to depositor protection to reflect the new scope of protection.

ⁿ Updated templates for the posters and stickers are available on the FSCS's website: www.fscs.org.uk.

Levies

13.19 As a result of falling within the scope of the FSCS, EEA firms that have Part 4A permission with effect from exit day will be required to pay FSCS levies. For purposes of Depositor Protection 44.2, new DGS members should provide the required information to the FSCS by Wednesday 1 May 2019. The required information in Depositor Protection 41.6(1) (which applies to firms which become new DGS members between 1 January and 31 March by virtue of Depositor Protection 44.3) is the projected value of business/deposits held on the prior 31 December that would have been FSCS eligible deposits if the firms had been DGS members at that time.

Appendix 4: Draft PRA Rulebook: EU Exit Instrument

PRA RULEBOOK: (EU EXIT) INSTRUMENT [YEAR]

Powers exercised

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

Pre-conditions to making

- B. 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.

PRA Rulebook: EU (EXIT) INSTRUMENT [YEAR]

- C. The PRA makes the rules and directions in the Annexes to this instrument.

<i>Part</i>	<i>Annex</i>
<i>Glossary</i>	<i>A</i>
<i>Interpretation</i>	<i>B</i>
<i>Fundamental Rules</i>	<i>C</i>
<i>Algorithmic Trading</i>	<i>D</i>
<i>Allocation of Responsibilities</i>	<i>E</i>
<i>Audit Committee</i>	<i>F</i>
<i>Auditors</i>	<i>G</i>
<i>Capital Buffers</i>	<i>H</i>
<i>Certification</i>	<i>I</i>
<i>Change in Control</i>	<i>J</i>
<i>Close Links</i>	<i>K</i>
<i>Compliance and Internal Audit</i>	<i>L</i>
<i>Conditions Governing Business</i>	<i>M</i>
<i>Conduct Rules</i>	<i>N</i>
<i>Contractual Recognition of Bail-In</i>	<i>O</i>
<i>Credit Risk</i>	<i>P</i>
<i>Credit Unions</i>	<i>Q</i>
<i>Depositor Protection</i>	<i>R</i>
<i>Dormant Account Scheme</i>	<i>S</i>
<i>External Audit</i>	<i>T</i>
<i>Financial Conglomerates</i>	<i>U</i>
<i>Fitness and Propriety</i>	<i>V</i>
<i>Friendly Society – Liability Valuation</i>	<i>W</i>
<i>General Organisational Requirements</i>	<i>X</i>
<i>General Provisions</i>	<i>Y</i>
<i>Group Financial Support</i>	<i>Z</i>

<i>Group Risk Systems</i>	AA
<i>Group Supervision</i>	AB
<i>Groups</i>	AC
<i>Housing</i>	AD
<i>Incoming Firms & Third Country Firms</i>	AE
<i>Insurance – Allocation of Responsibilities</i>	AF
<i>Insurance - Certification</i>	AG
<i>Insurance – Conduct Standards</i>	AH
<i>Insurance – Fitness and Propriety</i>	AI
<i>Insurance – Senior Management Functions</i>	AJ
<i>Insurance – Senior Managers Regime – Applications and Notifications</i>	AK
<i>Insurance Company – Exposure Limits</i>	AL
<i>Insurance Company – Technical Provisions</i>	AM
<i>Insurance General Application</i>	AN
<i>Internal Capital Adequacy Assessment</i>	AO
<i>Internal Governance of Third Country Branches</i>	AP
<i>Internal Liquidity Adequacy Assessment</i>	AQ
<i>Key Function Holders - Notifications</i>	AR
<i>Large Exposures</i>	AS
<i>Leverage Ratio</i>	AT
<i>Liquidity Coverage Requirement – UK Designated Investment Firms</i>	AU
<i>Minimum Capital Requirement</i>	AV
<i>Notifications</i>	AW
<i>Outsourcing</i>	AX
<i>Passporting</i>	AY
<i>Policyholder Protection</i>	AZ
<i>Public Disclosures</i>	BA
<i>Record Keeping</i>	BB
<i>Recovery Plans</i>	BC
<i>Regulatory Reporting</i>	BD
<i>Regulatory Reporting</i>	BE
<i>Related Party Transaction Risk</i>	BF
<i>Remuneration</i>	BG
<i>Reporting</i>	BH
<i>Reporting Leverage Ratio</i>	BI
<i>Reporting Pillar 2</i>	BJ
<i>Resolution Pack</i>	BK
<i>Ring-Fenced Bodies</i>	BL
<i>Risk Control</i>	BM
<i>Senior Management Functions</i>	BN
<i>Senior Managers Regime – Applications and Notifications</i>	BO
<i>Skills, Knowledge & Expertise</i>	BP
<i>Stay In Resolution</i>	BQ

<i>Technical Provisions</i>	<i>BR</i>
<i>Third Country Branches</i>	<i>BS</i>
<i>Transitional Measures</i>	<i>BT</i>
<i>Undertakings in Difficulty</i>	<i>BU</i>

Commencement

- D. Subject to D below, this instrument comes into force on *exit day*, as defined in European Union (Withdrawal) Act 2018.
- E. Annex BE comes into force on 1 July 2019.

Citation

- F. This instrument may be cited as the PRA Rulebook: (EU Exit) Instrument [YEAR]

By order of the Prudential Regulation Committee

[DATE]

Annex A

Amendments to the Glossary

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

alternative investment fund	<p>has the meaning given in article 4(1)(a) of AIFMD means a <u>collective investment undertaking</u>, including investment compartments thereof <u>which:</u></p> <p>(a) <u>raises capital from a number of investors, with the intention of investing it in accordance with a defined investment policy for the benefit of those investors; and</u></p> <p>(b) <u>does not require authorisation pursuant to article 5 of the UCITS Directive.</u></p>
alternative investment fund manager	<p>has the meaning given in article 4(1)(b) of AIFMD means a <u>legal person</u> whose regular business is managing one or more <u>alternative investment funds</u>.</p>
ancillary own funds	<p>(1) (in relation to a <i>UK Solvency II firm</i> and Lloyd's) has the meaning given in <i>Own Funds</i> 2.3 and are determined in accordance with <i>Own Funds</i> 2.3 to 2.7; or</p> <p>(2) (in relation to a <i>Solvency II undertaking</i> other than a <i>UK Solvency II firm</i>) means an <i>own funds</i> item referred to in Article 89 of the <i>Solvency II Directive</i>, determined in accordance with the applicable <i>Solvency II EEA implementing measures</i>; or</p> <p>...</p>
ancillary services	<p>means any of the services listed in Section B of Annex I to MiFID II <u>listed in Part 3A of Schedule 2 to the <i>Regulated Activities Order</i></u>.</p> <p>...</p>
approved credit institution	<p>means a <i>credit institution</i> recognised or permitted under the law of the UK or EEA State <u>to carry on any of the activities set out in Annex 1 to the CRD.</u></p> <p>...</p>
approved financial institution	<p>means any of the following:</p> <p>...</p> <p>(12) the EU; and</p> <p>(13) <u>the European Atomic Energy Community; and</u></p> <p>(14) <u>the <i>Bank of England</i>.</u></p>
approved State	<p>means any of the following:</p>

(A1) the UK

- (1) an *EEA state*;
- (2) The United States of America;
- (3) Canada;
- (4) Japan; or
- (5) Australia,

other than when that country has rescheduled its external debt.

...

~~Article 12(1) relationship~~

~~means a relationship where undertakings are linked by a relationship within the meaning of Article 12(1) of Directive 83/349 EEC.~~

...

asset management company

means a management company within the meaning of Article 2(1)(b) of the *UCITS Directive*, as well as an *undertaking with a Part 4A permission* under Article 51ZA of the *Regulated Activities Order (Managing a UCITS)* or an *undertaking*, the registered office of which is ~~not in an EEA State~~ outside the *UK* and which would require authorisation in accordance with Article 6(1) of the *UCITS Directive* such permission if it had its registered office within an *EEA State* the UK.

...

bank

means:

- (1) a firm with a *Part 4A permission* to carry on the *regulated activity* of *accepting deposits* and is a *credit institution*, but is not a *credit union*, *friendly society* or a *building society*;
- (2) ~~an EEA bank.~~

basic own funds

...

- (2) ~~(in relation to a *Solvency II undertaking* other than a *UK Solvency II firm*) means an *own funds* item referred to in Article 88 of the *Solvency II Directive*, determined in accordance with the applicable *Solvency II EEA implementing measures*; or~~

...

branch

means

- (1) (in relation to a *credit institution*):

...

- (b) ~~for the purposes of the CRD and in accordance with Article 38 of the CRD, any number of places of business set up in the same EEA State by a credit institution with headquarters in another EEA State are to be regarded as a single branch.~~
- (2) (in relation to an *investment firm*) ~~has the meaning given in Article 4(1)(30) of MiFID II~~ means a place of business which:
 - (a) ~~is not the firm's head office;~~
 - (b) ~~is part of the firm;~~
 - (c) ~~has no legal personality; and~~
 - (d) ~~provides investment services and/or activities; and~~
 - (e) ~~may also perform ancillary services for which the investment firm has permission under Part 4A of FSMA.~~
- (3) (in relation to an *insurance undertaking*) ~~any permanent presence of the insurance undertaking in the UK an EEA State other than that in which it has its head office is to be regarded as a single branch, whether that presence consists of a single office which, or two or more offices each of which:~~

...
- (4) (in relation to an *IDD insurance intermediary*):

...

 - (b) ~~for the purposes of the Insurance Distribution Directive, all the places of business set up in the same EEA State by an IMD insurance intermediary with headquarters in another EEA State are to be regarded as a single branch.~~
- (5) (in relation to an *IDD reinsurance intermediary*):

...

 - (b) ~~for the purposes of the Insurance Distribution Directive, all the places of business set up in the same EEA State by an IDD reinsurance intermediary with headquarters in another EEA State are to be regarded as a single branch.~~

common management relationship

means a relationship between two or more undertakings which satisfies the following conditions –

- (a) the undertakings are not connected in the manner described in section 1162 and Schedule 7 of the Companies Act 2006; and
- (b) either –
 - (i) the undertakings are managed on a unified basis pursuant to a contract with one of them, or provisions in the undertakings' memorandum or articles of association; or
 - (ii) the administrative, management or supervisory bodies of those undertakings consist, for the major part, of the same persons in office during the financial year in respect of which it is being decided whether such a relationship exists.

...

Community co-insurance operation means ~~a co-insurance operation which relates to one or more risks classified under *general insurance business* classes 3 to 16 and which fulfils the conditions set out in Article 190(1)(a) to (f) of the *Solvency II Directive*.~~

competent authority means

- a) the PRA, in respect of PRA-*authorised persons* within the meaning of section 2B(5) of FSMA;
- b) in relation to a MiFID investment firm the authority designated before *exit day* by each EEA State the UK in accordance with Article 67 of MiFID II,³⁷ unless otherwise specified in MiFID II.
- c) the FCA, in respect of any other person;

compensation funds means any *policyholder* compensation scheme ~~in any EEA State in the UK.~~

conduct standards

- (1) for a UK Solvency II firm, the *Society*, a *managing agent* and a *UK ISPV*, means the standards of expected conduct specified in *Insurance – Conduct Standards 3*;
- (2) for a *third country branch undertaking* (other than a ~~UK deposit insurer or a Swiss general insurer~~), means the standards of expected conduct specified in *Insurance - Conduct Standards 3.1 to 3.3* and, taking account only of matters relevant to the operations of the *third country branch*, *Insurance – Conduct Standards 3.4 to 3.8*;
- (3) for a ~~UK deposit insurer~~, means the standards of expected conduct specified in ~~*Insurance – Conduct Standards 3.1 to 3.3*~~ and, taking account only of matters relevant to the

~~operations of the *third country branch* and all the *third country undertaking EEA branches, Insurance Conduct Standards 3.4 to 3.8;*~~

...

consolidating supervisor means the competent authority responsible for the exercise of supervision on a consolidated basis of:

- (1) a UK parent institution, or
- (2) an institution controlled by a UK parent financial holding company or UK parent mixed financial holding company.

...

control (in the *Solvency II Firms Sector* of the *PRA Rulebook*) means the relationship between a *parent undertaking* and a *subsidiary undertaking* where that relationship falls within (1) to ~~(7)~~ (6) of the definition of *parent undertaking*, or a similar relationship between any *person* and an *undertaking*.

coordinator ~~means, in relation to a *financial conglomerate*, the *competent authority* appointed as *coordinator* in accordance with Article 10(1) of the *Financial Groups Directive* has the meaning given in regulation 1(2) of *The Financial Conglomerates Regulations*.~~

...

covered bonds means a *debenture* that is issued by a *credit institution* which:

- (1) has its head office in the UK or an EEA State; and

...

credit risk means the risk of loss, or of adverse change, in the financial situation, resulting from fluctuations in the credit standing of issuers of *securities*, counterparties and any debtors to which a *Solvency II undertaking UK Solvency II firm* is exposed, in the form of *counterparty default risk*, or *spread risk*, or *market risk concentrations*.

CRD credit institution means a *credit institution* that has its registered office (or, if it has no registered office, its head office) in the UK or an EEA State, (excluding an institution to which the *CRD* does not apply under Article 2 of the *CRD*).

...

~~**cross border services** means:~~

- (1) ~~(in relation to a *UK firm*) services provided within an *EEA State* other than the *UK* under the freedom to provide services; and~~

- (2) ~~(in relation to an incoming EEA firm or an incoming Treaty firm) services provided within the UK under the freedom to provide services.~~

...

direct EU legislation has the meaning given in section 3(2) of the European Union (Withdrawal) Act 2018.

...

EEA bank ~~means an incoming EEA firm that is a CRD credit institution.~~

EEA parent financial holding company ~~means a parent financial holding company in an EEA State which is not a subsidiary of an institution authorised in any EEA State or of another financial holding company or mixed financial holding company set up in any EEA State.~~

EEA parent institution ~~means a parent institution in an EEA State which is not a subsidiary of another institution authorised in an EEA State or of a financial holding company or mixed financial holding company set up in any EEA State.~~

EEA parent mixed financial holding company ~~means a parent mixed financial holding company in an EEA State which is not a subsidiary of an institution authorised in any EEA State or of another financial holding company or mixed financial holding company set up in any EEA State.~~

...

eligible own funds means

...

- (7) ~~as to compliance with the EEA SCR, means the aggregate of the third country branch undertaking's:~~

- (a) ~~Tier 1 own funds; and~~
- (b) (i) ~~Tier 2 own funds; and~~
- (ii) ~~Tier 3 own funds~~

~~that satisfy the limits in Own Funds 4.1, as if references to the "SCR" in those provisions were references to the EEA SCR; and the limits in the Solvency II Regulations~~

- (8) ~~as to compliance with the EEA MCR, means the aggregate of the third country branch undertaking's:~~

- (a) ~~Tier 1 own funds; and~~
- (b) ~~Tier 2 basic own funds that satisfy the limits in Own Funds 4.2, as if references to the "MCR" in those~~

~~provisions were references to the EEA MCR; and the limits in the Solvency II Regulations.~~

...

EU-derived domestic legislation has the meaning given in section 2(2) of the European Union (Withdrawal) Act 2018.

EU directive has the meaning given in section 20(1) of the European Union (Withdrawal) Act 2018.

EU instrument has the meaning given in Part II of Schedule 1 to the European Communities Act 1972.

exit day has the meaning given in section 20(1) of the European Union (Withdrawal) Act 2018.

...

Financial Conglomerates Regulations means The Financial Conglomerates and Other Financial Groups Regulations 2004 (SI 2004/1862).

financial instruments means the those instruments specified in Section C of Annex I to MiFID II Part 1 of Schedule 2 to the Regulated Activities Order, read with Part 2 of that Schedule.

...

group (in the *Solvency II Firms* Sector of the *PRA Rulebook*) means a *group of undertakings* that:

- (1) consists of a *participating undertaking*, its *subsidiary undertakings* and the *undertakings* in which it holds a *participation*, as well as *undertakings* linked to each other by an ~~Article 12(1) relationship~~ a common management relationship; or

...

home Member State has the meaning given in Article 4(1)(43) of the *CRR*.

incoming EEA firm ~~means an EEA firm which is exercising, or has exercised, its right to carry on a regulated activity in the UK in accordance with Schedule 3 of FSMA.~~

incoming firm means an incoming firm within the meaning of section 193 of *FSMA*.

incoming Treaty firm means a *Treaty firm* which is exercising, or has exercised, its right to carry on a ~~regulated activity~~ in the *UK* in accordance with Schedule 4 of *FSMA*.

...

insurance holding means a *parent undertaking*, other than a *Solvency II*

company ~~undertaking~~ UK Solvency II firm and a *mixed financial holding company*, the main business of which is to acquire and hold *participations* in *subsidiary undertakings* and which fulfils the following conditions:

- (1) its *subsidiary undertakings* are either exclusively or mainly ~~Solvency II undertakings~~ UK Solvency II firms, *third country insurance undertakings* or *third country reinsurance undertakings*; and
- (2) at least one of those *subsidiary undertakings* is a ~~Solvency II undertaking~~ UK Solvency II firm.

...

investment services and/or activities means any of the services and activities listed in ~~Section A of Annex I to MiFID~~ Part 3 of Schedule 2 to the *Regulated Activities Order*, insofar as they relate to any of the instruments listed in Part I of Schedule 2 to that Order.

...

intra-group transaction has the meaning given in point (18) of Article 2 of the ~~Financial Groups Directive~~. means all transactions by which regulated entities within a financial conglomerate rely directly or indirectly on other undertakings within the same group or on any natural or legal person linked to the undertakings within that group by close links, for the fulfilment of an obligation, whether or not contractual, and whether or not for payment.

...

key function ...

(2) ~~in relation to a third country branch undertaking means, in relation to the carrying on of a regulated activity by the third country branch undertaking, each of the following functions performed in relation to the operations effected by the third country branch or, for a UK deposit insurer, in relation to the operations effected by the third country branch and all the third country undertaking EEA branches:~~

(2) in relation to a third country branch undertaking means, in relation to the carrying on of a regulated activity by the third country branch undertaking, each of the following functions performed in relation to the operations effected by the third country branch

...

(g) any other function which is of specific importance to the sound and prudent management of the third country branch or, for a UK deposit insurer, the

~~operations effected by the *third country branch* and all the *third country undertaking EEA branches*.~~

- (3) in relation to a *third country insurance service provider* means, in relation to the carrying on of a *regulated activity* by the *third country insurance services provider* in the UK:
- (a) the risk-management *function*;
 - (b) the compliance *function*;
 - (c) the internal audit *function*;
 - (d) the actuarial *function*;
 - (e) the *function* of effectively running the operations effected by the *third country insurance services provider*; and
 - (f) any other *function* which is of specific importance to the sound and prudent management of the *third country insurance services provider*

...

leading insurer

~~means (in relation to a *Community co-insurance operation*) a co-insurer that assumes the leader's role in co-insurance practice and in particular determines the terms and conditions of insurance and rating~~

...

listed

means:

- (1) included in ~~an~~ the *official list*; or
- (2) *in respect of which facilities for dealing on a regulated market have been granted.*

matching adjustment

means the adjustment to the *relevant risk-free interest rate term structure* to calculate the *best estimate* of a *relevant portfolio of insurance or reinsurance obligations* in accordance with:

- (1) *Technical Provisions 6 and 7;*
- (2) the *Solvency II Regulations* adopted under Article 86(1)(h) - (i) of the *Solvency II Directive*; ~~and~~
- (3) where a reporting reference date falls before *exit day*, any the relevant technical information made by EIOPA under Article 77e(1)(b) of the *Solvency II Directive* and adopted in the *Solvency II Regulations* under Article 77e(2) of the *Solvency II Directive*; and-

(4) where a reporting reference falls on or after *exit day*, the relevant technical information published by the PRA in accordance with regulation 4B(6) of the *Solvency 2 Regulations 2015*.

...

MiFID investment firm means a ~~firm to which MiFID applies~~ has the meaning given in paragraph 2.1A of *MiFIR*.

...

mixed financial holding company ~~(in the *Solvency II Firms Sector* of the PRA Rulebook) means a mixed financial holding company as defined in Article 2(15) of Directive 2002/87/EC on the supplementary supervision of credit institutions, insurance undertakings and investment firms in a financial conglomerate~~ means a parent undertaking other than a regulated entity, which together with its subsidiaries, at least one of which is a regulated entity which has its head office in the UK, and other entities constitutes a financial conglomerate

...

MTF ~~has the meaning given in Article 4(1)(22) *MiFID II*.~~ means a multilateral system, operated by an investment firm or a market operator, which brings together multiple third-party buying and selling interests in financial instruments – in the system and in accordance with non-discretionary rules – in a way that results in a contract in accordance with provisions implementing Title II of *MiFID II*;

...

mutual-type group ...

(2) the establishment and dissolution of such relationships ~~for the purposes of Title III of the *Solvency II Directive*~~ are subject to prior approval by the ~~group supervisor,~~ PRA,

where the *undertaking* exercising the centralised coordination shall be considered as the *parent undertaking*, and the other *undertakings* shall be considered as *subsidiary undertakings*.

...

non-directive firm means in accordance with the Financial Services and Markets Act 2000 (Controllers)(Exemption) Order 2009 a *UK domestic firm* other than:

- (1) a *credit institution* authorised under provisions which implemented the Banking Consolidation Directive;
- (2) an *investment firm* authorised under provisions which implemented *MiFID II*;

- (3) a management company as defined in article 2(1)(b) of the European Parliament and Council Directive of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) (No 2009/65/EC), 1 2, 3, 4, as amended (the UCITS Directive), authorised under provisions which implemented that directive;
- (4) a ~~Solvency II undertaking~~ UK Solvency II firm, the Society and managing agents.

...

non-directive insurer

means a firm with a Part 4A permission to effect contracts of insurance or carry out contracts of insurance, other than

- (1) a UK Solvency II firm; ~~and~~
- (2) a third country branch undertaking; or
- (3) where the firm has the permission by reason only of the operation of the EEA Passport Rights (Amendment etc., and Transitional Provisions) (EU Exit) Regulations 2018

non-UCITS retail scheme

means an ICVC, authorised unit trust scheme, or an authorised contractual scheme which is not a collective investment scheme falling within provisions implementing the UCITS Directive or a qualified investor scheme.

...

official list

means:

- (1) the list maintained by the FCA in accordance with section 74(1) of FSMA for the purposes of Part VI of FSMA; ~~and~~
- (2) ~~any corresponding list maintained by a competent authority for listing in another EEA State.~~

...

OTF

means a multilateral system which is not a regulated market or an MTF and in which multiple third-party buying and selling interests in bonds, structured finance products, emission allowances or derivatives are able to interact in the system in a way that results in a contract in accordance with provisions implementing Title II of MiFID II;

overseas regulator

means a regulator outside the United Kingdom.

own funds

...

	(2)	(in relation to a <i>Solvency II undertaking</i> other than a <i>UK Solvency II firm</i>) own funds determined in accordance with <i>Solvency II EEA implementing measures</i>; or
	...	
parent undertaking	...	
	(7)	(except as the <i>Group Supervision</i> Part of the <i>PRA Rulebook</i> applies to <i>members</i> of the <i>Society</i> or to the <i>Society</i> or <i>managing agents</i> in respect of <i>members</i>) it is incorporated in or formed under the law of another <i>EEA State</i> and is a <i>parent undertaking</i> within the meaning of any rule of law in that <i>EEA State</i> for purposes connected with implementation of the Council Directive of 13 June 1983 on consolidated accounts (No 83/349/EEC); or
	(8)	where, in accordance with Article 212(2) of the <i>Solvency II Directive</i>, the opinion of the <i>PRA</i>, it effectively exercises a dominant influence over S;
	...	
participating Solvency II undertaking		means a <i>Solvency II undertaking</i> that holds a <i>participation</i> in another <i>undertaking</i>.
<u>participating UK Solvency II firm</u>		<u>means a <i>UK Solvency II firm</i> that holds a <i>participation</i> in another <i>undertaking</i>.</u>
participation	...	
	(2)	where, in accordance with Article 212(2) of the <i>Solvency II Directive</i>, the opinion of the <i>PRA</i>, an <i>undertaking</i> effectively exercises a significant influence over another <i>undertaking</i>.
	...	
participating undertaking		means an <i>undertaking</i> that holds a <i>participation</i> in another <i>undertaking</i> or an <i>undertaking</i> linked with another <i>undertaking</i> by an Article 12(1) relationship <u>a <i>common management relationship</i></u> .
	...	
passport activity		means an activity carried on by an <i>EEA firm</i> or by a <i>UK firm</i>, under an <i>EEA right</i>
policyholder	either:	
	(1)	means, in respect of a <i>contract of insurance</i> where the <i>insurance undertaking</i> is a <i>Solvency II undertaking</i> <u><i>UK Solvency II firm</i></u> , a <i>policyholder</i> which includes a <i>beneficiary</i> ;
	or	
	...	
PRA senior management function		means

...

- (5) (in respect of a third country insurance service provider in relation to the carrying on by the firm of a regulated activity in the UK) any function specified in Insurance – Senior Management Functions 3 to 10.

rate term structure

means the relevant risk-free interest rate term structure, in accordance with:

- (1) *Technical Provisions* 5 and 8.3 to 8.4
- (2) the *Solvency II Regulations* adopted under Article 86 of the *Solvency II Directive*; and
- (3) where a reporting reference date falls:

before *exit day*, any the relevant technical information made by EIOPA under Article 77(e)(1)(a) of the *Solvency II Directive* and adopted in *Solvency II Regulations* under Article 77e(2) of the *Solvency II Directive*
- (4) where a reporting reference date falls:

on or after *exit day*, the relevant technical information made by the PRA in accordance with regulation (x) of the *Solvency II Regulations 2015*.

...

regulated institution

means any of the following:

- (1) ~~a *Solvency II undertaking*~~ UK *Solvency II firm*, the *Society*, a *managing agent* or a *third country branch undertaking*; or

...

regulated market

means:

- (1) ~~a regulated market as defined in article 4(1)(21) of *MiFID II* (as defined in Article 2(1)(13) of *MiFIR*);~~
- (2) a market situated outside the ~~EEA States~~ UK which is characterised by the fact that:

...

regulatory system

means the arrangements for regulating a *firm* or other *person* in or under *FSMA*, the *Bank of England Act 1998*, the *Banking Act 2009*, the *Friendly Societies Act 1974*, the *Friendly Societies Act 1992*, the *Credit Unions Act 1979*, including the *threshold conditions*, the *Fundamental Rules* and other rules, the *Statements of Principle*, codes and guidance given by the *PRA*, the *Bank of England* or the

~~FCA and including any relevant directly applicable provisions of an EU Directive or Regulation including those specified under section 204A(2) of FSMA.~~

...

relevant insurance group undertaking means, in relation to a *group* falling within *Group Supervision 2.1(1)* or *2.1(2)*, each ~~UK Solvency II undertaking~~ UK Solvency II firm within that *group*.

relevant insurer means, in relation to a ~~Community co-insurance operation~~, an ~~insurer~~ which is concerned in the operation but is not the ~~leading insurer~~.

relevant risk-free interest rate term structure means the *relevant risk-free interest rate term structure*, in accordance with:

- (1) *Technical Provisions 5 and 8.3 to 8.4;*
- (2) *the Solvency II Regulations adopted under Article 86 of the Solvency II Directive; and*
- (3) where a reporting reference date falls -
 - (a) before exit day, any in accordance with the relevant technical information made by EIOPA under Article 77e(1)(a) of the Solvency II Directive and adopted in Solvency II Regulations under Article 77e(2) of the Solvency II Directive
 - (b) on or after exit day, the relevant technical information made by the PRA in accordance with regulation 4B(6) of the Solvency II Regulations 2015.

...

retained direct EU legislation has the meaning given in section 20(1) of the European Union (Withdrawal) Act 2018.

retained EU law has the meaning given in section 6(7) of the European Union (Withdrawal) Act 2018.

...

risk concentration has the meaning given in point (18) of Article 2 of the ~~Financial Groups Directive~~ means all risk exposures with a loss potential which is large enough to threaten the solvency or the financial position in general of the regulated entities in a financial conglomerate, whether such exposures are caused by counterparty risk/credit risk, investment risk, insurance risk, market risk, other risks, or a combination or interaction of such risks

risk-mitigation techniques means all techniques which enable a ~~Solvency II undertaking~~ UK Solvency II firm to transfer part or all of its risks to another party.

...

significant deviation from relevant assumptions means a significant deviation from the assumptions underlying the ~~matching adjustment or the volatility adjustment or the transitional measures referred to in Articles 308c and 308d of the Solvency II Directive~~ means a significant deviation from the assumptions underlying the matching adjustment, the volatility adjustment, the risk-free interest rate transitional measure or the transitional deduction.

Solvency II EEA implementing measures means any measures implementing the *Solvency II Directive* in an ~~EEA State other than the UK.~~

...

Solvency II special purpose vehicle means an *undertaking*, whether incorporated or not, other than a ~~Solvency II undertaking UK Solvency II firm~~, which has received authorisation ~~from the PRA in accordance with Article 241(1) or (3) of the Solvency II Directive~~ and which:

...

Solvency II undertaking means:

- (1) ~~an undertaking authorised in accordance with Solvency II EEA implementing measures transposing Article 14 of the Solvency II Directive; or~~
- (2) ~~a UK Solvency II firm.~~

...

supervisory authority means ~~a national authority or the national authorities empowered by law or regulation of the UK an EEA State to supervise Solvency II undertakings UK Solvency II firms~~ for the purposes of the provisions implementing the Solvency II Directive, including being the PRA and FCA.

...

third country means ~~any country or territory or country other than the United Kingdom that is not an EEA State.~~

third country CRR firm means an *overseas firm* that

- (1) ~~is not an EEA firm;~~
- (2) ~~has its head office outside the European Economic Area; and~~
- (3) would be a *CRR firm* if it had been a *UK undertaking*, had carried on all of its business in the *UK* and had obtained whatever authorisations for doing so as are required under *FSMA*.

third country firm means an *overseas firm*, ~~that is not an incoming firm.~~

...

third country insurance means a third country insurance undertaking that has a permission

<u>services provider</u>	<u>to effect contracts of insurance or carry out contracts of insurance in the UK and does not have a permanent presence in the UK.</u>
<i>third country insurance undertaking</i>	means an <i>undertaking</i> that has its head office outside the EEA-UK and that would require authorisation as an <i>insurance undertaking</i> in accordance with <u>provisions implementing Article 14 of the Solvency II Directive</u> if its head office was situated in the EEA UK .
<i>third country investment firm</i>	a <i>firm</i> which would be a <i>MiFID investment firm</i> if it had its head office in the EEAUK .
...	
<i>third country reinsurance undertaking</i>	means an <i>undertaking</i> that has its head office outside the EEAUK and that would require authorisation as a <i>reinsurance undertaking</i> in accordance with <u>provisions implementing Article 14 of the Solvency II Directive</u> if its head office was situated in the EEA UK .
<i>third country undertaking EEA branch</i>	means a permanent presence of a <i>third country insurance undertaking</i> in an <i>EEA State</i> except the <i>UK</i>, which has received authorisation in accordance with Article 162 of the <i>Solvency II Directive</i>.
...	
<i>top-up permission</i>	means a Part 4A permission given to an <i>incoming EEA firm</i> or an <i>incoming Treaty firm</i>
...	
<u>TPR SMF application</u>	<u>means an application under section 60 of FSMA to the PRA made by an authorised person who could be given a notice under section 59ZZA of FSMA in relation to the person subject to the application</u>
UCITS	<i>undertakings</i> for collective investment in transferable securities that are established in accordance with the <i>UCITS Directive</i>.
	(1) <u>an <i>undertaking</i> –</u>
	(a) <u>with the sole object of collective investment in <i>transferable securities</i> or in other liquid <i>financial instruments</i> of capital raised from the public and which operate on the principle of risk-spreading; and</u>
	(b) <u>with <i>units</i> which are, at the request of holders, repurchased or redeemed, directly or indirectly, out of those <i>undertakings'</i> assets (and for these purposes, action taken by the <i>undertaking</i> to ensure that the stock exchange value of its <i>units</i> does not significantly vary from their asset value is to be regarded as equivalent to such repurchase or redemption)</u>

- (2) undertakings for collective investment in transferable securities that are established in the EEA in accordance with the UCITS Directive.

UK consolidation group means the *consolidation group* of a *firm* to which supervision on a *consolidated basis* by the *PRA* applies in accordance with ~~Article 144 of CRD~~ Part 6 of the *Capital Requirements Regulations*.

UK deposit insurer means ~~a third country branch undertaking that has made a deposit in the UK under Article 162(2)(e) of the Solvency II Directive in accordance with Article 167 of the Solvency II Directive.~~

UK parent financial holding company means a *financial holding company* which is not itself a *subsidiary* of an institution authorised in the *UK*, or of a *financial holding company* or *mixed financial holding company* set up in the *UK*.

UK parent institution means an institution authorised in the *UK* which has an institution or *financial institution* as *subsidiary* or which holds a *participation* in such an institution or *financial institution*, and which is not itself a *subsidiary* of another *institution* authorised in the *UK* or of a *financial holding company* or *mixed financial holding company* set up in the *UK*.

UK parent mixed financial holding company means a *mixed financial holding company* which is not itself a *subsidiary* of an institution authorised in the *UK*, or of a *financial holding company* or *mixed financial holding company* set up in the *UK*.

UK parent undertaking means a *UK parent institution*, a *UK parent financial holding company* or a *UK parent mixed financial holding company*.

volatility adjustment means the adjustment to the *relevant risk-free interest rate term structure* to calculate the best estimate ~~in accordance with:~~

- (1) in accordance with the Solvency II Regulations adopted under Article 86(1)(j) of the *Solvency II Directive*; and
- (a) where a reporting reference date falls before exit day, any in accordance with the relevant technical information made by EIOPA under Article 77e(1)(c) of the Solvency II Directive and adopted in Solvency II Regulations under Article 77e(2) of the Solvency II Directive; or
- (b) where a reporting reference date falls on or after exit day, in accordance with the relevant technical information published by the PRA in accordance with regulation 4B(6) of the Solvency 2 Regulations 2015.

Annex B

Amendments to the Interpretation Part

In this Annex new text is underlined.

...

2 INTERPRETATIVE PROVISIONS

...

2.7 Unless the context otherwise requires, any reference in these rules-

- (1) to any provision of direct EU legislation, is a reference to it as it has effect as retained direct EU legislation on exit day;
- (2) to an EU directive is a reference to the directive as it had effect in EU law immediately before exit day;
- (3) to the implementation or transposition of provisions of an EU directive, is a reference to the provisions of EU-derived domestic legislation which were relied on before exit day for that implementation or transposition;
- (4) to an enactment which has been amended on or before exit day by regulations made under section 8 of the European Union (Withdrawal) Act 2018, is a reference to that enactment as so amended.

Annex C

Amendments to the Fundamental Rules Part

In this Annex deleted text is struck through.

3 RESTRICTIONS

- 3.1 The *Fundamental Rules* apply to every *firm*, ~~except that:~~
- (1) ~~for an *incoming firm*, the *Fundamental Rules* apply only in so far as responsibility for the matter in question is not reserved by an *EU instrument* to the *firm's home state regulator*;~~
 - (2) ~~for an *incoming EEA firm* that is a *credit institution* without a *top-up permission*, *Fundamental Rule 4* does not apply; and~~
 - (3) ~~for an *incoming EEA firm* that has *permission* only for *cross border services* and does not carry on *regulated activities* in the *UK*, the *Fundamental Rules* do not apply.~~
- 3.2 A *firm* will not be subject to a *Fundamental Rule* to the extent that it would be contrary to the *UK's obligations* under *EU legislation*. [Deleted.]

...

Annex D

Amendments to the Algorithmic Trading Part

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

1 APPLICATION AND DEFINITIONS

...

1.3 In this Part, the following definitions shall apply:

<i>Algorithmic trading</i>	has the meaning given in Article 4(1)(39) of MiFID II. <u>means trading in financial instruments where a computer algorithm automatically determines individual parameters of orders such as whether to initiate the order, the timing, price or quantity of the order or how to manage the order after its submission, with limited or no human intervention, and does not include any system that is only used for the purpose of routing orders to one or more trading venues or for the processing of orders involving no determination of any trading parameters or for the confirmation of orders or the post-trade processing of executed transactions;</u>
<i>direct electronic access</i>	has the meaning given in Article 4(1)(41) of MiFID II. <u>means an arrangement where a member or participant or client of a trading venue permits a person to use its trading code so the person can electronically transmit orders relating to a financial instrument directly to the trading venue and includes arrangements which involve the use by a person of the infrastructure of the member or participant or client, or any connecting system provided by the member or participant or client, to transmit the orders (direct market access) and arrangements where such an infrastructure is not used by a person (sponsored access).</u>
<i>trading venue</i>	has the meaning given in Article 4(1)(24) of MiFID II. <u>means a regulated market, an MTF or an OTF.</u>

1.4 The definitions in MiFID II referred to in 1.3 shall be read on the basis that references in that directive to a 'regulated market', an 'MTF' or an 'OTF' are references to:

- (1) ~~a system falling within any of Articles 4(1)(21), (22) and (23) of MiFID II respectively;~~
and
- (2) ~~a system that is not situated in an EEA State that would have fallen within (1) had it been so situated. [deleted.]~~

Annex E

Amendments to the Allocation of Responsibilities Part

In this Annex new text is underlined.

1 APPLICATION AND DEFINITIONS

1.1 Unless otherwise stated, this Part applies to every *firm* that is:

- (1) a *CRR firm*;
- (2) a *credit union*; or
- (3) a *third country CRR firm* in relation to:
 - (a) the activities of its establishment in the *UK*; or
 - (b) if it does not have an establishment in the *UK*, activities in the *UK*.

...

6 ~~UK BRANCHES~~ PRESCRIBED RESPONSIBILITIES: UK BRANCHES THIRD COUNTRY CRR FIRMS

6.1 This chapter applies only to a *third country CRR firm* in relation to

- (i) the activities of its establishment in the *UK*; or
- (ii) if it does not have an establishment in the *UK*, its activities in the *UK*.

6.2 Each of the responsibilities set out in this rule is a *UK branch prescribed responsibility*:

- (4) responsibility for management of the *firm's* risk management processes in the *UK* , or, if the firm does not have an establishment in the *UK*, the application of the *firm's* risk management processes to its *UK* activities;

...

- (7) responsibility for management of the *firm's* systems and controls in the *UK* , or, if the *firm* does not have an establishment in the *UK* the application of the *firm's* systems and controls to its *UK* activities.

...

- (11) if the *firm* has an establishment in the *UK*, responsibility for the *firm's* performance of its obligations under Internal Governance of Third Country Branches 7.

Annex F

Amendments to the Audit Committee Part

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

1 APPLICATIONS AND DEFINITIONS

...

1.2 This Part does not apply to a *firm* which is a *subsidiary undertaking* of an ~~EEA~~ a UK parent undertaking where the *parent undertaking* complies at group level with Chapter 2 or with requirements implementing Article 39 of the *Statutory Audit Directive* ~~in any other EEA State~~ and, where applicable, with Articles 11(1), 11(2) and 16(5) of the *Statutory Audit Regulation*, provided that:

- (1) the *firm* is not significant; or
- (2) if the *firm* is significant, its *governing body* is composed of the same *non-executive directors* as the *governing body* of that *parent undertaking*.

...

1.4 In this Part, the following definitions shall apply:

Statutory Audit Regulation

means Regulation (EU) No 537/2014 of the European Parliament and of the Council of 16 April 2014 on specific requirements regarding statutory audit of public-interest entities and repealing Commission Decision 2005/909/EC except that any reference to Article 16 of that Regulation, shall, where and to the extent that the effect of that Article has been reproduced in any of the following enactments in relation to a category of *firm*, be a reference to that enactment in relation to that category of *firm*:

- (1) for private companies, sections 485A to 485C and 494ZA of the Companies Act 2006;
- (2) for public companies, sections 489A to 489C and 494ZA of the Companies Act 2006;
- (3) for *building societies*, paragraphs 3B to 3E of Schedule 11 to the Building Societies Act 1986;
- (4) for *friendly societies*, paragraphs 2 to 5 of Schedule 14A to the Friendly Societies Act 1992;
- (5) for limited liability partnerships, sections 485A to 485C and 494ZA of the Companies Act 2006 as applied by regulations 36 and 38A of the Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008;
- (6) for insurance undertakings within the meaning given by regulation 2 of The Insurance Accounts Directive (Miscellaneous Insurance Undertakings) Regulations 2008, sections 485A to 485C and 494ZA of the Companies Act 2006 as applied by regulation 6(1A) of those Regulations.

4 TRANSITIONAL PROVISIONS

...

4.2 Subject to 4.3, a *firm* that is not significant or is a *subsidiary undertaking* of a ~~non-EEA~~ third country parent undertaking may not have an *audit committee* until the commencement of a firm's *financial year* beginning on or after 17 June 2018 if its *governing body* is performing equivalent *functions* to an *audit committee*. In such a case 2.2 (1), 2.2 (2), 2.2 (5), 2.2 (6) and 2.2 (7) shall not apply, and the *firm* must disclose that the *governing body* carries out the *audit committee's functions* and how its *governing body* is composed.

- 4.3 Until the commencement of a *firm's financial year* beginning on or after 17 June 2018, where all *members* of the *audit committee* are *members* of the *governing body* of a *firm* that is not significant or is a *subsidiary undertaking* of a ~~non-EEA~~ *third country parent undertaking*, the *audit committee* is to be exempt from the independence requirements laid down in 2.2 (5), 2.2 (6) and 2.2 (7).
- 4.4 Chapter 2 shall not apply to a significant *firm* which is a *subsidiary undertaking* of ~~an EEA~~ a *UK parent undertaking* until the commencement of a *firm's financial year* beginning on or after 17 June 2018, where the *parent undertaking* complies at *group level* with Chapter 2 or with requirements implementing Article 39 of the *Statutory Audit Directive* ~~in any other EEA State~~ and, where applicable, with Articles 11(1), 11(2) and 16(5) of the *Statutory Audit Regulation*.

Annex G

Amendments to the Auditors Part

In this Annex deleted text is struck through.

1 APPLICATION AND DEFINITIONS

1.1 This Part applies to:

(1) every *firm*, ~~except for an *incoming firm* that does not have a *top up permission*~~; and

...

Annex H

Amendments to the Capital Buffers Part

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

1 APPLICATION AND DEFINITIONS

...

1.2 In this Part the following definitions shall apply:

...

countercyclical buffer rate

means (in accordance with ~~point (7) of Article 128 of the CRD~~ regulation 10 of The Capital Requirements (Capital Buffers and Macro-prudential Measures) Regulations 2014) the rate:

- (a) expressed as a percentage of total risk exposure amount set by the *FPC* ~~or an EEA countercyclical buffer authority~~; or

...

distribution in connection with common equity tier 1 capital

~~includes (in accordance with Article 141(10) of the CRD):~~

...

EEA countercyclical buffer authority

means the authority or body of an ~~EEA State~~ other than the ~~UK~~ designated for the purpose of Article 136 of the CRD with responsibility for setting the *countercyclical buffer rate* for that ~~EEA State~~ or the *European Central Bank* when it carries out the task of setting a *countercyclical buffer rate* for an ~~EEA State~~ conferred on it by Article 5(2) of Council Regulation (EU) No. 1024/2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of *credit institutions*.

...

parent financial holding company in a Member State

means (in accordance with point (26) of Article 3(1) of the CRD) a *financial holding company* which is not itself a *subsidiary* of an *institution* authorised in the same ~~EEA State~~, or of a *financial holding company* or *mixed financial holding company* set up in the same ~~EEA State~~.

parent institution in a Member State

means (in accordance with point (24) of Article 3(1) of the CRD) an *institution* authorised in an ~~EEA State~~ which has an *institution* or *financial institution* as *subsidiary* or which holds a *participation* in such an *institution* or *financial institution*, and which is not itself a *subsidiary* of another *institution* authorised in the same ~~EEA State~~ or of a *financial holding company* or *mixed financial holding company* set up in the same ~~EEA State~~.

parent mixed financial holding company in a Member State

means (in accordance with point (28) of Article 3(1) of the CRD) a *mixed financial holding company* which is not itself a *subsidiary* of an *institution* authorised in the same ~~EEA State~~, or

~~of a financial holding company or mixed financial holding company set up in the same EEA State.~~

relevant credit exposures

~~means (in accordance with Article 140(4) of the CRD) exposures other than those referred to in points (a) to (f) of Article 112 of the CRR that are subject to:~~

...

3 COUNTERCYCLICAL CAPITAL BUFFER

3.1 ...

(5) ~~The countercyclical buffer rate for an exposure located in an EEA State other than the UK is:~~

- (a) ~~the rate set by the EEA countercyclical buffer authority for that jurisdiction; or~~
- (b) ~~if that rate exceeds 2.5% and has not been recognised by the FPC, 2.5%.
[deleted.]~~

...

(10) ~~If the rate for an EEA State other than the UK is increased, subject to (5)(b) that increase takes effect from:~~

- (a) ~~the date specified by the EEA countercyclical buffer authority for that jurisdiction, if the rate applied under this Chapter does not exceed 2.5%;~~
- (b) ~~the date specified by the FPC if the rate applied under this Chapter exceeds 2.5%. [deleted.]~~

...

3.2 ~~This rule applies until 31 December 2015 [Deleted.]~~

(1) ~~A firm must calculate a countercyclical capital buffer of common equity tier 1 capital equal to its total risk exposure amount multiplied by the weighted average of the countercyclical buffer rates that apply in the jurisdictions where the firm's relevant credit exposures are located.~~

(2) ~~In order to calculate the weighted average referred to in (1), a firm must apply to each applicable countercyclical buffer rate its total own funds requirements for credit risk, specific risk, incremental default and migration risk that relates to the relevant credit exposures in the jurisdiction in question, divided by its total own funds requirements for credit risk that relates to all of its relevant credit exposures.~~

(3) ~~For the purposes of (2), firm must calculate its total own funds requirement for credit risk, specific risk, incremental default and migration risk in accordance with Part Three, Titles II and IV of the CRR.~~

(4) ~~The countercyclical buffer rate for an exposure is the rate recognised or set by the FPC for the jurisdiction in which that exposure is located.~~

(5) ~~If the FPC does not recognise or set a rate for the jurisdiction in which an exposure is located, the countercyclical buffer rate for that exposure is zero.~~

(6) ~~If the rate recognised or set by the FPC for a jurisdiction is increased, that increase takes effect from the date specified by the FPC.~~

- (7) ~~If a rate is reduced, that reduction takes effect immediately.~~

5 APPLICATION ON AN INDIVIDUAL AND CONSOLIDATED BASIS

...

- 5.2 A firm which is a UK parent institution ~~in a Member State~~ must comply with this Part on the basis of its *consolidated situation*.
- 5.3 A UK bank or building society controlled by a UK parent financial holding company ~~in a Member State~~ or a UK parent mixed financial holding company ~~in a Member State~~ must comply with this Part on the basis of the *consolidated situation* of that holding company, if the PRA is responsible for supervision of the UK bank or building society on a *consolidated basis* under Part 6 of the Capital Requirements Regulations ~~Article 111 of the CRD~~.
- 5.4 A UK designated investment firm controlled by a UK parent financial holding company ~~in a Member State~~ or a UK parent mixed financial holding company ~~in a Member State~~ must comply with this Part on the basis of the *consolidated situation* of that holding company, if:
- (1) there is no *subsidiary* of the holding company which is a *credit institution* to which 5.3 applies; and
 - (2) the PRA is responsible for the supervision of the UK designated investment firm on a *consolidated basis* under Part 6 of the Capital Requirements Regulations ~~Article 111 of the CRD~~.

...

Annex I

Amendments to the Certification Part

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

1 APPLICATION AND DEFINITIONS

1.1 Unless otherwise stated, this Part applies to every *firm* that is:

- (a) a *CRR firm*;
- (b) a *credit union*; or
- (c) a *third country CRR firm* in relation to; ~~the activities of its establishment in the UK.~~
 - (a) the activities of its establishment in the UK; or
 - (b) if it does not have an establishment in the UK its activities in the UK.

...

1.3 This Part does not apply to a function performed by:

...

- (5A) a person in relation to whom a notice under section 59ZZA has been given to an authorised person.

.....

Annex J

Amendments to the Change in Control Part

In this Annex deleted text is struck through.

1 APPLICATION AND DEFINITIONS

- 1.1 (1) Unless otherwise stated, this Part applies to every *firm* except:
- (a) ~~an *incoming firm* [deleted.]~~

...

3 OBLIGATIONS ON FIRMS

...

- 3.3 An *overseas firm* ~~other than an *incoming firm*~~ must notify the *PRA* of:

...

4 ONGOING NOTIFICATION REQUIREMENTS

- 4.1 A *firm* must notify the *PRA* as soon as it becomes aware of any of the following matters in respect of one or more of its *controllers*:

...

- (4) ~~if a *controller*, who is authorised in another *EEA State* as a MiFID investment firm, CRD credit institution or UCITS management company or under the *Solvency II Directive* or the *Insurance Distribution Directive*, ceases to be so authorised (registered in the case of an *IDD insurance intermediary*). [deleted.]~~

...

Annex K

Amendments to the Close Links Part

In this Annex deleted text is struck through.

1 APPLICATION AND DEFINITIONS

1.1 Unless otherwise stated, this Part applies to every *firm* ~~except an *incoming firm*~~.

Annex L

Amendments to the Compliance and Internal Audit Part

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

1 APPLICATION AND DEFINITIONS

- 1.1 Unless otherwise stated, this Part applies to a *CRR firm*
- ...
- (2) ~~with respect to the carrying on of *passport activities* by it from a *branch* in another *EEA state*; [deleted.]~~
- ...
- 1.1A 2.1 to 2.6 do not apply to a *firm* with respect to the carrying on of *benchmarking activities* except to the extent that ~~they transpose an EU instrument~~ those rules constitute *retained EU law*.
- 1.2 In this Part, the following definitions shall apply:
- ~~*host Member State*~~
- has the meaning given in Article 4(1)(56) of *MiFID II*.

2 COMPLIANCE

- ...
- 2.6 (1) ~~This rule applies to a *firm* conducting *investment services and activities* from a *branch* in another *EEA State*. [Deleted.]~~
- (2) ~~References to the *regulatory system* in 2.1 and 2.2A apply in respect of a *firm's branch* as if *regulatory system* includes a *host Member State's* requirements under *MiFID II* which are applicable to the *investment services and activities* conducted from the *firm's branch*. [Deleted.]~~

Annex M

Amendments to the Conditions Governing Business Part

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

1 APPLICATIONS AND DEFINITIONS

1.2 In this Part, the following definitions shall apply:

concentration risk

means all risk exposures with a loss potential which is large enough to threaten the solvency or the financial position of a ~~Solvency II undertaking~~ UK Solvency II firm.

...

2 GENERAL GOVERNANCE REQUIREMENTS

2.1 A *firm* must ensure its *governing body* is ultimately responsible for the *firm's* compliance with the rules and all applicable laws, regulations and administrative provisions ~~adopted in accordance with~~ implementing the *Solvency II Directive*.

...

4 INTERNAL CONTROL

...

4.2 The compliance *function* referred to in 4.1(2) must include:

- (1) advising the *governing body* on compliance with the rules and other laws, regulations and administrative provisions ~~adopted in accordance with~~ implementing the *Solvency II Directive*; and

...

11 STATISTICAL DATA

11.1 ~~A leading insurer and a relevant insurer must keep statistical data showing the extent of Community co-insurance operations in which they participate and the EEA States concerned.~~
[Deleted.]

...

Annex N

Amendments to the Conduct Rules Part

In this Annex new text is underlined.

1 APPLICATION AND DEFINITIONS

- 1.1 (1) Unless otherwise stated, this Part applies to every *firm* that is:
- (a) a *CRR firm*;
 - (b) a *credit union*; or
 - (c) a *third country CRR firm* in relation to:
 - (i) the activities of its establishment in the *UK*; or
 - (ii) if it does not have an establishment in the *UK*, activities in the *UK*.
- (2) This Part only applies if P:
- ...
- (d) performs a *certification function* in relation to A; ~~or~~
 - (e) is a *Conduct Rules non-executive director* of A or
 - (f) is a person in relation to whom a notice under section 59ZZA has been or could be given by the PRA to an authorised person.
- (3) 3.1 to 3.3 only apply to a *person* in (2)(a), ~~or~~ (b), or (f)
- (4) 3.4 only applies to a *person* in (2)(a), (b), ~~or~~ (e) or (f).

Annex O

Amendments to the Contractual Recognition of Bail In Part

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

1 APPLICATION AND DEFINITIONS

...

1.2 In this Part, the following definitions shall apply:

...

~~eligible deposit~~

~~has the meaning given in point 4 of Article 2(1) of Directive 2014/49/EU~~

...

fully secured liability

means a *liability* which, at the time it is created, is fully secured and governed by contractual terms that oblige the debtor to maintain the *liability* fully collateralised on a continuous basis in compliance with regulatory requirements of ~~EUUK~~ law or of the law of a *third country* achieving effects that can be deemed equivalent to ~~EUUK~~ law.

...

2 CONTRACTUAL RECOGNITION OF BAIL-IN

...

2.1A ~~2.1 does not apply~~ The inclusion of a contractual term in a contract is not required by this Part in respect of a *any phase two liability* where it would be impracticable for the *BRRD undertaking* to comply with 2.1 to include it in respect of that *phase two liability*.

2.1B Subject to 2.1C, the requirement in 2.1 shall not apply where the contract:

(1) was made before *exit day* and

(2) is governed by the law of an *EEA State*

2.1C Notwithstanding 2.1B, the requirement in 2.1 shall apply to a contract referred to in 2.1B from the time of any *material amendment* to the contract made on or after *exit day*.

2.2 In respect of a *liability* that is:

(1) an *additional tier 1 instrument*, or

(2) a *tier 2 instrument*,

a *BRRD undertaking* that is a *CRR firm* must provide to the *PRA* a properly reasoned independent legal opinion from an individual appropriately qualified in the relevant *third country* on the enforceability and effectiveness of the term ~~referred to in~~ required by this Part. 2.1.

Annex P

Amendments to the Credit Risk Part

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

...

4 CRITERIA FOR CERTAIN EXPOSURES SECURED BY MORTGAGES ON COMMERCIAL IMMOVABLE PROPERTY

...

- 4.1A For the purposes of Articles 124(2) and 126(2) of the *CRR* and in addition to the conditions set out therein, a *firm* may treat an *exposure* or any part of an *exposure* that is not located in ~~a jurisdiction that is not an EEA State~~ the UK as fully and completely secured for the purposes of Article 126 (1) of the *CRR* only if all of the following conditions are met:

...

Annex Q

Amendments to the Credit Unions Part

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

6 INVESTMENT

...

6.3 A *credit union* must not hold *investments*, save that it may hold an *investment* that is:

- (1) a *deposit* placed with a *credit institution* which is authorised in ~~an EEA State~~ the UK to *accept deposits* on terms that the *deposit* shall be repayable within at most twelve months from the date on which that *investment* is made;
- (2) a loan, other than a subordinated loan qualifying as *capital* within the meaning given in 8.2, to a *credit institution* which is authorised in ~~an EEA State~~ the UK to *accept deposits*, with a *maturity* of up to twelve months from the date on which that *investment* is made;
- (3) a sterling-denominated *security* issued by the government of ~~an EEA State~~ the UK with a *maturity* of up to twelve months from the date on which that *investment* is made;
- (4) a fixed-interest sterling-denominated security guaranteed by the government of ~~an EEA State~~ the UK, with a *maturity* of up to twelve months from the date on which that *investment* is made, provided that such *guarantee* is unconditional in respect of the payment of both principal and interest on the security; or

...

6.4 If a *credit union* complies with 10.3, it may hold an *investment* that is:

...

- (2) a loan, other than a subordinated loan qualifying as *capital* within the meaning given in 8.2, to a *credit institution* which is authorised in the UK ~~an EEA State~~ to *accept deposits* with a *maturity* of up to five years from the date on which that *investment* is made;
- (3) a sterling-denominated security issued by the government of the UK ~~an EEA State~~, with a *maturity* of up to five years from the date on which that *investment* is made
- (4) a fixed-interest sterling-denominated security guaranteed by the government of the UK ~~an EEA State~~, with a *maturity* of up to five years from the date on which that *investment* is made, provided that such *guarantee* is unconditional in respect of the payment of both principal and interest on the *security*; or
- (5) any other product provided by a *credit institution* authorised in the UK ~~an EEA State~~ to *accept deposits*, with a *maturity* of up to five years from the date on which that *investment* is made, provided it satisfies the requirement in 6.2.

...

Annex R

Amendments to the Depositor Protection Part

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

1 APPLICATION AND DEFINITIONS

1.1 Unless otherwise stated, this Part applies to:

...

(6) an overseas firm, that if:

- (a) ~~is not an incoming firm; and~~ the firm has a Part 4A permission that includes accepting deposits; and
- (b) ~~has a Part 4A permission that includes accepting deposits~~ deposits are held by a UK establishment of the firm.

1.2 ~~Chapter 23 applies to a UK branch of an incoming firm that is a credit institution.~~ [Deleted.]

1.3 This Part also applies to a firm which used to have a Part 4A permission to accept deposits but which has ceased to have a Part 4A permission to accept new deposits, or which is subject to a requirement not to accept new deposits, ~~and which is not a member of a non-UK scheme.~~

1.3A For the purposes of this Part, a deposit is held by a UK establishment if it is assigned by the firm to an account of that UK establishment.

1.4 Unless otherwise stated, in this Part, the following definitions shall apply:

...

deposit

means:

- (1) a credit balance which results from funds left in an account or from temporary situations deriving from normal banking transactions and which a credit institution is required to repay under the legal and contractual conditions applicable, including a fixed-term deposit and a savings deposit, but excluding a credit balance where:
 - (a) its existence can only be proven by a financial instrument ~~financial instrument as defined in MiFID II~~, unless it is a savings product which is evidenced by a certificate of deposit made out to a named person and which ~~exists~~ existed in the UK or a Member State on 2 July 2014;

...

DGS member

...

(5) an overseas firm if ~~that is not an incoming firm and~~

- (a) the firm has a Part 4A permission that includes accepting deposits; and
- (b) deposits are held by a UK establishment of the firm.

...

DGS EU Exit Regulations

means the Deposit Guarantee Scheme and Miscellaneous Provisions (Amendment) (EU Exit) Regulations 2018.

...

enterprise

means any entity engaged in economic activity, irrespective of its legal form and including, in particular, self-employed persons and family businesses engaged in craft or other activities and partnerships or associations regularly engaged in an economic activity.

EEA right

~~means the entitlement of a person to establish a branch or provide services in an EEA State other than that in which they have their relevant office in accordance with the Treaty as applied in the European Economic Area; and subject to the conditions of the CRR and CRD.~~

~~euro firm~~

~~means an incoming firm that is a credit institution of an EEA State that has adopted the euro or that does not convert into their national currency the amount referred to in Article 6(1) of the DGSD, pursuant to Article 6(5) DGSD.~~

...

exclusions list

means:

...

- (2) from 1 January 2017 until exit day, a list in the form set out in Section B of Annex 3 to this Part; and
- (3) from exit day, a list in the form set out in Section C of Annex 3 to this Part.

~~home state scheme~~

~~means a scheme or arrangement (including the deposit guarantee scheme) for the payment of compensation in respect of eligible deposits, which was established in the EEA State which is, with regard to a particular institution, the home Member State.~~

~~host state scheme~~

~~means a scheme or arrangement (including the *deposit guarantee scheme*) for the payment of compensation in respect of *eligible deposits*, which was established in the *EEA State* which is, with regard to a particular *institution*, the *host Member State*.~~

...

incoming firm

means a *firm* which, immediately before *exit day* was an incoming firm within the meaning of section 193 of *FSMA* as in force at that date.

...

mandatory contributions

means, at any time, the mandatory contributions described in Article 10(4) of the *DGSD* paid before that time by *credit institutions* to schemes of mandatory contributions established by the United Kingdom for the purposes of covering the costs related to systemic risk, failure and resolution of institutions, up to the *target level*, less any amounts of such mandatory contributions previously borrowed by the *FSCS* which have not been repaid.

~~*micro, small and medium-sized enterprises*~~ *enterprise*

means an *enterprise* the annual turnover of which does not exceed EUR 50 million means ~~micro, small and medium-sized enterprises as defined with regard to the annual turnover criterion referred to in Article 2(1) of the Annex to Commission Recommendation 2003/361/EC.~~

...

money laundering

has the meaning given in Article 1(3) 4(2) of the *money laundering directive*.

money laundering directive

means Directive ~~2005/60/EC~~ 2015/849/EU.

...

non-UK scheme

means a scheme established pursuant to the *DGSD* in an *EEA State*. ~~other than the *UK*~~

...

target level

means the amount of ~~available financial means~~ which the *deposit guarantee scheme* is required to reach, which is 0.8% of the amount of *covered deposits* (excluding *temporary high balances*) of *DGS members*.

2 ELIGIBILITY

...

2.2 The provisions in this rule determine whether a *deposit* is an *eligible deposit*:

- (1) A *deposit* is an *eligible deposit* only if it is held by:
 - (a) a UK establishment of a *DGS member*, or
 - (b) ~~a branch of a *DGS member* established in another *EEA State* under an *EEA Right*~~ [deleted.]
- (2) ~~A *deposit* is held by a UK establishment or a branch if it is assigned by the firm to an account of that UK establishment or that branch.~~ [Deleted.]
- (3) A *deposit* is, subject to the other rules in this Chapter, an *eligible deposit* if it is held by a UK establishment of a firm which:
 - (a) had a *Part 4A permission* to accept such *deposits* at the time the *deposit* was accepted but no longer has permission to accept *eligible deposits*, or is subject to a requirement preventing it from doing so; ~~and~~
 - (b) ~~is not now a member of a non-UK scheme which protects such deposits.~~
- (4) The following are not *eligible deposits*:

...

- (f) a *deposit* the holder and any beneficial owner (as defined in regulation 6 of the Money Laundering Regulations 2007) of which have not, at the *compensation date* had their identity verified in accordance with regulation 9 of the Money Laundering Regulations 2007 (or equivalent ~~EEA~~ European Economic Area requirements, provided that their identity was so verified prior to exit day).

3 CIRCUMSTANCES IN WHICH THE FSCS PAYS COMPENSATION IN RESPECT OF ELIGIBLE DEPOSITS

...

3.2 The FSCS must pay compensation in accordance with this Part in respect of an *eligible deposit* if it is satisfied that the *eligible deposit* is a *deposit* with either:

- (1) a *DGS member* which is *in default*; or
- (2) a *firm* which is *in default* and which:
 - (a) had a *Part 4A permission* to accept such *deposits* at the time the *deposit* was accepted but no longer has permission to accept *eligible deposits*, or is subject to a requirement preventing it from doing so; ~~and~~
 - (b) ~~is not a member of a non-UK scheme which covers such deposits.~~

...

5 CALCULATING COMPENSATION

5.3 The limit provided for in 4.2 applies to the aggregate *eligible deposits* placed by a *depositor* with the same *credit institution*, irrespective of the number of accounts, or the currency, or the location within the EEA.

...

6 PAYING COMPENSATION

...

6.2 The *FSCS* must pay any compensation to the *depositor*, with the following exceptions:

- (1) where the *FSCS* ~~is required to~~ may make payments on behalf of a *non-UK scheme* in accordance with the ~~*deposit guarantee scheme regulations*~~ *DGS EU Exit Regulations*;
- (2) ~~where the *FSCS* must instruct a *non-UK scheme* to make payments on its behalf in accordance with 27.3; [deleted.]~~

...

6.9 In applying this Chapter to ~~*deposits* held with a *branch* outside the *UK* of a *DGS member*, the *FSCS* must interpret references to:~~

- (1) ~~*persons* entitled as personal representatives, trustees, bare trustees, operators of *pension schemes* or *persons* carrying on the *regulated activity* of winding up *pension schemes*; or~~
- (2) ~~*persons* having a *joint account* or joint interest in a *deposit* or carrying on business in partnership;~~

~~as references to *persons* entitled, under the law of the relevant country or territory, in a capacity appearing to the *FSCS* to correspond as nearly as may be to that capacity. [deleted.]~~

7 FORM AND METHOD OF COMPENSATION

...

7.2 The *FSCS* may pay compensation in any form and by any method (or any combination of them) that it determines is appropriate including, without limitation:

- (1) by paying the compensation (on such terms as the *FSCS* considers appropriate) to a *DGS member* ~~or an *incoming firm*~~ which agrees to become liable to the *compensation recipient* in a like sum;
- (2) by paying compensation directly into an existing deposit account of (or for the benefit of) the *compensation recipient*, with a *DGS member* ~~or an *incoming firm*~~ (but before doing so the *FSCS* must take such steps as it considers appropriate to verify the existence of such an account and to give notice to the *depositor* of its intention to exercise this power);

...

8 CURRENCY OF COMPENSATION

...

8.2 ~~Subject to 8.3~~ The FSCS must make compensation payments in respect of *eligible deposits* in pounds sterling. Where the account in which the *eligible deposit* was held was maintained in a different currency, the FSCS must use the exchange rate applying on the *compensation date*.

8.3 Where the FSCS is instructing a *non-UK scheme* to make a payment under 27.3, the FSCS must instruct the relevant *non-UK scheme* to make such payments in the currency of that *host Member State* ~~[Deleted.]~~

9 TIME LIMITS

...

9.4 The FSCS may decide to defer the payment of compensation beyond the time period set out in 9.3 where:

...

(5) the amount to be repaid is deemed to be part of a *temporary high balance*, in which case 10.8 applies; or

(6) ~~the amount to be repaid is to be paid out by the *host state scheme*; or [deleted.]~~

...

...

12 SINGLE CUSTOMER VIEW REQUIREMENTS

...

12.9 A firm must ensure that each *single customer view* and *exclusions view* contains all the information set out in the table below.

...

39	Account branch jurisdiction.	If the account is held in a branch outside the United Kingdom, please state in which jurisdiction the account is held [if applicable].	ISO 3166-1 Alpha-3 or alternative code if ISO 3166-1 is unavailable Maximum number of characters in field: 3
		<u>Eligible deposits must be held by UK establishments. State "GBR".</u>	N/A
40	BRRD Marking <u>Bank recovery and</u>	Is the account marked under 13.2? [if applicable].	Value: Yes / No Maximum number of

resolution marking

characters in field: 3

13 BRRD BANK RECOVERY AND RESOLUTION MARKING AND CONTINUITY OF ACCESS

...

13.2 A *firm* must mark accounts which hold:

...

- (2) *deposits* that would be *eligible deposits* from natural persons or *micro, small and medium-sized enterprises* if the *deposit* had not been made through a *branch* of the *firm* located outside the ~~EEA~~UK ...

...

16 FIRMS' DISCLOSURE OBLIGATIONS – INFORMATION AND EXCLUSIONS

...

16.2 A *firm* must:

...

- (3) before entering into a contract on *deposit-taking* with the intending *depositor* of deposits to be held by a UK establishment of the firm:

...

each such intending *depositor*

- (4) before entering into a contract on *deposit-taking*, inform each intending *depositor* of deposits to be held at a UK establishment of the firm of the exclusions from *deposit guarantee scheme* protection that fall within 2.2(4)(b) and 2.2(4)(k), if applicable.

16.3 ~~Where the *depositor* holds *eligible deposits* through a *UK establishment*, the~~ The information sheet must be in English, or, if different, in the language that was agreed between the *depositor* and the *firm* when the account was opened. ~~A *firm* which accepts *eligible deposits* through a *branch* established in another *EEA State* may provide the information sheet in the official language of that *EEA State*.~~

17 FIRMS' DISCLOSURE OBLIGATIONS – STATEMENTS OF ACCOUNT

17.1 A *firm* must:

...

- (2) include a reference to the *information sheet* and a reference to the *exclusions list* on a *depositor's* statement of account in respect of deposits held by a UK establishment of the firm;
- (3) at least annually:
- (a) provide to the depositor of deposits held by a UK establishment of the firm;

...

- (4) include the following information on a depositor's statement of account in respect of deposits held by a UK establishment of the firm:

...

17.3 A firm which was, immediately before exit day, a credit institution and an incoming firm, and which is a DGS member immediately after exit day, must, within two months after exit day:

- (a) provide to the depositor of deposits held by a UK establishment of the firm:
- (i) the information sheet; and
 - (ii) the exclusions list; and
- (b) if applicable, inform the depositor of the exclusions from deposit guarantee scheme protection that fall within 2.2(4)(b) and 2.2(4)(k).

...

19 DISCLOSURE OF TRANSFER OF DEPOSITS

19.1 In the case of a merger, conversion of *subsidiaries* into *branches*, transfer or similar operations, a *firm* must:

...

- (2) give *depositors* a three month period following notification in accordance with (1), to withdraw or transfer to another *institution*, without incurring any penalty, such part of their *eligible deposits*, together with any accrued interest and other benefits, as exceed the coverage level pursuant to 4.2 (or, ~~if applicable in the case of a non-UK scheme, other transposition of Article 6(1) of the DGSD~~) at the time of the operation.

20 DISCLOSURE OF WITHDRAWAL OR EXCLUSION FROM THE DEPOSIT GUARANTEE SCHEME

20.1 A *firm* must inform *depositors* within one month if it withdraws from or is excluded from the *deposit guarantee scheme* ~~or any non-UK scheme~~.

20.2 A firm must inform *depositors* of *deposits* which:

- (1) immediately prior to *exit day*, were *eligible deposits*; and
- (2) on *exit day*, ceased to be *eligible deposits* by virtue of not being held at a UK establishment.

that such *deposits* ceased to be *eligible deposits* on *exit day*; and must do so as soon as practicably possible after *exit day* and in any event within one month after *exit day*.

...

22 NOTIFICATION REQUIREMENTS ON TRANSFER TO A NON-UK SCHEME

22.1 ~~If a *firm* which is a *DGS member* intends to transfer to become a member of a *non-UK scheme*, and cease to be a *DGS member*, it shall give at least six months' notice to~~

~~the FSCS and the PRA of its intention to make such a transfer. During the six month period, the firm shall remain a DGS member. [Deleted.]~~

23 DEPOSIT COMPENSATION INFORMATION – BRANCHES AND WEBSITE

...

23.3 In this Chapter, references to “compensation leaflet” are:

- (1) ~~in the case of a DGS member, references to the FSCS’s standard leaflet with respect to its protection of deposits; and~~
- (2) ~~in the case of an incoming firm that it is a credit institution, references to a leaflet with respect to the protection of deposits by the compensation scheme of its home member state where such a leaflet is provided electronically and in English by the home state scheme or, where a leaflet is not available, a link to the home state scheme’s website. [deleted.]~~

23.4 A firm that accepts deposits under a single brand or trading name must prominently display the compensation sticker and compensation poster in each UK branch in the following ways:

...

23.5 A firm that accepts deposits under multiple brands or trading names must prominently display the compensation sticker and compensation poster in each UK branch in the following ways:

...

23.10 ~~A firm that accepts eligible deposits through a branch or branches established in other EEA States may provide the information required by this Chapter in the official language(s) of the EEA State (which may be either the compensation sticker, compensation poster or compensation leaflet in that language or the firm’s own translation of that compensation sticker, compensation poster or compensation leaflet). [Deleted.]~~

24 DUTIES OF THE FSCS

...

24.10 The FSCS must correspond with a depositor in any one of:

- (1) English; or
- (2) ~~any other official Union language or Welsh if that language is used by the firm which holds the eligible deposit when communicating with that depositor.~~

...

26 CONFIDENTIALITY, INFORMATION SHARING AND CO-OPERATION

...

26.2 ~~The FSCS must exchange with host state schemes (in relation to a DGS member), information: [Deleted.]~~

- (1) relating to the ~~DGS member's compliance with this Part;~~
- (2) necessary to prepare for a repayment of ~~depositors~~, including markings made under Chapter 11;
- (3) communicated to the ~~FSCS~~ by the ~~PRA~~ that the ~~PRA~~ has detected problems with a ~~DGS member~~ that are likely to give rise to the intervention of the ~~deposit guarantee scheme~~.

26.3 The ~~FSCS~~ must have appropriate procedures in place to enable it to share information and communicate effectively with ~~non-UK schemes~~, the members of such schemes, and bodies outside the ~~UK~~. The ~~FSCS~~ shall inform the ~~PRA~~ of any cooperation agreement it enters into with a ~~non-UK scheme~~. ~~[Deleted.]~~

26.4 In order to facilitate effective co-operation, the ~~FSCS~~ shall have written co-operation agreements in place with ~~non-UK schemes~~. Such agreements shall take account of 26.1. ~~[Deleted.]~~

27 PAYMENTS IN RESPECT OF UK BRANCHES OF INCOMING FIRMS AND EEA BRANCHES OF DGS MEMBERS

27.1 This Chapter applies only to the ~~FSCS~~.~~[Deleted.]~~

27.2 Where the ~~FSCS~~ is required under the ~~deposit guarantee scheme regulations~~ to pay compensation on behalf of a ~~non-UK scheme~~, the ~~FSCS~~ must inform the ~~depositors~~ concerned that the relevant ~~credit institution~~ is ~~in default~~ and of their right to compensation on behalf of the ~~non-UK scheme~~. The ~~FSCS~~ may receive correspondence from those ~~depositors~~ on behalf of the ~~non-UK scheme~~. ~~[Deleted.]~~

27.3 Where the ~~FSCS~~ is required, under this Part, to pay compensation to a ~~depositor~~ in respect of ~~deposits~~ held with a ~~branch~~ of a ~~DGS member~~ in an ~~EEA state~~ other than the ~~UK~~, the ~~FSCS~~ must instruct the relevant ~~non-UK scheme~~ to make such payments on its behalf. The ~~FSCS~~ must provide the necessary funding prior to payout by the ~~non-UK scheme~~ and must compensate the ~~non-UK scheme~~ for costs incurred by the ~~non-UK scheme~~ with regard to acts done by the ~~non-UK scheme~~ in accordance with the instructions given by the ~~FSCS~~. ~~[Deleted.]~~

28 SUBROGATION

...

28.3 (1) The ~~FSCS~~ may determine that, if it is necessary or desirable in conjunction with the exercise of the ~~FSCS's~~ powers under 28.2, that the ~~compensation recipient~~ shall be treated as having irrevocably and unconditionally appointed the chairman of the ~~FSCS~~ for the time being to be their attorney and agent and on their behalf and in their name or otherwise to do such things and execute such deeds and documents as may be required under such laws of the ~~UK~~, ~~another EEA State~~ or any other state or law-country to create or give effect to such assignment or transfer or otherwise give full effect to those powers.

...

30 RECOVERIES OF ELIGIBLE DEPOSITS: RETURN OF SURPLUS TO COMPENSATION RECIPIENT

30.1 If the *FSCS*, in relation to a *claim for eligible deposits*, makes recoveries from the *credit institution* or any third party in respect of that *eligible deposit*, it must:

- (1) retain from those recoveries a sum equal to the aggregate of:
 - (a) the sum paid by the *FSCS* as compensation; and
 - ...
 - (b) ~~any amount paid or payable by a *home state scheme* to the *compensation recipient*; and [deleted.]~~

...

32 FUNDING – USE OF EXISTING MANDATORY CONTRIBUTIONS

...

32.2 If the *PRA* determines, in accordance with the *deposit guarantee scheme regulations*, that the *FSCS* is unable to raise a *DGS compensation costs levy* from *DGS members* to meet the liabilities of the *deposit guarantee scheme*, the *FSCS* may borrow an amount equal to the ~~amount of such *mandatory contributions*~~ in order to meet the liabilities of the deposit guarantee scheme.

32.3 The *FSCS* must impose a *DGS compensation costs levy* on *DGS members* sufficient to repay any amounts borrowed in accordance with 32.2 ~~equal to *mandatory contributions* borrowed in accordance with Article 10 (4) of the *DGSD*~~ within a reasonable time and in accordance with repayment deadlines under the applicable loan agreement and 34.3.

...

48 FUNDING – TRANSFER OF LEVIES

48.1 ~~This Chapter applies only to the *FSCS*. [Deleted.]~~

48.2 ~~If a *firm* ceases to be a *DGS member* and joins a *non-UK scheme*, the *FSCS* must transfer the contributions paid by that *firm* to the *available financial means* of the *deposit guarantee scheme* during the 12 months preceding the end of the membership to the relevant *non-UK scheme*. [Deleted.]~~

48.3 ~~48.2 does not apply if the *firm* has been excluded from the *deposit guarantee scheme* pursuant to Article 4(5) of the *DGSD*. [Deleted.]~~

48.4 ~~If some of the activities of a *DGS member* are transferred to another *Member State* and become subject to a *non-UK scheme*, the contributions paid by that *firm* during the 12 months preceding the transfer shall be transferred to the relevant *non-UK scheme* in proportion to the amount of *covered deposits* transferred. [Deleted.]~~

...

ANNEX I – INFORMATION SHEET (CHAPTER 16)

Currency of reimbursement: Pound sterling (GBP, £) ~~or, for branches of UK banks operating in other EEA Member States, the currency of that State.~~

ANNEX II – CONTENT OF COMPENSATION STICKERS AND POSTERS (CHAPTER 23)

The compensation stickers must contain the following statements only:

~~UK banks~~

~~building societies~~

~~credit unions~~

~~Northern Ireland credit unions~~

~~An overseas firm that:~~

~~(a) is not an incoming firm; and~~

~~(b) has a Part 4A permission that includes accepting deposits~~

~~...~~

-
- (1) "Your eligible deposits ~~with~~ held by a UK establishment of [insert name of firm] are protected up to a total of £85,000 by the Financial Services Compensation Scheme, the UK's deposit guarantee scheme. Any deposits you hold above the limit are unlikely to be covered.

Please ask/click here [delete as appropriate] for further information or visit www.fscs.org.uk."

As an alternative, for *credit unions* or *Northern Ireland credit unions* that *accept deposits* under a single brand or trading name:

"Your eligible deposits are protected up to a total of £85,000 by the Financial Services Compensation Scheme, the UK's deposit guarantee scheme. Any deposits you hold above the limit are unlikely to be covered. Please ask/click here [delete as appropriate] for further information or visit www.fscs.org.uk."

~~Incoming firm that is a *credit institution* [Deleted.]~~

-
- (2) ~~"Your eligible deposits with [insert name of firm] are protected up to a total of [insert 100,000 euro or home state equivalent] by [insert name of compensation scheme] the [insert home state of compensation scheme] deposit guarantee scheme and are not protected by the UK Financial Services Compensation Scheme. Any deposits you hold above the [insert 100,000 euro or home state equivalent] limit are unlikely to be covered. Please ask/click here [delete as appropriate] for further information or visit [insert website address of scheme]."~~ [Deleted.]
-

The compensation posters must contain the following statements only:

UK banks

building societies

credit unions

Northern Ireland credit unions

~~An overseas firm that:~~

~~(a) is not an *incoming firm*; and~~

~~(b) has a *Part 4A permission* that includes *accepting deposits*~~

...

(1) Firms that accept deposits under a single brand or trading name

"Your eligible deposits ~~with~~ held by a UK establishment of [insert name of firm] are protected up to a total of £85,000 by the Financial Services Compensation Scheme, the UK's deposit guarantee scheme. Any deposits you hold above the limit are unlikely to be covered.

Please ask/click here [delete as appropriate] for further information or visit www.fscs.org.uk."

As an alternative, for credit unions or Northern Ireland credit unions that accept deposits under a single brand or trading name: "Your eligible deposits are protected up to a total of £85,000 by the Financial Services Compensation Scheme, the UK's deposit guarantee scheme. Any deposits you hold above the limit are unlikely to be covered.

Please ask/click here [delete as appropriate] for further information or visit www.fscs.org.uk."

~~Incoming firm that is a *credit institution*~~

(3) ~~*Incoming firm that is a credit institution and accepts deposits* under a single brand or trading name~~

~~"Your eligible deposits with [insert name of firm] are protected up to a total of [insert 100,000 euro or home state equivalent] by [insert name of compensation scheme] the [insert home state of compensation scheme] deposit guarantee scheme and are not protected by the UK Financial Services Compensation Scheme. Any deposits you hold above the [insert 100,000 euro or home state equivalent] limit are unlikely to be covered. Please ask/click here [delete as appropriate] for further information or visit [insert website address of scheme]."~~ [Deleted.]

(4) ~~*Incoming firm that accepts deposits* under multiple brands or trading names~~

~~"Your eligible deposits with [insert name of firm] are protected up to a total of [insert 100,000 euro or home state equivalent] by [insert name of compensation scheme] the [insert home state of compensation scheme] deposit guarantee scheme and are not protected by the UK Financial Services Compensation Scheme. This limit is applied to the total of any deposits you~~

~~have with the following: [insert names of brands as appropriate]. Any total deposits above the [insert 100,000 euro or home state equivalent] limit are unlikely to be covered. Please ask/click here [delete as appropriate] for further information or visit [insert website address of scheme]."~~
~~[Deleted.]~~

...

ANNEX 3 – EXCLUSIONS LIST (CHAPTER 16)

Section C (from exit day)

A deposit is excluded from protection if:

- (1) The holder and any beneficial owner of the deposit have never been identified in accordance with money laundering requirements. For further information, contact your bank, bank building society or credit union.
- (2) The deposit arises out of transactions in connection with which there has been a criminal conviction for money laundering.
- (3) It is a deposit made by a depositor which is one of the following:
 - credit institution
 - financial institution
 - investment firm
 - insurance undertaking
 - reinsurance undertaking
 - collective investment undertaking
 - pension or retirement fund¹
 - public authority, other than a small local authority.
- (4) It is a deposit of a credit union to which the credit union itself is entitled
- (5) It is a deposit which can only be proven by a financial instrument² unless it is a savings product which is evidenced by a certificate of deposit made out to a named person and which existed in the UK or a Member State on 2 July 2014)
- (6) It is a deposit of a collective investment scheme which qualifies as a small company.³
- (7) It is a deposit of an overseas financial services institution which qualifies as a small company.⁴
- (8) It is a deposit of certain regulated firms (investment firms, insurance undertakings and reinsurance undertakings) which qualify as a small business or a small company⁵ – refer to the FSCS for further information on this category
- (9) It is not held by an establishment of a bank, building society or credit union in the United Kingdom

For further information about exclusions, refer to the FSCS website at www.FSCS.org.uk

¹ Deposits by personal pension schemes, stakeholder pension schemes and occupational pension schemes of micro, small and medium sized enterprises are not excluded

² As listed in Part I of Schedule 2 to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001

³ Under the Companies Act 1985 or Companies Act 2006

⁴ See footnote 3

⁵ See footnote 3

Annex S

Amendments to the Dormant Account Scheme Part

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

1 APPLICATION AND DEFINITIONS

1.1 Unless otherwise stated, this Part applies to:

...

- (5) an overseas firm ~~that if:~~
- (a) ~~is not an incoming firm; and [deleted.]~~
 - (b) the firm has a Part 4A permission that includes accepting deposits and
 - (c) deposits are held by a UK establishment of the firm.

1.2 In this Part, the following definitions shall apply:

...

DAS member

means:

...

- (4) an overseas firm, if:
- (a) the firm ~~that is not an incoming firm and~~ has a part 4A permission that includes accepting deposits and
 - (b) deposits are held by a UK establishment of the firm.

...

7 FORM AND METHOD OF COMPENSATION

...

7.2 Subject to Chapter 6, the FSCS may pay compensation in any form and by any method (or any combination of them) that it determines is appropriate including, without limitation:

- (1) by paying the compensation (on such terms as the FSCS considers appropriate) to a firm with a Part 4A permission to accept deposits ~~or an incoming firm~~ or another dormant account fund operator which agrees to become liable to the claimant in a like sum;

...

12 SUBROGATION

...

- 12.4 (1) The *FSCS* may determine that, if it is necessary or desirable in conjunction with the exercise of the *FSCS*'s powers under 12.3, that the claimant shall be treated as having irrevocably and unconditionally appointed the chairman of the *FSCS* for the time being to be their attorney and agent and on their behalf and in their name or otherwise to do such things and execute such deeds and documents as may be required under such laws of the *UK*, ~~another *EEA State*~~ or any other state or law-country to create or give effect to such assignment or transfer or otherwise give full effect to those powers.

...

Annex T

Amendments to the External Audit Part

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

1 APPLICATIONS AND DEFINITIONS

...

1.3 In this Part, the following definitions shall apply:

...

group supervisor

means the PRA (in relation to a *group*) ~~the authority designated as group supervisor in relation to that group, in accordance with Article 247 of the Solvency II Directive.~~

...

4 DUTIES ON THE EXTERNAL AUDITOR

...

4.2 Where the *relevant elements of the SFCR* in a *group SFCR* that:

- (1) pertains to an *undertaking* that is not a ~~Solvency II undertaking~~ UK Solvency II firm; and
- (2) information has been prepared in accordance with:
 - (a) *PRA* rules other than those implementing the *Solvency II Directive*; or
 - (b) ~~an EU instrument~~ UK law other than the *Solvency II Regulations*,

the external auditor shall state in the report under 4.1(2) that the information has been properly compiled in accordance with the relevant *PRA* rules and ~~EU instruments~~ UK law relating to that *undertaking* from information provided by *undertakings* in the *group* and the *relevant insurance group undertaking*.

...

Annex U

Amendments to the Financial Conglomerates Part

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

1 APPLICATION AND DEFINITIONS

1.1 Unless otherwise stated, this Part applies to every *firm* except:

- (1) ~~an *incoming EEA firm*; [deleted.]~~
- (2) ~~an *incoming Treaty firm*; and [deleted.]~~

...

1.4 In this Part, the following definitions shall apply:

alternative investment fund manager

~~means a manager of alternative investment funds within the meaning of Article 4(1)(b), (l) and (ab) of the *AIFMD* or an *undertaking* which is outside the *EEA* and which would require authorisation in accordance with the *AIFMD* if it had its registered office within the *EEA*.~~

...

asset management company

~~means a management company within the meaning of Article 2(1)(b) of the *UCITS Directive*, as well as an *undertaking* the registered office of which is outside the *EEA* and which would require authorisation in accordance with Article 6(1) of the *UCITS Directive* if it had its registered office within the *EEA*.~~

...

competent authority

~~means any national authority of an *EEA State* which is empowered by law or regulation to supervise *regulated entities*, whether on an individual or group-wide basis.~~

...

consolidation group

means:

- (1) a *conventional group*; or
- (2) *undertakings* linked by an *Article 12(1) relationship* a *common management relationship* or an *Article 18(6) relationship*.

If a *parent undertaking* or *subsidiary undertaking* in a *conventional group* (the first person) has a consolidation *Article 12(1) relationship* *common management relationship* or an *Article 18(6) relationship* with another *person* (the second person), the second person, and any *subsidiary undertaking* of the second person, is also a member of the same *consolidation group*.

...

CRD full-scope firm

means an *investment firm* as defined in article 4(1)(2) of the *CRR* that is subject to the requirements imposed by virtue of *MiFID*, or which would be subject to ~~that Directive~~ those requirements if its head office were in the UK ~~an EEA State~~, and that is not a *limited activity firm* or a *limited licence firm*.

...

~~*EEA insurer*~~

~~means an undertaking whose head office is in any EEA State except the UK and which has received authorisation in accordance with article 14 of the *Solvency II Directive*.~~

~~*EEA prudential sectoral legislation*~~

~~means, in relation to a financial sector, requirements applicable to persons in that financial sector in accordance with EEA legislation with respect to prudential supervision of regulated entities in that financial sector.~~

~~*EEA UK regulated entity*~~

~~means a regulated entity that is an EEA firm or a UK firm.~~

...

~~*financial conglomerate notification*~~

~~means a notification issued in respect of a financial conglomerate that has been identified as a financial conglomerate as contemplated by Article 4(2) of the *Financial Groups Directive* regulation 2 of The Financial Conglomerates Regulations.~~

~~*Financial Conglomerates Regulations*~~

~~means The Financial Conglomerates and Other Financial Groups Regulations 2004 (SI 2004/1862)~~

...

~~*insurance sector*~~

means a sector composed of one or more of the following entities:

- (1) ~~a *Solvency II undertaking*~~ UK Solvency II firm;
- (2) *third country insurance undertaking* or a *third country reinsurance undertaking*;
- (3) an *insurance holding company*; and
- (4) in the relevant circumstances described in 5, an *asset management company* or an *alternative investment fund manager*.

...

~~*investment firm*~~

has the meaning given by Article 2(3) of the *Financial Groups Directive*

...

mixed financial holding company

~~has the meaning given in Article 2(15) of the *Financial Groups Directive* has the meaning given in regulation 1(2) of the *Financial Conglomerates Regulations*.~~

...

parent undertaking

has the meaning in Article 2(9) of the *Financial Groups Directive*.

participation

~~has the meaning given in article Article 2(11) of the *Financial Groups Directive* Article 4(1)(35) *CRR*.~~

...

regulated entity

means one of the following:

...

(2) ~~a *Solvency II undertaking*~~ UK Solvency II firm, a third country insurance undertaking, a third country reinsurance undertaking

...

whether or not it is incorporated in, or has its head office in, ~~an EEA State~~ the UK.

~~*relevant competent authorities*~~

~~in relation to a *financial conglomerate*, means those *competent authorities* which are, or which have been appointed as, *relevant competent authorities* in relation to that *financial conglomerate* under Article 2(17) of the *Financial Groups Directive*~~

...

sectoral rules

means, in relation to a *financial sector*, the following rules and requirements relating to the prudential supervision of *regulated entities* within that *financial sector*.

(1) ~~for the purposes of 2.8, *EEA prudential sectoral legislation* for that *financial sector* together with, as appropriate, the rules and requirements in (3);~~

(2) for the purpose of calculating *solo capital resources* and a *solo capital resources requirement*.

...

(b) ~~the rules and requirements in (3); or~~

...

subsidiary undertaking

has the meaning given in Article 2(10) of the *Financial Groups Directive*.

third country financial conglomerate

~~a financial conglomerate that is of a type that falls under Article 5(3) of the *Financial Groups Directive* has the meaning given in regulation 7 of the Financial Conglomerates and Other Financial Groups Regulations 2004~~

third country insurance undertaking

~~means an undertaking that has its head office outside the EEA and that would require authorisation as an insurance undertaking in accordance with Article 14 of the *Solvency II Directive* if its head office was situated in the EEA.~~

third country reinsurance undertaking

~~means an undertaking that has its head office outside the EEA and that would require authorisation as a reinsurance undertaking in accordance with Article 14 of the *Solvency II Directive* if its head office were situated in the EEA.~~

...

UK regulated EEA financial conglomerate

~~means a financial conglomerate other than a third country financial conglomerate that satisfies one of the following conditions:~~

- ~~(1) 3.3 applies with respect to it; or~~
- ~~(2) a firm that is a member of that financial conglomerate is subject to obligations imposed through its Part 4A permission or section 55M of FSMA to ensure that the financial conglomerate meets levels of capital adequacy based on or stated to be based on Annex I of the *Financial Groups Directive*.~~

3 CAPITAL ADEQUACY

3.1 In this Chapter,

- (1) ~~3.2 applies where a financial conglomerate notification has been issued in respect of a financial conglomerate of which a firm is a member; and [deleted.]~~

...

3.4 (1) Subject to 3.5, the definitions of conglomerate capital resources and conglomerate capital resources requirement that apply for the purposes of 3.3 are the definitions from whichever of Part 1 or Part 2 of Annex 2 the firm has indicated to the PRA it will apply to the group or each part of the group.

- (2) The firm must indicate to the PRA in advance which Part of Annex 2 it intends to apply to the group or each part of the group.

...

4 RISK CONCENTRATION AND INTRA-GROUP TRANSACTIONS

...

- 4.2 A firm that is a member of a ~~UK regulated~~ EEA financial conglomerate headed by a mixed financial holding company must ensure compliance with the sectoral rules, identified for these purposes in the table at 4.3, regarding risk concentration and intra-group transactions of the most important financial sector in that financial conglomerate with respect to that financial sector as a whole, including the mixed financial holding company.

...

5 ASSET MANAGEMENT COMPANIES AND ALTERNATIVE INVESTMENT FUND MANAGERS

- 5.1 A firm must treat an asset management company and an alternative investment fund manager that is a member of a financial conglomerate of which that firm is a member:

...

- (2) In the case of a financial conglomerate for which the PRA is the coordinator, a firm must allocate an asset management company and an alternative investment fund manager:
- (a) to the investment services sector where a decision to that effect has been made by ~~the undertaking in the financial conglomerate that is the group member referred to in Article 4(2) of the Financial Groups Directive~~ the relevant member referred to in regulation 2(4) of the Financial Conglomerates and Other Financial Groups Regulations 2004;

...

6 THIRD COUNTRY FINANCIAL CONGLOMERATE

- 6.1 This Chapter applies to a firm that is a member of a third country financial conglomerate ~~except:~~

- (1) ~~an incoming EEA firm; or [deleted.]~~
- (2) ~~an incoming Treaty firm; or [deleted.]~~

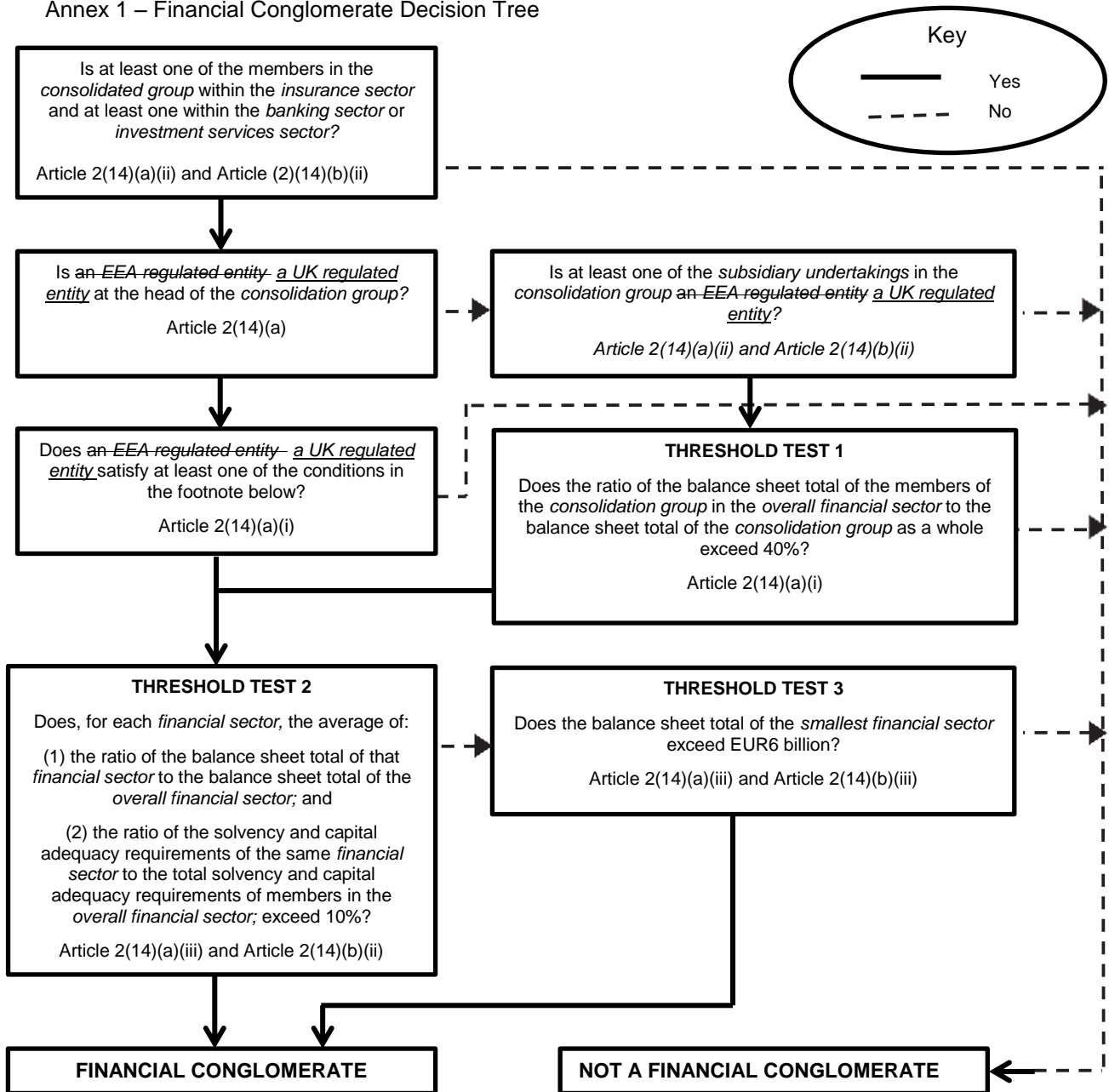
...

7 RISK SYSTEMS

- 7.1 This Chapter applies to a firm that is a member of a ~~UK regulated~~ EEA financial conglomerate.

...

Annex 1 – Financial Conglomerate Decision Tree



Footnote: The conditions are that the ~~EEA regulated entity~~ UK regulated entity at the head of the consolidation group: (1) is a parent undertaking of a member of the consolidation group in the overall financial sector; (2) has a participation in a member of the consolidation group that is in the overall financial sector; or (3) has a consolidation ~~Article 12(1) relationship~~ common management relationship with a member of the consolidation group that is in the overall financial sector

Annex 2 – Capital Adequacy Calculations for Financial Conglomerates

...

3 Table

Types of financial conglomerate	<p>3.1 (1) This paragraph sets out how to determine the category of <i>financial conglomerate</i>.</p> <p>(2) If there is an EEA a <u>UK regulated entity</u> at the head of the <i>financial conglomerate</i>, then:</p> <p>(a) if that entity is in the <i>banking sector</i> or the <i>investment services sector</i>, the <i>financial conglomerate</i> is a <i>banking and investment services conglomerate</i>; or</p> <p>(b) if that entity is in the <i>insurance sector</i>, the <i>financial conglomerate</i> is an <i>insurance conglomerate</i>.</p> <p>(3) If (2) does not apply and the <i>most important financial sector</i> is the <i>banking and investment services sector</i>, it is a <i>banking and investment services conglomerate</i>.</p> <p>(4) If (2) and (3) do not apply, it is an <i>insurance conglomerate</i>.</p>
---------------------------------	--

...

5 Table Part 3: Principles applicable to all methods

...

Application of sectoral rules: general	<p>5.4 The following adjustments apply to the <i>applicable sectoral rules</i> as they are applied by the rules in this Annex.</p> <p>(1) If any of those rules would otherwise not apply to a situation in which they are applied by this Annex, those rules nevertheless still apply (and in particular, any of those rules that would otherwise have the effect of disapplying consolidated supervision do not apply).</p> <p>(2) If it would not otherwise have been included, an <i>ancillary insurance services undertaking</i> is included in the <i>insurance sector</i>.</p> <p>(3) The scope of those rules is amended so as to remove restrictions relating to where members of the <i>financial conglomerate</i> are incorporated or have their head office, so that the scope covers every member of the <i>financial conglomerate</i> that would have been included in the scope of those rules if those members had their head offices in <u>the UK</u> an EEA State.</p> <p>(4) For the purposes of Parts 1 to 2, those rules must be adjusted, if necessary, when calculating the capital resources, capital resources requirements or solvency requirements for a particular <i>financial sector</i> to exclude those for a member of another <i>financial sector</i>.</p> <p>(5) Any <i>waiver</i> granted to a member of the <i>financial conglomerate</i> under those rules does not apply for the purposes of this annex.</p>
--	--

...

6 Table: Part 4: Definitions used in this Annex

...

Solo capital resources	<p>6.4 (1) The <i>solo capital resources requirement</i> of an <i>undertaking</i> in the <i>insurance sector</i> is:</p>
------------------------	--

<p>requirement: insurance sector</p>	<p>(a)</p>	<p>in respect of a <i>UK Solvency II firm</i>, the <i>SCR</i>;</p>
	<p>(b)</p>	<p>in respect of a <i>Solvency II undertaking</i> other than a <i>UK Solvency II firm</i>, the equivalent of the <i>SCR</i> as calculated in accordance with the <i>Solvency II EEA implementing measures</i> in the <i>EEA State</i> in which it has received authorisation in accordance with article 14 of the <i>Solvency II Directive</i>; [deleted.]</p>
	<p>(c)</p>	<p>in respect of a <i>third country insurance undertaking</i> or <i>third country reinsurance undertaking</i> to which Group Supervision, 10.4(2) applies, the equivalent of the <i>SCR</i> as calculated in accordance with the applicable requirements in that <i>third country</i>;</p>
	<p>(d)</p>	<p>in respect of any <i>undertaking</i> which is not within (a) to (c), the capital resources requirement calculated according to the rules for the calculation of the solo capital resources requirement applicable to that <i>undertaking</i> for the purposes of the calculation referred to in Group Supervision and Chapter I of Title II of the <i>delegated acts</i> or, if no rules are applicable for that calculation under Group Supervision and Chapter I of Title II of the <i>delegated acts</i>, in accordance with the <i>SCR Rules</i>.</p>
<p>Solo capital resources requirement: EEA firms in the banking sector or investment services sector</p>	<p>6.5</p>	<p>The <i>solo capital resources requirement</i> for an <i>EEA regulated entity</i> (other than a <i>bank</i>, <i>building society</i>, <i>designated investment firm</i>, <i>IFPRU investment firm</i> as defined in the <i>FCA Handbook</i>, <i>BIPRU firm</i> as defined in the <i>FCA Handbook</i>, an <i>insurer</i> or an <i>EEA insurer</i>) that is subject to the <i>solo capital adequacy sectoral rules</i> for its <i>financial sector</i> of the <i>competent authority</i> that authorised it is equal to the amount of capital it is obliged to hold under those <i>sectoral rules</i> provided that the following conditions are satisfied</p> <p>(1) for the purposes of the <i>banking sector</i> and the <i>investment services sector</i>, those <i>sectoral rules</i> must correspond to the <i>PRA sectoral rules</i> identified in paragraph 6.2 as applying to that <i>financial sector</i>;</p> <p>(2) the entity must be subject to those <i>sectoral rules</i> in (1); and</p> <p>(3) paragraph 6.3 applies to the entity and those <i>sectoral rules</i>.</p>
<p>Solo capital resources requirement: non-EEA</p>	<p>6.6</p>	<p>The <i>solo capital resources requirement</i> for a <i>recognised third country credit institution</i> or a <i>recognised third country investment firm</i> is the amount of capital resources that it is obliged to hold</p>

~~firms non-UK firms~~
subject to equivalent regimes in the banking sector or investment services sector

under the *sectoral rules* for its *financial sector* that apply to it in the state or territory in which it has its head office provided that:

- (1) there is no reason for the *firm* applying the rules in this Annex to believe that the use of those *sectoral rules* would produce a lower figure than would be produced under paragraph 6.2; and
- (2) paragraph 6.3 applies to the entity and those *sectoral rules*.

Annex 3 –Prudential Rules for Third Country Financial Conglomerates (6.2)

...

2 Table: PART 2: Adjustment of scope

2.1	The adjustments that must be carried out under this paragraph are that the scope of the rules referred to in Part 1 of this Annex, are amended:	
	(1)	to remove any provisions disapplying those rules for <i>third country financial conglomerates</i> ;
	(2)	to remove all limitations relating to where a member of the <i>third country financial conglomerate</i> is incorporated or has its head office; and
	(3)	so that the scope covers every member of the <i>third country financial conglomerate</i> that would have been included in the scope of those rules if those members had their head offices in, and were incorporated in, and an EEA State <u>the UK</u> .

Annex V

Amendments to the Fitness and Propriety Part

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

1 APPLICATION AND DEFINITIONS

1.1 Unless otherwise stated, this Part applies to every *firm* that is:

- (1) a *CRR firm*;
- (2) a *credit union*; or
- (3) a *third country CRR firm* in relation to: ~~the activities of its establishment in the UK.~~
 - (a) the activities of its establishment in the UK; or
 - (b) if it does not have an establishment in the UK, activities in the UK.

...

Annex W

Amendments to the Friendly Society – Liability Valuation Part

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

...

11 RATES OF INTEREST

...

- 11.8 For the purposes of 11.7, the *issuer's* profits after taxation from its ordinary activities for the relevant *financial year* must be derived from accounts drawn up in accordance with legislation implementing the *Accounts Directives* or, if accounts are not so drawn up in accordance with ~~the *Accounts Directives*~~, from accounts drawn up in accordance with International Accounting Standards Committee accounting standards or US generally accepted accounting practice.

...

Annex X

Amendments to the General Organisational Requirements Part

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

1 APPLICATION AND DEFINITIONS

1.1 Unless otherwise stated, this Part applies to a *CRR firm*:

...

(2) ~~with respect to the carrying on of *passport*ed activities by it from a *branch* in another *EEA state*; [deleted.]~~

...

1.1A 2.1 to 2.8 do not apply to a *firm* with respect to the carrying on of *benchmarking activities* except to the extent that ~~they transpose an *EU instrument*~~ those rules constitute retained *EU law* within the meaning of the European Union (Withdrawal) Act 2018.

Annex Y

Amendments to the General Provisions Part

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

1 APPLICATIONS AND DEFINITIONS

...

1.2 In this Part, the following definitions shall apply:

...

incoming ECA provider

~~has the meaning given in the FCA Handbook.~~

...

State of the risk

~~means references to the EEA State in which a risk is situated in accordance with paragraphs 6(3) and 6(4) of Schedule 12 to FSMA.~~

...

...

3 DISCLOSURE TO RETAIL CLIENTS

3.1 This Chapter

...

(2) does not apply to:

(a) ~~an incoming ECA provider when the firm is acting as such; [deleted.]~~

(b) ~~an incoming EEA firm which has permission only for cross border services and which does not carry on regulated activities in the UK; [deleted.]~~

(c) ~~an incoming firm not falling under (a) and (b), to the extent that the firm is subject to equivalent rules imposed by its home Member State; [deleted.]~~

...

(e) *general insurance business* if:

(i) ~~the State of the risk is an EEA State other than the UK; or [deleted.]~~

(ii) the State of the risk is outside the EEA UK and the *policyholder* is not in the UK when the *contract of insurance* is entered into;

...

(f) *long-term insurance business* if:

(i) ~~the policyholder's habitual residence is in an EEA State other than the UK; or [deleted.]~~

- (ii) the *policyholder's habitual residence* is outside the *EEA UK* and the policyholder is not present in the *UK* when the *contract of insurance* is entered into; or

...

3.2 A *firm* must take reasonable care to ensure that every letter (or electronic equivalent) which it or its *employees* send to a *retail client*, which a view to or in connection with the *firm* carrying on a *regulated activity*, includes the following disclosure:

...

- (2) for an *overseas firm* ~~(which is not an *incoming firm*)~~ "[Authorised and regulated by [name of the overseas regulator of the *overseas firm* in the jurisdiction of that *overseas firm's* registered office (or, if it has no registered office, its head office)]. Authorised by the Prudential Regulation Authority. Subject to regulation by the Financial Conduct Authority and limited regulation by the Prudential Regulation Authority. Details about the extent of our regulation by the Prudential Regulation Authority are available from us on request."
 - (a) If the *overseas firm* ~~(which is not an *incoming firm*)~~ translates the name of the overseas regulator into English it must ensure that the State in which the regulator is based is clear;
 - (b) An *overseas firm* ~~(which is not an *incoming firm*)~~ is not required to disclose its applicable authorisation or regulation by the overseas regulator if it is not so authorised or regulated.
- (3) ~~for an *incoming firm* without a *top-up permission* either:~~ ~~[deleted.]~~
 - (a) ~~"Authorised by [name of *home Member State* regulator]"; or [Deleted.]~~
 - (b) ~~"Authorised by [name of *home Member State* regulator] and subject to limited regulation by the Financial Conduct Authority and Prudential Regulation Authority. Details about the extent of our regulation by the Financial Conduct Authority and Prudential Regulation Authority are available from us on request". [Deleted.]~~

~~If the *incoming firm* without a *top-up permission*:~~ ~~[Deleted.]~~

...

- ~~(c) translates the name of the *home Member State* regulator into English it must ensure that the State in which the regulator is based is clear;~~ ~~[deleted.]~~
- ~~(d) indicates or implies to a *customer* that is regulated by the *PRA* or the *FCA*, it must make the disclosure in (b).~~ ~~[deleted.]~~
- (4) ~~for an *incoming firm* with a *top-up permission*, "Authorised by [name of *home Member State* regulator] and the Prudential Regulation Authority and subject to limited regulation by the Financial Conduct Authority and Prudential Regulation Authority. Details about the extent of our authorisation and regulation by the Prudential Regulation Authority, and regulation by the Financial Conduct Authority are available from us on request";~~ ~~[deleted.]~~

~~If the *incoming firm* with a *top-up permission* translates the name of the *home Member State* regulator into English it must ensure that the State in which the regulator is based is clear. [Deleted.]~~

...

5 STATEMENTS ABOUT AUTHORISATION AND REGULATION BY THE PRA

5.1 This Chapter:

(1) subject to (2), applies to:

...

(b) activities carried on from an establishment maintained by the *firm* (or by its *appointed representative*) in the *UK*, provided that, in the case of the *MiFID* or equivalent *third country business of the firm* ~~business of an *incoming EEA firm*~~, it only applies to business conducted within the territory of the *UK*;

...

(2) does not apply to:

(a) ~~an *incoming ECA provider* when the *firm* is acting as such; [deleted.]~~

(b) ~~an *incoming EEA firm* which has *permission only for cross border services* and which does not carry on *regulated activities* in the *UK*; [deleted.]~~

(c) ~~an *incoming a third country firm* not falling under (a) or (b), to the extent that the *firm* is subject to equivalent rules imposed by its *home Member State*;~~

...

6 DISCLOSURE TO RETAIL CLIENTS ON ACTIVITIES FROM NON-UK ESTABLISHMENTS

6.1 This Chapter:

...

(2) does not apply to:

(a) ~~an *incoming ECA provider* when the *firm* is acting as such; [deleted.]~~

(b) ~~an *incoming EEA firm* which has *permission only for cross border services* and which does not carry on *regulated activities* in the *UK*; [deleted.]~~

(c) ~~an *incoming a third country firm* not falling under (a) or (b), to the extent that the *firm* is subject to equivalent rules imposed by its *home Member State*;~~

...

7 INSURANCE AGAINST FINANCIAL PENALTIES

7.1 This Chapter applies to every *firm*, ~~but only with respect to business that can be regulated under section 137G of FSMA.~~

...

Annex Z

Amendments to the Group Financial Support Part

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

1 APPLICATION AND DEFINITIONS

...

1.3 In this Part, the following definitions shall apply:

competent authority

means: ~~a public authority or body officially recognised by national law which is empowered by national law to supervise institutions as part of the supervisory system in operation in the EEA State concerned or the European Central Bank with regard to the specific tasks conferred on it by Article 4 of Council Regulation (EU) No. 1024/2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions.~~

(a) the PRA, in respect of PRA-*authorised persons*;

(b) the FCA, in respect of any other *person*;

conditions for early intervention

means circumstances in which an *institution* infringes or is likely in the near future to infringe the requirements of the *CRR*, ~~the~~ or the requirements of provisions implementing CRD, MiFID II or any of Articles 3 - 7, 14 - 17 and 24, - 26 of *MiFIR*.

~~EEA consolidating supervisor~~

means ~~a competent authority responsible under the CRD for the exercise of supervision on a consolidated basis of:~~

(1) ~~an EEA parent institution; or~~

(2) ~~institutions controlled by an EEA parent financial holding company or an EEA parent mixed financial holding company.~~

~~EEA parent financial holding company~~

means ~~a parent financial holding company in an EEA State which is not a subsidiary of an institution authorised in any EEA State or of another financial holding company or mixed financial holding company set up in any EEA State.~~

~~EEA parent institution~~

means ~~a parent institution in an EEA State which is not a subsidiary of another institution authorised in an EEA State or of a financial holding company or mixed financial holding company set up in any EEA State.~~

~~EEA parent mixed financial holding company~~

means ~~a parent mixed financial holding company in an EEA State which is not a subsidiary of an institution authorised in any EEA State or of another financial holding company or mixed financial holding company set up in any EEA State.~~

EEAUK parent undertaking

means ~~an EEA a UK parent institution, an EEA a UK parent financial holding company or an EEA a UK parent mixed financial holding company.~~

...

group financial support agreement

means an agreement between:

- (1) a UK parent institution, ~~in an EEA State, an EEA parent institution~~ or a qualifying parent undertaking, a financial holding company, a mixed financial holding company or a mixed-activity holding company established in an EEA State established in the UK; and
- (2) a subsidiary of an entity referred to in (1) set up ~~in a different EEA State to that of the entity referred in (1) or~~ in a *third country* and that is an *institution* or a *financial institution* covered by the consolidated supervision of the entity referred to in (1),

to provide financial support to a party that is an *institution* at a time when that *institution* meets the *conditions for early intervention*.

...

management body

means a *BRRD undertaking's* body or bodies, which are appointed in accordance with ~~national UK~~ law, which are empowered to set the *BRRD undertaking's* strategy, objectives and overall direction, and which oversee and monitor management decision-making, and include the *persons* who effectively direct the business of the *BRRD undertaking*.

...

parent institution in an EEA State

means an *institution* authorised in an *EEA State* which has an *institution* or *financial institution* as *subsidiary* or which holds a *participation* in such an *institution* or *financial institution*, and which is not itself a *subsidiary* of another *institution* authorised in the same *EEA State* or of a *financial holding company* or *mixed financial holding company* set up in the same *EEA State*.

parent financial holding company in an EEA State

means a *financial holding company* which is not itself a *subsidiary* of an *institution* authorised in the same *EEA State*, or of a *financial holding company* or *mixed financial holding company* set up in the same *EEA State*.

parent mixed financial holding company in an EEA State

means a *mixed financial holding company* which is not itself a *subsidiary* of an *institution* authorised in the same *EEA State*, or of a *financial holding company* or *mixed financial holding company* set up in the same *EEA State*.

...

2 GROUP FINANCIAL SUPPORT AGREEMENT

...

2.2 A *BRRD undertaking* must not enter into a proposed *group financial support agreement* if:

- (1) the ~~EEA~~ consolidating supervisor has not granted permission to do so; or
- (2) at the time the proposed agreement is made, a the competent authority has decided that a party to the agreement that is an *institution* meets the *conditions for early intervention*.

3 SUBMISSION OF GROUP FINANCIAL SUPPORT AGREEMENT

3.1 This Chapter applies to a *BRRD undertaking* which is an ~~EEA~~ a UK parent undertaking, unless the *FCA* is the ~~EEA~~ consolidating supervisor of its *group*.

3.2 If a *BRRD undertaking* or any member of its *group* intends to enter into a *group financial support agreement*, or amend a *group financial support agreement* previously authorised by an ~~EEA~~ the consolidating supervisor, the *BRRD undertaking* must submit to the ~~EEA~~ consolidating supervisor an application for authorisation of the proposed agreement or amendment.

...

4 CONDITIONS FOR GROUP FINANCIAL SUPPORT

4.1 A *BRRD undertaking* must not provide financial support in accordance with a *group financial support agreement* unless the following conditions are met:

...

- (7) where a *firm* provides the financial support, it complies at the time the financial support is provided, with the requirements of the provisions implementing CRD relating to capital or liquidity and any requirements of provisions implementing imposed pursuant to Article 104(2) of the CRD and the provision of the financial support does not cause the *firm* to infringe those requirements;

...

6 NOTIFICATION OF PROPOSED GROUP FINANCIAL SUPPORT

6.1 A *BRRD undertaking* that intends to provide financial support in accordance with a *group financial support agreement* must ensure that its *management body* notifies:

...

- (2) the *FCA* where it is the consolidating supervisor ~~where different from the authorities in (1) and (3), where applicable, the EEA consolidating supervisor,~~
- (3) ~~where different from the authorities in (1) and (2), the competent authority of the group member receiving the financial support; and [deleted.]~~
- (4) the ~~EBA,~~[deleted.]

before it provides that financial support.

...

7 PROVISION AND NOTIFICATION OF GROUP FINANCIAL SUPPORT

...

7.3 Where the *management body* of a *BRRD undertaking* decides to provide the financial support, that *BRRD undertaking* must notify:

...

- (2) ~~the FCA where it is the consolidating supervisor where different from the authorities in (1) and (3), where applicable, the EEA consolidating supervisor;~~
- (3) ~~where different from (1) and (2), the competent authority of the group member receiving the financial support; and [deleted.]~~
- (4) ~~the EBA. [deleted.]~~

Annex AA

Amendments to the Group Risk Systems Part

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

1 APPLICATION AND DEFINITIONS

...

1.3 In this Part, the following definitions shall apply:

group

means, in relation to a *person* ("A), A and any *person*:

(2) who has an ~~Article 12(1) relationship~~ a common management relationship with A;

(3) who has an ~~Article 12(1) relationship~~ a common management relationship with any *person* in (1);

2 GROUP SYSTEMS AND CONTROLS

...

2.3 A *firm* must comply with 2.1(2) in relation to any *UK consolidation group* or non-EEAUK sub-group of which it is a member, as well as in relation to its *group*.

...

Annex AB

Amendments to the Group Supervision Part

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

1 APPLICATIONS AND DEFINITIONS

1.1 Unless otherwise stated, this Part applies to:

- (1) every *UK Solvency II firm*:
 - (a) that is a member of a *group* for which the *PRA* is the *group supervisor*;
 - (b) ~~that is a member of a group for which a supervisory authority (other than the PRA) is the group supervisor, subject to (c) and to the extent this Part gives effect to the Solvency II EEA implementing measures in the EEA State of its group supervisor, and [deleted.]~~
 - (c) ~~where the group supervisor of a group of which a firm is a member is a supervisory authority in an EEA State other than the UK, the requirements of the Solvency II EEA implementing measures in that EEA State apply to the firm in relation to its capacity as a member of that group; [deleted.]~~

1.2 In this Part, the following definitions shall apply:

...

group supervisor

means (in relation to a *group*) the PRA in accordance with regulation 26 of The Solvency 2 Regulations 2015 ~~authority designated as group supervisor in relation to that group, in accordance with Article 247 of the Solvency II Directive.~~

...

intermediate holding company

means an *insurance holding company* or a *mixed financial holding company* through which a ~~Solvency II undertaking~~ UK Solvency II firm in a *group* holds a *participation* in a ~~related Solvency II undertaking~~ related UK Solvency II firm, a *third country insurance undertaking* or a *third country reinsurance undertaking*.

...

mixed activity insurance holding company

means a *parent undertaking*, other than a ~~Solvency II undertaking~~ UK Solvency II firm, a *third-country insurance undertaking*, a *third-country reinsurance undertaking*, an *insurance holding company* or a *mixed financial holding company*, the *subsidiary undertakings* of which include at least one ~~Solvency II undertaking~~ UK Solvency II firm.

...

~~related Solvency II undertaking~~ UK Solvency II firm

means a ~~Solvency II undertaking~~ UK Solvency II firm that is a *related undertaking* of another *undertaking*.

related undertaking

means, in relation to an *undertaking* ("U"):

- (1) any *subsidiary undertaking* of U; or
- (2) any *undertaking* in which U or any of U's *subsidiary undertakings* holds a *participation*; or
- (3) any *undertaking* linked to U by an ~~Article 12(1) relationship~~ a common management relationship; or
- (4) any *undertaking* linked by an ~~Article 12(1) relationship~~ a common management relationship to an *undertaking* in (1), (2) or (3).

solvency deficit

means the amount (if any) by which the *related undertaking's eligible own funds* fall short of its solvency capital requirement under the *SCR Rules* ~~or the relevant Solvency II EEA implementing measures~~ as appropriate.

...

2 CASES OF APPLICATION AND SCOPE OF GROUP SUPERVISION

2.1 This Part applies at the level of the *group* to types of *groups* where:

- (1) ~~either:~~
 - (a) a *UK Solvency II firm* is a *participating undertaking* in at least one other ~~Solvency II undertaking~~ UK Solvency II firm, *third country insurance undertaking* or *third country reinsurance undertaking*; ~~or~~
 - (b) ~~a Solvency II undertaking (other than a UK Solvency II firm) is a participating undertaking in a UK Solvency II firm; or [deleted.]~~
- (2) the *parent undertaking* of a *UK Solvency II firm* is an *insurance holding company* or a *mixed financial holding company* which has its head office in the UK ~~an EEA State~~; or
- (3) the *parent undertaking* of a *UK Solvency II firm* is an *insurance holding company* or a *mixed financial holding company* which does not have its head office in ~~an EEA State~~ the UK or is a *third country insurance undertaking* or a *third country reinsurance undertaking*; or
- (4) the *parent undertaking* of a *UK Solvency II firm* is a *mixed activity insurance holding company*

2.2 Where, in accordance with 2.1, this Part applies at the level of a *group*, that *group* consists of all *undertakings* within the relevant *group*, subject to 2.3 and 3 and provided that:

- (1) where 2.1(1) applies, the definition of a *group* must be applied to the ~~participating Solvency II undertaking~~ participating UK Solvency II firm, its *subsidiary undertakings*, the *undertakings* in which it holds a *participation* and *undertakings* to which it is linked by ~~an Article 12(1) relationship~~ a common management relationship or, where applicable, to the *undertakings* in a *mutual-type group*;
- (2) where 2.1(2) applies, the definition of a *group* must be applied to the *insurance holding company* or *mixed financial holding company*, its *subsidiary undertakings*, the *undertakings* in which it holds a *participation* and *undertakings* to which it is linked by ~~an Article 12(1) relationship~~ a common management relationship or, where applicable, to the *undertakings* in a *mutual-type group*;
- (3) where 2.1(3) applies, the definition of a *group* must be applied to the *insurance holding company* or *mixed financial holding company*, *third country insurance undertaking* or *third country reinsurance undertaking* (as applicable), its *subsidiary undertakings*, the *undertakings* in which it holds a *participation* and *undertakings* to which it is linked by ~~an Article 12(1) relationship~~ a common management relationship or, where applicable, to the *undertakings* in a *mutual-type group*; and
- (4) where 2.1(4) applies, the definition of a *group* must be applied to the *mixed activity insurance holding company*, its *subsidiary undertakings*, the *undertakings* in which it holds a *participation* and *undertakings* to which it is linked by ~~an Article 12(1) relationship~~ a common management relationship or, where applicable, to the *undertakings* in a *mutual-type group*.

2.3 Where the PRA as *group supervisor* has granted a *waiver* ~~or where a supervisory authority which is the group supervisor has decided~~, in accordance with Article 214 of ~~the Solvency II Directive~~, not to include an *undertaking* in the group supervision referred to in 2.1:
...

2.4 The provisions of the *Solvency II Firms Sector* of the PRA Rulebook concerning the supervision of *firms* ~~(or the Solvency II EEA implementing measures in relation to Solvency II undertakings which are members of a group for which the PRA is the group supervisor)~~ taken individually continue to apply to those *undertakings*, except where otherwise provided under this Part.
...

3 LEVELS

- 3.1 If the ~~participating Solvency II undertaking~~ participating UK Solvency II firm or the *insurance holding company* or *mixed financial holding company* referred to in 2.1(1) or 2.1(2) is itself a *subsidiary undertaking* of another ~~Solvency II undertaking~~ UK Solvency II firm or of another *insurance holding company* or *mixed financial holding company* which has its head office in the UK ~~an EEA State~~, then 4 to 19 apply only at the level of the ultimate ~~Solvency II undertaking~~ UK Solvency II firm, *insurance holding company*, or *mixed financial holding company* in the *group* which has its head office in the UK ~~an EEA State~~.
- 3.2 If the PRA makes a decision referred to in Article 216(1) or 217(1) of the ~~Solvency II Directive~~ (group supervision at national level) then 4 to 19 apply with any necessary changes, subject to Articles 216(6) and 217 of the ~~Solvency II Directive~~ and the following: [Deleted.]
 - (1) group supervision of the ultimate *parent undertaking* at national level is restricted to those remaining rules of 4 to 19 if the *firm* is granted a *waiver* of such other sections as would otherwise apply to a *group*; and [deleted.]

- (2) ~~no firm in the group may introduce, in accordance with 15.1(5), an application for permission to subject any subsidiary undertakings in the group to 15.3 [deleted.]~~

4 GROUP SUPERVISION – GROUP SOLVENCY GENERAL PROVISIONS

- 4.1 Where 2.1(1) applies, each ~~participating Solvency II undertaking~~ participating UK Solvency II firm that is a firm in the group and each relevant insurance group undertaking must ensure that eligible own funds are available in the group which are always at least equal to the group SCR as calculated in accordance with 7 to 12.

...

- 4.4 Relevant insurance group undertakings must:

...

- (4) if the PRA has extended the period referred to in (3) by reason of the declaration:

- (a) (before exit day) by EIOPA; or
- (b) (on or after exit day) by the PRA pursuant to regulation 4A of the Solvency 2 Regulations 2015

of an exceptional adverse situation affecting the group, submit a progress report to the PRA every three months setting out the measures taken and the progress made to re-establish the level of own funds covering the group SCR or to reduce the risk profile to ensure compliance with the group SCR.

...

5 GROUP SOLVENCY: FREQUENCY OF CALCULATIONS

- 5.2 The relevant data for, and the results of, the calculations referred to in 4.1 and 4.2 must be submitted to the group supervisor by:

- (1) the ~~participating Solvency II undertakings~~ participating UK Solvency II firm referred to in 4.1, or by any one of them, in the case of the calculations referred to in 4.1; or
- (2) the UK holding company or such other undertaking in the group as may be determined by the group supervisor in accordance with ~~Article 249(1) of the Solvency II Directive~~ regulation 15(1)(c) of the Solvency 2 Regulations 2015, in the case of the calculations referred to in 4.2

- 5.3 ...

- (3) Upon request by the group supervisor, ~~in accordance with Article 249(2) of the Solvency II Directive~~, the group SCR must be recalculated without delay and reported to the group supervisor.

7 GROUP SOLVENCY: BASIC PRINCIPLES

- 7.1 The calculation of the solvency at the level of the group of the ~~Solvency II undertakings~~ UK Solvency II firms referred to in 2.1(1) must be carried out:

...

- (2) in accordance with *method 1*, unless the *group supervisor* has ~~determined under Article 220(2) of the Solvency II Directive~~ imposed a requirement that *method 2* or a combination of *method 1* and *method 2* must be applied.

8 GROUP SOLVENCY: PROPORTIONAL SHARES

...

8.3 Notwithstanding 8.2:

- (1) where the *related undertaking* is a *subsidiary undertaking* and does not have sufficient *eligible own funds* to cover its *SCR*, the total *solvency deficit* of the *subsidiary undertaking* must be taken into account (or a proportional share of that *solvency deficit*, if the *group supervisor* so determines under ~~Article 221(1) of the Solvency II Directive~~ regulation 17(4) of the *Solvency 2 Regulations 2015*); and
- (2) the proportional share must be as determined by the *group supervisor* if such a determination is made under ~~Article 221(2) of the Solvency II Directive~~ regulation 17(2) of the *Solvency 2 Regulations 2015*.

9 GROUP SOLVENCY: ELIMINATION OF DOUBLE USE OF ELIGIBLE OWN FUNDS AND INTRA-GROUP CREATION OF CAPITAL AND VALUATION

9.1 *Own funds eligible for the SCR* must not be taken into account more than once among the different ~~Solvency II undertakings~~ UK Solvency II firms taken into account in the calculation of the solvency of a *group*. For that purpose, when calculating the solvency of a *group* and where *method 1* and *method 2* do not provide for it, the following amounts must be excluded:

- (1) the value of any asset of the ~~participating Solvency II undertaking~~ participating UK Solvency II firm which represents the financing of *own funds eligible for the SCR* of one of its ~~related Solvency II undertakings~~ related UK Solvency II firms;
- (2) the value of any asset of a ~~related Solvency II undertaking~~ related UK Solvency II firm of the ~~participating Solvency II undertaking~~ participating UK Solvency II firm which represents the financing of *own funds eligible for the SCR* of that ~~participating Solvency II undertaking~~ participating UK Solvency II firm; and
- (3) the value of any asset of a ~~related Solvency II undertaking~~ related UK Solvency II firm of the ~~participating Solvency II undertaking~~ participating UK Solvency II firm which represents the financing of *own funds eligible for the SCR* of any other ~~related Solvency II undertaking~~ related UK Solvency II firm of that ~~participating Solvency II undertaking~~ participating UK Solvency II firm.

9.2 Without prejudice to 9.1 or 9.3, the following must be excluded in the calculation of the solvency of a *group* unless they are, and only insofar as they are, eligible for covering the *SCR* of the *related undertaking* concerned:

- (1) surplus funds falling under ~~Article 91(2) of the Solvency II Directive~~ Surplus Funds 2.2 arising in a ~~related Solvency II undertaking~~ related UK Solvency II firm of the ~~participating Solvency II undertaking~~ participating UK Solvency II firm for which the solvency of a *group* is calculated; and
- (2) any subscribed but not paid-up capital of a ~~related Solvency II undertaking~~ related UK Solvency II firm of the ~~participating Solvency II undertaking~~ participating UK Solvency II firm for which the solvency of a *group* is calculated.

- ...
- 9.3 Without prejudice to 9.1, the following must, in any event, be excluded from the calculation:
- ...
- (2) subscribed but not paid-up capital of the ~~participating Solvency II undertaking~~ participating UK Solvency II firm which represents a potential obligation on the part of a ~~related Solvency II undertaking~~ related UK Solvency II firm; and
- (3) subscribed but not paid-up capital of a ~~related Solvency II undertaking~~ related UK Solvency II firm which represents a potential obligation on the part of another ~~related Solvency II undertaking~~ related UK Solvency II firm of the same ~~participating Solvency II undertaking~~ participating UK Solvency II firm
- 9.4 Where the PRA considers that certain *own funds eligible for the SCR* of a ~~related Solvency II undertaking~~ related UK Solvency II firm (other than those referred to in 9.2 and 9.3) cannot effectively be made available to cover the SCR of the ~~participating Solvency II undertaking~~ participating UK Solvency II firm for which the solvency of a *group* is calculated, those *own funds* must not be included in the calculation of the group solvency of the *group* unless they are, and only in so far as they are, eligible for covering the SCR of the *related undertaking*.
- 9.5 The sum of the *own funds* included under 9.2 and 9.4 must not exceed the SCR of the ~~related Solvency II undertaking~~ related UK Solvency II firm
- 9.6 Any *eligible own funds* of a ~~related Solvency II undertaking~~ related UK Solvency II firm of the ~~participating Solvency II undertaking~~ participating UK Solvency II firm for which the solvency of a *group* is calculated that are subject to prior authorisation from the *supervisory authority* of the ~~related Solvency II undertaking~~ related UK Solvency II firm, in accordance with ~~Article 90 of the Solvency II Directive~~ regulation 44 of the Solvency 2 Regulations 2015, must be included in the calculation of the group solvency only in so far as they have been duly authorised by that *supervisory authority*
- 9.7 When calculating the solvency of a *group*, no account must be taken of any *own funds eligible for the SCR* arising out of reciprocal financing between the ~~participating Solvency II undertaking~~ participating UK Solvency II firm and any of the following:
- ...
- 9.8 When calculating the solvency of a *group*, no account must be taken of any *own funds eligible for the SCR* of a ~~related Solvency II undertaking~~ related UK Solvency II firm of the ~~participating Solvency II undertaking~~ participating UK Solvency II firm for which the group solvency of the *group* is calculated where the *own funds* concerned arise out of reciprocal financing with any other *related undertaking* of that ~~participating Solvency II undertaking~~ participating UK Solvency II firm. Reciprocal financing exists at least where a ~~Solvency II undertaking~~ UK Solvency II firm, or any of its *related undertakings*, holds shares in, or makes loans to, another *undertaking* which, directly or indirectly, holds *eligible own funds* of the first *undertaking*.

10 GROUP SOLVENCY: APPLICATION OF THE CALCULATION METHODS

- ...
- 10.1 Where a ~~Solvency II undertaking~~ UK Solvency II firm has more than one ~~related Solvency II undertaking~~ related UK Solvency II firm, the group solvency calculation of the *group* must be carried out by including each of those ~~related Solvency II undertakings~~ related UK Solvency II firms.

- 10.2 In respect of a ~~related Solvency II undertaking~~ with its head office in an *EEA State* other than that of the ~~Solvency II undertaking~~ for which the group solvency calculation of the group is carried out, the group solvency calculation must take account of the ~~SCR and the own funds eligible for the SCR as laid down in the Solvency II EEA implementing measures of that other EEA State~~ [Deleted.]
- ...
- 10.3 (1) When calculating the group solvency of a ~~Solvency II undertaking~~ UK Solvency II firm in a group, the situation of each *intermediate holding company* must be taken into account.
- (2) For the sole purpose of that calculation, the *intermediate holding company* must be treated as if it were a ~~Solvency II undertaking~~ UK Solvency II firm subject to the *SCR Rules* in respect of the *SCR* and were subject to the same conditions as are laid down in the *Own Funds Part* of the *PRA Rulebook* in respect of *own funds eligible for the SCR*.
- ...
- (4) Any *eligible own funds* of an *intermediate holding company*, which would require prior authorisation from a *supervisory authority* in accordance with ~~Article 90 of the Solvency II Directive~~ regulation 44 of the Solvency 2 Regulations 2015, may be included in the calculation of the group solvency of the group only in so far as they have been duly authorised by the *group supervisor*.
- 10.4 ...
- (1) Subject to (2), when calculating, in accordance with *method 2*, the group solvency of a ~~Solvency II undertaking~~ UK Solvency II firm in a group which is a *participating undertaking* in a *third country insurance undertaking* or *third country reinsurance undertaking*, that *third country insurance undertaking* or *third country reinsurance undertaking* must, solely for the purposes of that calculation, be treated as a ~~related Solvency II undertaking~~ related UK Solvency II firm.
- (2) If the third country in which that *third country insurance undertaking* or *third country reinsurance undertaking* has its head office makes it subject to authorisation and imposes on it a solvency regime that is assessed to be equivalent under ~~Article 227 of the Solvency II Directive~~ Article 379A of Commission Delegated Regulation (EU) 2015/35, the calculation in (1) must take into account, as regards that *undertaking*, the requirement equivalent to the *SCR* and the capital items eligible to satisfy that requirement as laid down by that third country.
- 10.5 When calculating the group solvency of a ~~Solvency II undertaking~~ UK Solvency II firm in a group which is a *participating undertaking* in a *credit institution*, *investment firm* or *financial institution*, the ~~participating Solvency II undertaking~~ participating UK Solvency II firm must either:
- (1) apply *method 1* or *method 2* in ~~Annex I to Directive 2002/87/EC~~ Financial Conglomerates Annex 2 with any necessary changes, provided that *method 1* in that Annex must be applied only where the *group supervisor* is satisfied as to the level of integrated management and internal control regarding the *undertakings* which would be included in the scope of consolidation and

provided always that the method chosen must be applied in a consistent manner over time; or

10.6 Where the information necessary for calculating the group solvency of a ~~Solvency II undertaking~~ UK Solvency II firm in a group, concerning a *related undertaking* with its head office in ~~an EEA State~~ or a third country is not available to the *group supervisor* then:

- (1) the book value of that *related undertaking* in the ~~participating Solvency II undertaking~~ participating UK Solvency II firm must be deducted from the *own funds eligible for the group SCR*; and

...

11 CALCULATION METHODS: METHOD 1

11.1 (1) The calculation of the group solvency of the ~~participating Solvency II undertaking~~ participating UK Solvency II firm in a group must be carried out on the basis of the consolidated accounts.

- (2) The group solvency of the ~~participating Solvency II undertaking~~ participating UK Solvency II firm in a group is the difference between the following:

...

11.3 (1) The consolidated *group SCR* of a group must have as a minimum the sum of the following:

- (a) the *MCR* of the ~~participating Solvency II undertaking~~ UK Solvency II firm; and
- (b) the proportional share of the *MCR* of the ~~related Solvency II undertakings~~ UK Solvency II firms.

...

11.4 Any application for permission to calculate the consolidated *group SCR*, as well as the *SCR* of ~~Solvency II undertakings~~ UK Solvency II firms in the group, on the basis of an *internal model*, submitted by a ~~Solvency II undertaking~~ UK Solvency II firms and its *related undertakings*, or jointly by the ~~related Solvency II undertakings~~ related UK Solvency II firms of an *insurance holding company* or a *mixed financial holding company*, must be submitted to the *group supervisor*.

12 CALCULATION METHODS: METHOD 2

12.1 The group solvency of the ~~participating Solvency II undertaking~~ participating UK Solvency II firm in a group is the difference between the following:

...

- (2) the value in the ~~participating Solvency II undertaking~~ participating UK Solvency II firm of the ~~related Solvency II undertakings~~ related UK Solvency II firms and the aggregated *group SCR*, as provided for in 12.3.

12.2 The aggregated *group eligible own funds* of a group is the sum of the following:

- (1) the *own funds eligible for the SCR* of the ~~participating Solvency II undertaking~~ participating UK Solvency II firm; and
- (2) the proportional share of the ~~participating Solvency II undertaking~~ participating UK Solvency II firm in the *own funds eligible for the SCR* of the ~~related Solvency II—~~ undertakings related UK Solvency II firms.

12.3 The aggregated *group SCR* of a *group* is the sum of the following:

- (1) the *SCR* of the ~~participating Solvency II undertakings~~ participating UK Solvency II firms; and
- (2) the proportional share of the *SCR* of the ~~related Solvency II undertakings~~ related UK Solvency II firms.

12.4 Where, in a *group*, the *participation* in the ~~related Solvency II undertaking~~ related UK Solvency II firm consists, wholly or in part, of an indirect ownership, the value in the ~~participating Solvency II undertaking~~ participating UK Solvency II firm of the ~~related Solvency II undertaking—related UK Solvency II firm~~ must incorporate the value of that indirect ownership. The value of that indirect ownership must take into account the relevant successive interests, and the items referred to in 12.2(2) and 12.3(2) must include the corresponding proportional shares, respectively, of the *own funds eligible for the SCR* of the ~~related Solvency II undertaking~~ related UK Solvency II firm and of the *SCR* of the ~~related Solvency II undertakings—related UK Solvency II firms~~.

12.5 Any application for permission to calculate the *SCR* of ~~Solvency II undertakings~~ UK Solvency II firms in the *group*, on the basis of an *internal model*, submitted by a ~~Solvency II undertaking~~ UK Solvency II firm and *its related undertakings*, or jointly by the *related undertakings* of an *insurance holding company* or a *mixed financial holding company*, must be submitted to the *group supervisor*.

14 SUPERVISION OF GROUP SOLVENCY FOR SOLVENCY II FIRMS THAT ARE SUBSIDIARIES OF AN INSURANCE HOLDING COMPANY OR A MIXED FINANCIAL HOLDING COMPANY

- 14.1 (1) Where ~~Solvency II undertakings~~ UK Solvency II firms in a *group* are *subsidiary undertakings* of an *insurance holding company* or a *mixed financial holding company*, the calculation of the solvency of the *group* must be carried out at the level of the *insurance holding company* or *mixed financial holding company* applying 7.1(2) to 12.
- (2) For the purpose of that calculation, the *insurance holding company* or *mixed financial holding company* must be treated as if it were a ~~Solvency II undertaking~~ UK Solvency II firm subject to the *SCR Rules* as regards the *SCR* and the *Own Funds Part* of the *PRA Rulebook* as regards the *own funds eligible for the SCR*, provided that the *relevant insurance group undertakings* remain responsible for discharging any obligations arising from the application of this sub-paragraph

15 GROUPS WITH CENTRALISED RISK MANAGERMENTS

- 15.1 ~~15.3 applies to any *Solvency II undertaking* in a *group* which is a *subsidiary undertaking* of another *Solvency II undertaking* or of an *insurance holding company* or *mixed financial holding company* where all of the following conditions are satisfied: [Deleted.]~~
- (1) ~~the *subsidiary undertaking*, in relation to which the *group supervisor* has not made a decision under Article 214(2) of the *Solvency II Directive*, is included in the *group supervision* carried out by the *group supervisor* at the level of the *parent undertaking* in accordance with this Part; [deleted.]~~
 - (2) ~~the risk management processes and internal control mechanisms of the *parent undertaking* cover the *subsidiary undertaking* and the *parent undertaking* satisfies the *PRA* regarding the prudent management of the *subsidiary undertaking*; [deleted.]~~
 - (3)
 - (a) ~~the *parent undertaking*; or [deleted.]~~
 - (b) ~~one or more *relevant insurance group undertakings*; [deleted.]~~

~~is permitted, under 17.2(3), to produce a single document covering all relevant *ORSAs*; [deleted.]~~
 - (4)
 - (a) ~~the *parent undertaking*; or [deleted.]~~
 - (b) ~~one or more *relevant insurance group undertaking*; [deleted.]~~

~~is permitted, under 18.1(2), to produce a single *SFCR* covering all relevant *Solvency II undertakings* and *insurance holding companies* and *mixed financial holding company*; and [deleted.]~~
 - (5) ~~an application for permission to be subject to 15.3 has been submitted by the *parent undertaking* or one or more *relevant insurance group undertakings* and a favourable decision has been made on that application in accordance with the procedure in Article 237 of the *Solvency II Directive*. [deleted.]~~
- 15.2 ~~An application for permission to be subject to 15.3 must be made to the *PRA* if the *subsidiary undertaking* is a *UK Solvency II firm*. [Deleted.]~~
- 15.3 ~~Without prejudice to 11.4 and subject to 15.4, if the conditions referred to in 15.1 are satisfied, the *SCR* of the *subsidiary undertaking* in the *group* must be calculated in accordance with any decisions taken in accordance with Article 238 of the *Solvency II Directive*. [Deleted.]~~
- 15.4 (1) ~~15.3 ceases to apply where:~~
- (a) ~~the condition referred to in 15.1(1) is no longer complied with;~~
 - (b) ~~the condition referred to in 15.1(2) is no longer complied with and the *group* does not restore compliance with this condition in an appropriate period of time;~~
 - (c) ~~the conditions referred to in 15.1(3) and 15.1(4) are no longer complied with. [deleted.]~~

- (2) ~~The parent undertaking or relevant insurance group undertakings of a group to which 15.3 applies must ensure that the conditions referred to in 15.1(2) to (4) are complied with on an ongoing basis and in the event of non-compliance must:~~
- (a) ~~inform the group supervisor and the supervisory authority of the subsidiary undertaking concerned without delay; and~~
 - (b) ~~present a plan to the supervisory authorities to restore compliance within an appropriate period of time. [deleted.]~~

...

16 RISK CONCENTRATION AND INTRA-GROUP TRANSACTIONS

16.1 ...

- (2) The necessary information must be submitted to the *group supervisor* by the *relevant insurance group undertaking* which is at the head of the *group* or, where the *group* is not headed by a *relevant insurance group undertaking*, by the *UK holding company* or such other ~~*Solvency II undertaking*~~ *UK Solvency II firm* in the *group* as the *group supervisor* may specify.

- 16.2 (1) Where 2.1(1) or 2.1(2) applies, the *relevant insurance group undertakings* or any *UK holding company* must report on a regular basis, and at least annually, to the *group supervisor* all significant intra-group transactions by ~~*Solvency II undertakings*~~ *UK Solvency II firms* within a *group*, including those performed with a natural person with *close links* to an *undertaking* in the *group*.

...

- (3) The necessary information must be submitted to the *group supervisor* by the *relevant insurance group undertaking* which is at the head of the *group* or, where the *group* is not headed by a ~~*Solvency II undertaking*~~ *UK Solvency II firm*, by the *UK holding company* or such other ~~*Solvency II undertaking*~~ *UK Solvency II firm* in the *group* as the *group supervisor* may specify.

17 RISK MANAGEMENT AND INTERNAL CONTROL

...

- 17.2 (1) Where 2.1(1) or 2.1(2) applies, a ~~*participating Solvency II undertaking*~~ *UK Solvency II firm* ~~that is a firm~~, or if there is none, the *UK holding company* or the *relevant insurance group undertakings*, must undertake at the level of the *group* the assessment required by Conditions Governing Business 3.8 to 3.11.
- (2) Where the calculation of the solvency at the level of the *group* is carried out in accordance with *method 1*, the ~~*participating Solvency II undertaking*~~ *participating UK Solvency II firm*, the *UK holding company* or the *relevant insurance group undertakings* (as appropriate) must provide to the *group supervisor* a proper understanding of the difference between the sum of the *SCR* of all the ~~*related Solvency II undertakings*~~ *related UK Solvency II firms* in the *group* and the consolidated *SCR* of the *group*.
- (3) Where the ~~*participating Solvency II undertaking*~~ *participating UK Solvency II firm*, the *UK holding company* or the *relevant insurance group undertakings* (as appropriate) so decide, and subject to the agreement of the *group supervisor*, they may undertake any assessments required by Conditions Governing Business 3.8 to 3.11 at the level

of the *group* and at the level of any *subsidiary undertaking* in the *group* at the same time, and may produce a single document covering all the assessments.

...

18 GROUP SFCR

- 18.1 (1) When 2.1(1) or 2.1(2) applies, ~~participating Solvency II undertakings~~ participating UK Solvency II firms ~~that are firms~~ or, if there are none, the *relevant insurance group undertakings* must disclose publicly, on an annual basis, a report on the solvency and financial condition at the level of the *group*. Reporting 3 to 6 apply with any necessary changes.
- (2) Where a ~~participating Solvency II undertaking~~ participating UK Solvency II firm ~~that is a firm~~ or the *relevant insurance group undertakings* (as appropriate) so decide, and subject to the agreement of the *group supervisor*, they may provide a single *SFCR* which must comprise the following:

...

19 GROUP STRUCTURE

- 19.1 When 2.1(1) or 2.1(2) applies, ~~participating Solvency II undertakings~~ participating UK Solvency II firms ~~that are firms~~ or, if there are none, the *relevant insurance group undertakings* must disclose publicly, at the level of the *group*, on an annual basis, the legal structure and the governance and organisational structure, including a description of all *subsidiaries*, material *related undertakings*, and significant branches belonging to the *group*.

20 THIRD COUNTRIES

- 20.1 When 2.1(3) applies, 4 to 14, 16 to 19 and External Audit 2 to 4 apply with any necessary changes at the level of the *insurance holding company* or *mixed financial holding company* which does not have its head office in ~~the UK an EEA State~~, *third country insurance undertaking* or *third country reinsurance undertaking* unless:
- (1) subject to 20.2, the *third country* in which that *undertaking* has its head office is assessed to be equivalent under provisions implementing Article 260 of the Solvency II Directive; or
- (2) in the absence of equivalent group supervision referred to in Article 260 of the *Solvency II Directive*, the *PRA* has specified other methods in accordance with provisions implementing Article 262 of the Solvency II Directive.
- ...
- 20.2 20.1(1) does not apply where, in the case of temporary equivalence under Article 260(5) of the *Solvency II Directive*, there is a ~~Solvency II undertaking~~ UK Solvency II firm in the *group* that has a balance sheet total that exceeds the balance sheet total of the *parent undertaking* situated outside of the ~~EEA~~ UK.
- 20.3 When calculating the solvency of a *group* falling within 2.1(3) for the purpose of 20.1, a *relevant insurance group undertaking* must treat the *parent undertaking* (being an *insurance holding company* which does not have its head office in ~~the UK an EEA State~~ or a *third country insurance undertaking* or a *third country reinsurance undertaking*), solely for the purposes of that calculation, as a *UK Solvency II firm* to which 2.1(1)(a) applies.

- 20.4 Where the *parent undertaking* referred to in 2.1(3) is itself a *subsidiary undertaking* of an *insurance holding company* or *mixed financial holding company* which does not have its head office in an ~~EEA State~~ the UK or a *third country insurance undertaking* or a *third country reinsurance undertaking*, 20.1 applies at the level of either:
- (1) the ultimate *parent undertaking* which is an *insurance holding company* or *mixed financial holding company* which does not have its head office in an ~~EEA State~~ the UK or a *third country insurance undertaking* or a *third country reinsurance undertaking*; or
 - (2) such other *parent undertaking* as the *PRA* may determine in accordance with ~~Article 263 of the Solvency II Directive~~ Regulation 36A of the Solvency 2 Regulations 2015.

...

Annex AC

Amendments to the Groups Part

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

1 APPLICATION AND DEFINITIONS

...

1.2 In this Part, the following definitions shall apply:

third country banking and investment group

means a *group* that meets the following conditions:

(1) it is headed by a *third country undertaking* that would be:

(a) an *institution*;

(b) a *financial holding company*, or

(c) a *mixed financial holding company*,

if its head office was in the ~~EEA-UK~~; and

(2) it is not part of a wider *consolidation group*.

...

2 METHODS OF PRUDENTIAL CONSOLIDATION

2.1 (1) In carrying out the calculations in (Part One, Title II, Chapter 2 of the *CRR*) for the purposes of prudential consolidation, a *firm* must include the relevant proportion of an undertaking with whom it has ~~an~~:

(a) ~~Article 12(1) relationship~~ a common management relationship; or

(b) an Article 18(6) relationship.

...

...

3 THIRD COUNTRY BANKING AND INVESTMENT GROUPS

...

3.4 The scope of the *CRR* requirements and rules referenced in 3.2 and 3.3 is adjusted:

...

- (3) so that the scope covers every member of the *third country banking and investment group* that would have been included in the scope of those rules if those members had their head offices, and were incorporated in an ~~EEA State~~ the UK.

Annex AD

Amendments to the Housing Part

In this Annex deleted text is struck through.

1 APPLICATION AND DEFINITIONS

1.1 If either Condition A or Condition B is met, this Part applies to a *firm* with a *Part 4A permission* that includes entering into a *regulated mortgage* contract as lender, except:

- (1) ~~an *EEA Firm* with respect to an activity carried on in the *UK* under an *EEA right*, or~~
[deleted.]

...

1.4 1.3 does not apply in relation to a *subsidiary undertaking* that:

- (1) ~~is an *EEA firm* with respect to an activity carried on in the *UK* under an *EEA right*,~~
[deleted.]

...

Annex AE

Amendments to the Incoming Firms and Third Country Firms Part

In this Annex deleted text is struck through.

Part

~~Incoming Firms and Third Country Firms~~

1 APPLICATION AND DEFINITIONS

1.1 Unless otherwise stated, this Part applies only to:

(1) ~~an *incoming firm*; or [deleted.]~~

(2) a *third country firm*

that is:

(3) a *bank*; or

(4) a *designated investment firm*.

...

Annex AF

Amendments to the Insurance – Allocation of Responsibilities Part

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

1 APPLICATIONS AND DEFINITIONS

1.1 Unless otherwise stated, this Part applies to:

...

(4) a *third country branch undertaking* (other than a *Swiss general insurer*); ~~and~~

(4A) a *third country insurance services provider*, and

...

1.2 In this Part, the following definitions shall apply:

...

prescribed responsibility

means

(1) for a *firm* (other than a *third country branch undertaking*, a *third country insurance services provider* or a *small run-off firm*) means the responsibilities in 3.1 and 3.3;

(2) for a *third country branch undertaking* (other than a ~~UK deposit insurer~~ or a *Swiss general insurer*) means the responsibilities set out in 3.1 and 3.3 to the extent only that they are relevant to the operations effected by its *third country branch*, save in relation to 3.1(4) which shall also take account of the operations of the *third country branch undertaking* to the same extent as is necessary to ensure compliance by the *third country branch undertaking* with Third Country Branches 13;

(3) ~~for a UK deposit insurer, means the responsibilities set out in 3.1 and 3.3 to the extent only that they are relevant to the operations effected by its *third country branch* and all its *third country undertaking EEA branches*, save in relation to 3.1(4) which shall also take account of the operations of the *third country branch undertaking* to the same extent as is necessary to ensure compliance by the *third country branch undertaking* with Third Country Branches 13; [deleted.]~~

third country insurance provider prescribed responsibility

means the responsibilities set out in 3B.2

...

2 ALLOCATION OF RESPONSIBILITIES

False

2.1 A *firm* (other than a *third country branch undertaking*, *third country insurance services provider*, a *small run-off firm* or a *UK ISPV*) must allocate each of the *prescribed*

responsibilities set out in 3.1 (other than 3.1(10) and (11)) to one or more *persons* who, in relation to that *firm*, are approved under section 59 of *FSMA* by:

...

2.2 A *firm* (other than a *third country branch undertaking*, *third country insurance services provider*, a *small run-off firm* or a *UK ISPV*) must allocate each of the *prescribed responsibilities* set out in 3.1(10) and (11) and the *prescribed responsibility* set out in 3.3, if applicable, to one or more *non-executive directors* who perform:

...

2.3A A *third country insurance services provider* who has been given a notice under section 59ZZA must allocate each of the prescribed responsibilities set out in chapter 3B to one or more persons who are treated under that section as approved under section 59.

3B PRESCRIBED RESPONSIBILITIES: UK SERVICES PROVIDERS

3B.1 This Chapter applies only to a *third country insurance services provider*.

3B.2 Each of these responsibilities is a *third country insurance provider prescribed responsibility*:

- (1) responsibility for management of the application of the *firm's* risk management processes to its *UK activities*;
- (2) responsibility for the *firm's* compliance with the *UK regulatory system* applicable to the *firm*;
- (3) responsibility for the escalation of correspondence from the *PRA*, *FCA* and other regulators in respect of the *firm* to each of the *governing body* or the *management body* of the *firm* and, as appropriate, the *firm's parent undertaking* and the *ultimate parent undertaking of the firm's group*; and
- (4) responsibility for management of the application of the *firm's* systems and controls to its *UK activities*.

4 IDENTIFICATION OF KEY FUNCTIONS

4.1 A *firm* must identify:

- (1) each of the *functions* that the *firm* considers to be a *key function*; and
- (2) any such *key function* that amounts to effectively running the *firm* (or, for a *third country branch undertaking* other than a *Swiss general insurer*, effectively running the operations effected by the *third country branch*, ~~or, for a *UK deposit insurer*, the operations effected by the *third country branch* and all the *third country undertaking EEA branches*~~) or for a *third country insurance services provider*, effectively running the activities carried out in the *UK*.

...

5 RECORDS

- 5.1 A *firm* must have and maintain a *management responsibilities map*, which is a clear and coherent document or series of documents with the following details:
- (1) a list of the *key functions* identified by the *firm* in accordance with 4.1 highlighting those that amount to effectively running the *firm* (or, for a *third country branch undertaking* other than a *Swiss general insurer*, effectively running the operations effected by the *third country branch* ~~or, for a *UK-deposit insurer*, the operations effected by the *third country branch* and all the *third country undertaking EEA branches*~~; or for a *third country insurance services provider*, effectively running the activities carried out by the *third country insurance services provider*, in the *UK*;
 - (2) the names of the *persons* who effectively run the *firm* (or, for a *third country branch undertaking* other than a *Swiss general insurer*, effectively run the operations effected by the *third country branch* ~~or, for a *UK-deposit insurer*, the operations effected by the *third country branch* and all the *third country undertaking EEA branches*~~) or who are responsible for other *key functions* listed pursuant to 5.1(1); or for a *third country insurance services provider*, effectively running the activities carried out by the *third country insurance services provider*, in the *UK*;
 - ...
 - (6) where a *firm* (other than a *third country branch undertaking* or *third country insurance services provider*) is a member of a *group*;
 - ...
 - (7) matters reserved to the *governing body* (including the terms of reference of its committees) and including, in the case of a *third country branch undertaking*, the equivalent body (or its committees) responsible for the management of the *third country branch undertaking's* business activities in the *UK* and in the case of a *third country insurance services provider*, the equivalent body (or its committees) responsible for the management of the *firm's* activities in the *UK*.

Annex AG

Amendments to the Insurance – Certification Part

In this Annex new text is underlined.

1 APPLICATION AND DEFINITIONS

 True

-
- 1.1 Unless otherwise stated, this Part applies to:
...
- (4A) a *third country insurance services provider* in relation to the activities carried out in the UK that are subject to the regulatory system;
...
...
- 1.3A For the purposes of this Part, *large firm* includes a *third country insurance services provider* which would be a *large firm* if the amounts specified in (a) and (b) of the Glossary definition are only those amounts relating to the activities carried out in the UK by the *third country insurance services provider*.
- 1.4 This Part does not apply to a function performed by:
- (1) a *PRA approved person*;
 - (1A) a person in relation to whom a notice under section 59ZZA has been given to an authorised person
 - (2) a *person* who performs an *FCA controlled function*; or
 - (3) a *non-executive director* in relation to their *non-executive director* function.

Annex AH

Amendments to the Insurance – Conduct Standards Part

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

1 APPLICATION AND DEFINITIONS

True

1.1 Unless otherwise stated, this Part applies to:

- (1) a *UK Solvency II firm*;
- (2) in accordance with Insurance General Application 3, the *Society* as modified by 4;
- (3) in accordance with Insurance General Application 3, *managing agents*, as modified by 4;
- (4) a *third country branch undertaking* (other than a *Swiss general insurer*;
- (5) a *UK ISPV*; ~~and~~
- (5A) a *third country insurance services provider*; and
- (6) in relation to any of the foregoing *firms*, any *person* who is:
 - (a) a *Conduct Rules non-executive director*;
 - (b) an *employee* of a *firm* who is a *key function holder*;
 - (c) a *certification employee* (other than a *key function holder*);
 - (d) approved under section 59 of *FSMA* by either:
 - (i) the *PRA*; or
 - (ii) the *FCA*, in relation to a *relevant senior management function*;
 - (e) an *employee* who should have been approved under section 59 of *FSMA* by either:
 - (i) the *PRA*; or
 - (ii) the *FCA*, in relation to a *relevant senior management function*; ~~or~~
 - (f) an *employee* who is performing a function that would have been a *controlled function* but for Insurance - Senior Management Functions 2.4; or.
 - (g) a *person* in relation to whom a notice under section 59ZZA has been or could be given by the *PRA* to an authorised person.

2 SCOPE OF CONDUCT STANDARDS

True

- 2.1 If you are a natural person who is:
- (1) an employee of a firm who is a key function holder; ~~or~~
 - (2) approved under section 59 of *FSMA* by either:
 - (a) the *PRA*; or
 - (b) the *FCA*, in relation to a *relevant senior management function*, or
 - (3) a person in relation to whom a notice under section 59ZZA has been given by the PRA to an authorised person
- you must comply at all times with all of the conduct standards.
- 2.1B If you are an employee of a type specified in 1.1(6)(c), (e), ~~or~~ (f) or (g) you must comply at all times with the conduct standards specified in 3.1 to 3.3.

Annex AI

Amendments to the Insurance – Fitness and Propriety Part

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

1 APPLICATION AND DEFINITIONS

True

1.1 Unless otherwise stated, this Part applies to:

...

(4) a *third country branch undertaking* (other than a *Swiss general insurer*); ~~and~~

(5) a *UK ISPV*; and

(6) a *third country insurance services provider*.

...

4 DISCLOSURE AND REPLACEMENTS

4.1

(1) A *firm* (other than a *UK ISPV* or *third country insurance services provider*) shall notify the *PRA* of any changes to the identity of *key function holders* and shall provide the *PRA* with:

...

Annex AJ

Amendments to the Insurance –Senior Management Functions Part

In this Annex new text is underlined.

1 APPLICATION AND DEFINITIONS

True

1.1 Unless otherwise stated, this Part applies to:

...

(4) a *third country branch undertaking* (other than a *Swiss general insurer*); ~~and~~

(5) a *UK ISPV*, in accordance with 12; and

(6) a *third country insurance services provider*.

...

2 GENERAL

2.3 A firm (other than a third country branch undertaking, a firm that does not have an establishment in the UK or a small run-off firm) must

...

6 HEAD OF THIRD COUNTRY BRANCH

6.1 This Chapter applies only to a *firm* that is a *third country branch undertaking* or a *third country insurance services provider* (other than a *Swiss general insurer*).

6.2 The *Head of Third Country Branch function* (SMF19) is the function of having responsibility for

(1) the conduct of all activities of the *third country branch undertaking* that are subject to the *regulatory system*; or

(2) the conduct of all activities of the *third country insurance services provider* that are subject to the *regulatory system*.

6.3 (1) A *third country branch undertaking* or a *third country insurance services provider* must have at least one *person* approved to perform the *Head of Third Country Branch function*.

(2) If a vacancy arises in respect of the *Head of Third Country Branch function*, a *third country branch undertaking* or a *third country insurance services provider* must ensure that it appoints a *person* to fill that vacancy as soon as possible.

6.4 A *third country branch undertaking* or a *third country insurance services provider* that transacts *with-profits insurance business* must have at least one *person* approved to perform the *With-Profits Actuary function* (SMF20a).

False

6.5 A *third country branch undertaking* or a *third country insurance services provider* is not required to have any *person(s)* approved to perform any of the other *PRA senior management functions*.

...

13. COMBINATION OF PRA SENIOR MANAGEMENT FUNCTIONS

- 13.1 This Chapter does not apply to a *third country branch undertaking* or to a *firm* that does not have an establishment in the *UK*.

Annex AK

Amendments to the Insurance – Senior Managers Regime – Applications and Notifications Part

In this Annex new text is underlined.

1 APPLICATION AND DEFINITIONS

1.1 Unless otherwise stated, this Part applies to:

...

- (4) a *third country branch undertaking* (other than a *Swiss general insurer*); ~~and~~
- (5) a *UK ISPV*; and
- (6) a *third country insurance services provider*.

1.2 In this Part, the following definitions shall apply:

...

current approved person approval

means

- (1) an approval granted to a *person* under section 59 of *FSMA* (Approval for particular arrangements):
 - (a) by the *PRA* for the performance of a *PRA senior management function*; or
 - (b) by the *FCA* for the performance of an *FCA designated senior management function* or a *significant influence function*;

but excludes a notice given under section 59ZZA of *FSMA* treating a person as approved;

...

1.3 In this Part, *PRA approved person* also includes a *person* in relation to whom a *notice under section 59ZZA* has been given to an *authorised person*.

...

2A TPR SMF APPLICATION

- 2A (1) In the case of a *TPR SMF application*, the following directions shall have effect in substitution for any directions relating to the provision of information, documents, statement of responsibilities and form of application which would otherwise apply on the making of an application under section 60 of *FSMA*.
- (2) The *PRA* directs that the application must contain the information and be accompanied by such documents as are set out in the form approved by the *PRA* for the purposes of this direction; except that where the application is in respect of a

person who holds a current approved persons approval, Form E may be used in accordance with 2.3 instead.

- (3) The PRA directs that the application must be accompanied by a statement of responsibilities in accordance with Insurance - Allocation of Responsibilities 5.4, containing such information as is set out in the form approved by the PRA for the purposes of this direction; except that where a Form E is used pursuant to (2) above, the application must provide a statement of responsibilities specified in 2.7.
- (4) A function performed by a person in relation to whom a notice under section 59ZZA of FSMA could be given, shall not (otherwise than for the purposes of making an application under section 60 of FSMA), be treated as a controlled function until the earliest of -
- (a) 12 weeks beginning on the day on which exit day occurs
 - (b) the giving of the notice under section 59ZZA, or
 - (c) the notification by the PRA of its decision to grant or refuse the application.
- (5) In this Chapter statement of responsibilities form means for a firm making a TPR SMF application the form to be completed by a firm containing:
- (a) the information referred to in Insurance – Allocation of Responsibilities 5.1(3);
 - (b) in respect of 2A.3, the information required by section 60(2A) of FSMA; and
 - (c) in respect of Insurance – Allocation of Responsibilities 5.5, the information required by section 60(2A) of FSMA.

...

6 PROCEDURE FOR MAKING APPLICATIONS AND NOTIFICATIONS

- 6.1 The PRA directs that save as required by 6.1A or 6.2, a firm must make any applications, notifications or submissions required by this Part by submitting the form specified using the ONA system.
- 6.1A The PRA directs that a firm making an TPR SMF application must make that application by submitting the information, documents, statement of responsibilities and forms required by 2A in the manner set out in Notifications 7.

...

Annex AL

Amendments to the Insurance Company – Exposure Limits Part

In this Annex new text is underlined.

...

9 EXPOSURES EXCLUDED FROM LIMITS

...

- 9.4 (1) If a *firm* has a *counterparty exposure*, *asset exposure* or *reinsurance exposure* the whole or any part of which is:
- (a) guaranteed by a *credit institution* or an *investment firm* subject in either case to provisions implementing the CRD or supervision by a *third country* supervisory authority with a *CRD-equivalent* regime; or
 - (b) adequately mitigated by a credit *derivative*;

...

...

Annex AM

Amendments to the Insurance Company – Technical Provisions Part

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

...

5 LOCALISATION

5.1 This Chapter does not apply:

- (1) to a *Swiss general insurer*;
- (2) in respect of debts owed by *reinsurers*;
- (3) in respect of *insurance business* carried on by a *UK firm* outside ~~an EEA State~~ the UK;
or
- (4) in respect of *general insurance business class* groups 3 (Marine and transport) and 4 (Aviation) of Insurance Company – Reporting 12.7.

5.2 In accordance with 5.3, a *firm* must hold *admissible assets* held pursuant to Insurance Company – Risk Management 3.2:

- (1) (where the *admissible assets* cover *technical provisions* in UK sterling), in the UK ~~any EEA State~~; and
- (2) (where the *admissible assets* cover *technical provisions* in any currency other than UK sterling), ~~in any EEA State or~~ in the UK or in the country of that currency.

...

Annex AN

Amendments to the Insurance – General Application Part

In this Annex deleted text is struck through.

...

2 UK SOLVENCY II FIRM

...

2.4 A *firm* excluded under 2.3 shall cease to be excluded under that rule:

...

(2) immediately and for as long as:

(a) ~~it exercises EEA rights under the Solvency II Directive;~~ [deleted.]

....

2.5 Subject to 2.6, a *firm* of the kind mentioned in 2.2(6) is not excluded under 2.3 if;

...

~~(2) it exercises EEA rights under the Solvency II Directive.~~ [deleted.]

2.6 A *firm* of the kind mentioned in 2.2(4), 2.2(5) or 2.2(6) is excluded provided

(1) ~~it is not exercising EEA rights under the Solvency II Directive; and~~ [deleted.]

...

Annex AO

Amendments to the Internal Capital Adequacy Assessment Part

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

1 APPLICATIONS AND DEFINITIONS

...

1.2 In this Part, the following definitions shall apply:

group

means in relation to a *person* ("A"), A and any *person*:

...

(c) who has an ~~Article 12(1) relationship~~ a common management relationship with A;

(d) who has an ~~Article 12(1) relationship~~ a common management relationship with any *person* who falls into (a);

...

~~*parent financial holding company in a Member State*~~

means ~~(in accordance with point (26) of Article 3(1) of the CRD) a financial holding company which is not itself a subsidiary of an institution authorised in the same EEA State, or of a financial holding company or mixed financial holding company set up in the same EEA State~~ [deleted.]

~~*parent institution in a Member State*~~

means ~~(in accordance with point (24) of Article 3(1) of the CRD) an institution authorised in an EEA State which has an institution or financial institution as subsidiary or which holds a participation in such an institution or financial institution, and which is not itself a subsidiary of another institution authorised in the same EEA State or of a financial holding company or mixed financial holding company set up in the same EEA State.~~ [deleted.]

~~*parent mixed financial holding company in a Member State*~~

means ~~(in accordance with point (28) of Article 3(1) of the CRD) a mixed financial holding company which is not itself a subsidiary of an institution authorised in the same EEA State, or of a financial holding company or mixed financial holding company set up in the same EEA State.~~ [deleted.]

...

...

14 APPLICATION OF THIS PART ON AN INDIVIDUAL BASIS, A CONSOLIDATED BASIS AND A SUB-CONSOLIDATED BASIS

...

14.3 A firm which is a *parent institution* ~~in a Member State~~ must comply with the *ICAAP rules* on a *consolidated basis*.

14.4 A firm controlled by a *UK parent financial holding company* ~~in a Member State~~ or a *UK parent mixed financial holding company* ~~in a Member State~~ must comply with the *ICAAP rules* on the basis of the *consolidated situation* of that holding company, if the *PRA* is responsible for supervision of the *firm* on a *consolidated basis* under ~~Article 111 of the CRD~~ Part 6 of the *Capital Requirements Regulations*.

...

...

Annex AP

Amendments to the Internal Governance of Third Country Branches Part

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

1 APPLICATIONS AND DEFINITIONS

...

1.3 In this Part, the following definitions shall apply:

auction regulation bidding

means the *regulated activity of bidding in emissions auctions* where it is carried on by:

- (a) ~~a firm that is exempt from MiFID under article 2(1)(i); or~~ collective investment undertakings and pension funds and the depositaries and managers of such undertakings; or

...

Annex AQ

Amendments to the Internal Liquidity Adequacy Assessment Part

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

...

8 MANAGING LIQUIDITY ACROSS LEGAL ENTITIES, BUSINESS LINES, COUNTRIES AND CURRENCIES

8.1 A *firm* must actively manage its *liquidity risk exposures* and related funding needs and take into account

- (1) existing legal, regulatory and operational limitations to potential transfers of liquidity and unencumbered assets amongst entities, both within and outside the ~~EEA UK~~; and

...

...

12 LIQUIDITY CONTINGENCY PLAN

...

12.3 The *liquidity contingency plan* must also set out adequate strategies and proper implementation measures in order to address possible liquidity shortfalls, ~~including in relation to branches established in another EEA State~~. Those plans must be tested at least annually, updated on the basis of the outcome of the alternative scenarios set out in 11.2, and be reported to and approved by the *firm's senior management*, so that internal policies and processes can be adjusted accordingly

12.4 A *firm* must take the necessary operational steps in advance to ensure that *liquidity contingency plans* can be implemented immediately, including holding collateral immediately available for central bank funding. This includes holding collateral where necessary in the ~~currency of another EEA State or~~ currency of a third country to which the firm has exposures, and where operationally necessary within the territory of ~~an EEA State or~~ the third country to whose currency it is exposed.

...

14 APPLICATION OF THIS PART ON AN INDIVIDUAL OR DOMESTIC LIQUIDITY SUB-GROUP BASIS AND A CONSOLIDATED BASIS

...

14.4 A firm which is ~~an EEA~~ a UK parent institution must comply with this Part on the basis of its consolidated situation.

...

14.6 A UK bank or building society controlled by ~~an EEA~~ a UK parent financial holding company or by ~~an EEA~~ a UK parent mixed financial holding company must comply with this Part on the basis of the consolidated situation of that holding company if the PRA is responsible for

supervision of the *UK bank or building society* on a *consolidated basis* under ~~Article 111 of the CRD~~ Part 6 of the *Capital Requirements Regulations*

14.7 A *UK designated investment firm* controlled by an ~~EEA~~ a *UK parent financial holding company* or by an ~~EEA~~ a *UK parent mixed financial holding company* must comply with this Part on the basis of the *consolidated situation* of that holding company if:

- (1) there is no *subsidiary* of the holding company which is a *credit institution* to which 14.6 applies; and
- (2) the *PRA* is responsible for the supervision of the *UK designated investment firm* on a *consolidated basis* under ~~Article 111 of the CRD~~ Part 6 of the *Capital Requirements Regulations*.

...

16 TRANSITION PROVISION

16.1 In 14.4 – 14.7 any reference to ~~EEA~~ is to be read as a reference to ~~EU~~ [deleted.]

Annex AR

Amendments to the Key Function Holder – Notifications Part

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

1 APPLICATION AND DEFINITIONS

1.1 Unless otherwise stated, this Part applies to:

...

(4) a *third country branch undertaking* (other than a *Swiss general insurer*); ~~and~~

(5) a *UK ISPV*₁

2 KEY FUNCTION HOLDER NOTIFICATIONS

...

2.2 (1) A *firm* must provide the information required by Insurance – Fitness and Propriety 4.1 for each *key function holder* as soon as reasonably practicable after the appointment of the *key function holder*.

Annex AS

Amendments to the Large Exposures Part

In this Annex new text is underlined.

...

2 INTRA-GROUP EXPOSURES: NON-CORE LARGE EXPOSURES GROUP AND RESOLUTION EXEMPTIONS

...

- 2.1 (1) A firm with an *NCLEG non-trading book permission* may (in accordance with that permission) exempt, from the application of Article 395(1) of the *CRR*, *non-trading book exposures*, including participations or other kinds of holdings, incurred by the *firm* to members of its *NCLEG* that are:

...

in so far as those undertakings are covered by the supervision on a *consolidated basis* to which the *firm* itself is subject, in accordance with the *CRR*, provisions implementing Directive 2002/87/EC or with equivalent standards in force in a third country.

...

NCLEG trading book exemption

- 2.2 (1) A firm with an *NCLEG trading book permission* may (in accordance with that permission) exempt, from the application of Article 395(1) of the *CRR*, *trading book exposures* up to its *trading book exposure allocation*, including *participations* or other kinds of holdings, incurred by the *firm* to members of its *NCLEG* that are:

...

in so far as those undertakings are covered by the supervision on a *consolidated basis* to which the *firm* itself is subject, in accordance with the *CRR*, provisions implementing Directive 2002/87/EC or with equivalent standards in force in a third country;

...

- 2.4 A firm must exclude from the limit in Article 395(1) of the *CRR* *resolution exposures* to:

...

in so far as those undertakings are covered by the supervision on a *consolidated basis* to which the *firm* itself is subject, in accordance with the *CRR*, provisions implementing Directive 2002/87/EC or with equivalent standards in force in a third country.

...

Annex AT

Amendments to the Leverage Ratio Part

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

1 APPLICATIONS AND DEFINITIONS

- 1.1 Unless otherwise stated, this Part applies to every *firm* that is a *UK bank* or a *building society* that, on the *firm's* last *accounting reference date*, had *retail deposits* equal to or greater than £50 billion either on:
- (1) an individual basis;
 - (2) if the *firm* is a *UK parent institution in a Member State*, on the basis of its *consolidated situation*; or
 - (3) if the *firm* is controlled by a *UK parent financial holding company in a Member State* or by a *UK parent mixed financial holding company in a Member State* and the *PRA* is responsible for supervision of that holding company on a *consolidated basis* under Article 111 of the CRD Part 6 of the *Capital Requirements Regulations*, on the basis of the *consolidated situation* of that holding company.

...

2 BASIS OF APPLICATION

- 2.2 A *firm* that is a *UK parent institution in a Member State* must comply with this Part on the basis of its *consolidated situation*.
- 2.3 A *firm* that is controlled by a *UK parent financial holding company in a Member State* or a *UK parent mixed financial holding company in a Member State* for which the *PRA* is responsible for supervision on a *consolidated basis* under Article 111 of the CRD Part 6 of the *Capital Requirements Regulations* must comply with this Part on the basis of the *consolidated situation* of that holding company.

...

Annex AU

Amendments to the Liquidity Coverage Requirement – UK Designated Investment Firms Part

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

...

2 LIQUIDITY COVERAGE REQUIREMENT

- 2.1 (1) For the purpose of complying with Article 412 (1) of the *CRR*, a *firm* must comply with the obligations set out in the *Delegated Regulation* as they apply to a *credit institution* supervised ~~under~~ pursuant to the *CRD*, subject to the modifications in (2).

...

3 COMPLIANCE WITH LIQUIDITY REPORTING

...

- 3.2 (1) A *firm* must comply with the reporting requirements laid down in Chapter 1 and Chapter 7 to Chapter 9 of the *COREP Regulation* with the exception of Article 15 as they apply to a *credit institution* supervised ~~under~~ pursuant to the *CRD*.

4 APPLICATION OF THIS PART ON AN INDIVIDUAL BASIS AND A CONSOLIDATED BASIS

...

- 4.2 A *firm* which is ~~an EEA a UK parent institution~~ must comply with this Part on the basis of its *consolidated situation*.
- 4.3 A *firm* controlled by ~~an EEA a UK parent financial holding company~~ or by ~~an EEA a UK parent mixed financial holding company~~ must comply with this Part on the basis of the *consolidated situation* of that holding company if:

...

- (2) the *PRA* is responsible for the supervision of the *UK designated investment firm* on a *consolidated basis* under ~~Article 114 of the CRD~~ Part 6 of the *Capital Requirements Regulations*

...

5 TRANSITIONAL PROVISIONS

- 5.1 In 4.2 and 4.3 any reference to ~~EEA~~ is to be read as a reference to EU: ~~[deleted.]~~

Annex AV

Amendments to the Minimum Capital Requirement Part

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

1 APPLICATIONS AND DEFINITIONS

1.2 In this Part, the following definitions shall apply:

captive insurer

means a ~~Solvency II undertaking~~ UK Solvency II firm owned by:

- (1) a financial *undertaking* other than a ~~Solvency II undertaking~~ UK Solvency II firm; or
- (2) a *group* of ~~Solvency II undertakings~~ UK Solvency II firms; or
- (3) a non-financial *undertaking*;

the purpose of which is to provide insurance cover exclusively for the risks of the undertaking or undertakings to which it belongs, or of an *undertaking*, or *undertakings*, of the *group* of which that ~~Solvency II undertaking~~ UK Solvency II firm is a member.

captive reinsurer

means a ~~Solvency II undertaking~~ UK Solvency II firm that is a *pure reinsurer* owned by:

- (1) a financial *undertaking* other than a ~~Solvency II undertaking~~ UK Solvency II firm; or
- (2) a *group* of ~~Solvency II undertakings~~ UK Solvency II firms; or
- (3) a non-financial *undertaking*;

the purpose of which is to provide *reinsurance* cover exclusively for the risks of the *undertaking* or *undertakings* to which it belongs or of an *undertaking* or *undertakings* of the *group* of which that *pure reinsurer* is a member.

Annex AW

Amendments to the Notifications Part

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

1 APPLICATIONS AND DEFINITIONS

...

1.2 In this Part, the following definitions shall apply:

...

~~EEA~~ UK financial conglomerate

means a *financial conglomerate* that is of a type that falls under Article 5(2) of the ~~Financial Groups Directive~~ has:

- (a) a regulated entity at the head of the financial conglomerate;
- (b) a mixed financial holding company which has its head office in the UK; or
- (c) a regulated entity linked with another financial sector entity by a common management relationship.

...

extraordinary public financial support

means ~~State aid, or any other public financial support at supra-national level, which, if provided for at national level, would constitute State aid,~~ that is provided in order to preserve or restore the viability, liquidity or solvency of a *BRRD undertaking* or of a group of which a *BRRD undertaking* forms part.

...

regulated entity

means one of the following:

- (1) a *credit institution*;
- (2) an *insurance undertaking* within the meaning of Article 13(1) of the *Solvency II Directive*; or
- (3) an *investment firm*,

whether or not it is incorporated in, or has its head office in, an ~~EEA State~~ the UK.

...

1.3 ~~This Part applies to incoming firms without a top-up permission as follows:~~

- (1) ~~1 applies in full~~

- (2) ~~2.1-2.3 apply in so far as responsibility for the matter in question is not reserved by an EU instrument to the firm's Home State regulator;~~
- (3) ~~2.4-2.5 apply in full;~~
- (4) ~~2.6-2.9 apply in so far as responsibility for the matter in question is not reserved by an EU instrument to the firm's Home State regulator;~~
- (5) ~~3-4 do not apply;~~
- (6) ~~5.1-5.3 apply in full except that 5.2(2) does not apply to an incoming EEA firm without a top-up permission;~~
- (7) ~~5.4 applies in so far as responsibility for the matter in question is not reserved by an EU instrument to the firm's Home State regulator;~~
- (8) ~~5.5 applies in full; and~~
- (9) ~~6, 7 and 9 apply in full.~~

...

2 GENERAL NOTIFICATION REQUIREMENTS

...

2.3 A firm must give the PRA notice of:

- (1) any proposed restructuring, reorganisation or business expansion which could have a significant impact on the firm's risk profile or resources, including, but not limited to:
 - ...
 - (b) ~~commencing the provision of cross border services into a new territory;~~
~~[deleted.]~~
 - ...
 - (f) a substantial change or a series of changes in the governing body of an overseas firm ~~(other than an incoming firm);~~

...

4 NOTIFIED PERSONS

4.1 (1) ~~An overseas firm, which is not an incoming firm,~~ must notify the PRA within 30 business days of any person taking up or ceasing to hold the following positions:

...

5 CORE INFORMATION REQUIREMENTS

...

5.4 A firm must notify the PRA immediately if it becomes subject to or ceases to be subject to the supervision of any overseas regulator ~~(including a Home State regulator).~~

...

9 FINANCIAL CONGLOMERATE NOTIFICATION

...

- 9.5 (1) A *firm* must, at the level of the ~~EEA~~ UK *financial conglomerate*, regularly provide the *PRA* with details on the UK *financial conglomerate's* legal structure and governance and organisational structure, including all *regulated entities*, and non-regulated subsidiaries ~~and significant branches~~.
- (2) A *firm* must disclose publicly, at the level of the ~~EEA~~ UK *financial conglomerate*, on an annual basis, either in full or by way of references to equivalent information, a description of the UK *financial conglomerate's* legal structure and governance and organisational structure.
- (3) For the purposes of (1) and (2), where a *firm* is a member of an ~~EEA~~ a UK *financial conglomerate* which is part of a wider ~~UK-regulated EEA~~ *financial conglomerate*, reporting applies only at the level of the ~~EEA~~ UK *parent mixed financial holding company* or *ultimate* ~~EEA~~ UK *mixed financial holding company*.

...

Annex AX

Amendments to the Outsourcing Part

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

1 APPLICATIONS AND DEFINITIONS

1.1 Unless otherwise stated, this Part applies to a *CRR firm*:

...

(2) ~~with respect to the carrying on of *passport*ed activities by it from a *branch* in another *EEA state*;~~[deleted.]

(3) in a *prudential context* with respect to activities wherever they are carried on; and

(4) taking into account any activity of other members of a *group* of which the *firm* is a member.

...

2 OUTSOURCING

2.1 A *firm* must:

...

(2) not undertake the *outsourcing* of important operational functions in such a way as to impair materially:

(a) the quality of its internal control; and

(b) the ability of the *PRA* to monitor the *firm's* compliance with all obligations under the *regulatory system* and, if different, of a *competent authority* to monitor the *firm's* compliance with all obligations ~~under~~ implemented pursuant to *MiFID II*.

2.1A A *MiFID investment firm* must extend the arrangements and meet the requirements of the *Articles 30, 31 Outsourcing Requirements*, so they apply with respect to *other matters* on the following basis:

(1) references to "authorisation" under *MiFID II* are references to authorisation under section 31(2) of the Act;

(2) references to "obligations ~~under~~ implemented pursuant to *MiFID II*" are references to a firm's obligations under the *regulatory system*;

Annex AY

Amendments to the Passporting Part

This Part is deleted.

Part

PASSPORTING

Deleted

Annex AZ

Amendments to the Policyholder Protection Part

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

1 APPLICATION AND DEFINITIONS

...

money laundering

has the meaning given in Article 1(2) of the *Money Laundering Directive 2015/849/EU*. ~~means any act which:~~

- (1) ~~constitutes an offence under section 18 (Money laundering) of the Terrorism Act 2000;~~
- (2) ~~constitutes an offence under section 327 (Concealing etc), section 328 (Arrangements) or section 329 (Acquisition, use and possession) of the Proceeds of Crime Act 2002;~~
- (3) ~~constitutes an attempt, conspiracy or incitement to commit an offence specified in paragraph (2)~~
- (4) ~~constitutes aiding, abetting, counselling or procuring the commission of an offence specified in paragraph (2); or~~
- (5) ~~would constitute an offence specified in paragraph (2), (3), or (4) if done in the *United Kingdom*.~~

...

occupational pension fund management business

...

- (2) (other than in connection with a *personal pension scheme*) *pension fund management* written as linked long-term business, for an *occupational pension scheme* or for an institution ~~falling within~~ referred to in article 2) of the Council Directive of 3 June 2003 on the activities and supervision of institutions for occupation retirement provision (No 2003/43/EC), but only to the extent that:

...

TPR insurer

means in relation to a *contract of insurance*, a *person* who was, at the time at which the *contract of insurance* was issued, a *participant firm* by reason of regulations made under section 8 of the *European Union (Withdrawal) Act 2018*.

...

9 PROTECTED CLAIMS

...

9.2 A *protected contract of insurance* is:

- (A1) (if issued on or after *exit day*) a *contract of insurance* within 9.2A

- (1) (if issued after 1 December 2001 and before *exit day*) a *contract of insurance* within 9.3; or
- (2) (if issued before 1 December 2001) a *contract of insurance* within 9.6.

9.2A A *contract of insurance* issued on or after *exit day* which:

- (1) relates to a protected risk or commitment as described in 9.2B;
- (2) was issued by a *relevant person* (whether or not there is now a *successor* in respect of that *relevant person*) through an establishment in:
 - (a) the *UK*; or
 - (b) (in relation to a *TPR insurer* that has no establishment in the *UK*) an *EEA State*; or
 - (c) the Channel Islands or the Isle of Man;
- (3) is a *contract of long-term insurance* or a *relevant general insurance contract*;
- (4) is not a *reinsurance contract*, and
- (5) if it is a *contract of insurance* entered into by a *member*, was entered into on or after 1 January 2004

is a *protected contract of insurance*

9.2B A risk or commitment is a protected risk or commitment for the purpose of 9.2A if:

- (1) in the case of a *contract of insurance* issued through an establishment in the *UK* or the Channel Islands or the Isle of Man, it is situated in the *UK*, the Channel Islands or the Isle of Man;
- (2) in the case of a *contract of insurance* issued by a *TPR insurer* in the circumstances set out in 9.2A(2)(b) through an establishment in an *EEA state*, it is situated in the *UK*

9.3 A *contract of insurance* issued after 1 December 2001 and before *exit day* which:

- (1) relates to a protected risk or commitment as described in 9.4
- (2) was issued by a *relevant person* (whether or not there is now a *successor* in respect of that *relevant person*) through an establishment in:
 - ...
 - (b) ~~another~~ an *EEA State* other than the *UK*; or
 - (c) the Channel Islands or the Isle of Man;
 - ...

9.4 A risk or commitment is a protected risk or commitment for the purpose of 9.3 if:

- (1) in the case of a *contract of insurance* falling within 9.3(2)(a), it is situated in the *UK*, an *EEA State*, the Channel Islands or the Isle of Man;

- (2) in the case of a *contract of insurance* where the *relevant person was, at the time of issue, a UK firm* ~~is a UK firm issuing and issued that a contract of insurance~~ through an establishment falling within 9.3(2)(b), it is situated in the UK or an EEA State;
- (3) in the case of a *contract of insurance* where the *relevant person was not, at the time of issue, a UK firm* ~~is a firm which is not a UK firm issuing a and issued that contract of insurance~~ through an establishment falling within 9.3(2)(b), it is situated in the UK; or

...

9.5 For the purposes of 9.2B, 9.4 and 9.6, the situation of a risk or commitment is determined as follows:

...

...

10 RELEVANT PERSONS IN DEFAULT

...

10.4 The FSCS may determine a *relevant person* to be *in default* if it is satisfied that a *protected claim* exists, and the *relevant person* is the subject of one or more of the following proceedings in the UK (or of equivalent or similar proceedings in another jurisdiction):

...

- (2) a determination by the *relevant person's* ~~Home State regulator~~ regulator or ~~other competent authority~~ that the *relevant person* appears unable to meet claims against it and has no early prospect of being able to do so;

....

11 SUCCESSORS IN DEFAULT

...

11.4 The FSCS may determine a *successor* to be *in default* if it is satisfied that a *protected claim* exists, and the *successor* is the subject of one or more of the following proceedings in the UK (or of equivalent or similar proceedings in another jurisdiction):

...

- (2) where relevant, a determination by the *successor's* ~~Home State regulator~~ regulator or ~~other competent authority~~ that the *successor* appears unable to meet *claims* against it and has no early prospect of being able to do so;

...

...

12 ASSIGNMENT (AUTOMATIC, ELECTRONIC AND IN WRITING)

...

12.9 (1) The FSCS may determine that:

...

that claimant shall be treated as having irrevocably and unconditionally appointed the chairman of the FSCS for the time being to be his attorney and agent and on his behalf and in his name or otherwise to do such things and execute such deeds and documents as may be required under such laws of the UK, ~~another EEA State~~ or any other state or country to create or give effect to such assignment or transfer or otherwise give full effect to those powers.

...

...

ANNEX 2: METHODOLOGY FOR CALCULATION OF A PARTICIPANT FIRM'S LEVY SHARE

Insurance Class B1	General Insurance Provision
Firms with permission for:	...
Tariff base	<p>Insurance Class B1: Relevant net premium income and eligible liabilities.</p> <p>Relevant net premium income is calculated in accordance with the method applicable to the <i>firm</i> for calculating 'gross written premium for fees purposes' in Fees 1.2 and Fees 3.4 (2) (c) with the following adjustments:</p> <p>...</p> <p>(2) If an <i>incoming EEA firm</i> does not report relevant net premium income in the way contemplated in this table, the <i>participant firm's</i> relevant net premium income is calculated in the same way as they would be for a <i>UK firm</i>.</p> <p>Eligible liabilities are calculated in accordance with the method applicable to the <i>firm</i> for calculating 'best estimate liabilities for fees purposes' in Fees 1.2 and Fees 3.4 (2) (c) with the following adjustments.</p> <p>...</p> <p>(3) If an <i>incoming EEA firm</i> does not report liabilities in the way contemplated by this table, the <i>participant firm's</i> liabilities are calculated in the same way as they would be for a <i>UK firm</i>.</p> <p>...</p>

Insurance Class C1	Life and Pensions Provision
Firms with permission for:	...
Tariff base	<p>Insurance Class C1: Relevant net premium income and eligible liabilities.</p> <p>Relevant net premium income is calculated in accordance with the method applicable to the <i>firm</i> for calculating 'gross written premium for fees purposes' in Fees 1.2 and Fees 3.4 (3) (c) with the following adjustments:</p> <p>...</p> <p>(5) If an <i>incoming EEA firm</i> does not report relevant net premium income in the way contemplated in this table, the <i>participant firm's</i> relevant premium income is calculated in the same way as they would be for a <i>UK firm</i>.</p> <p>Eligible liabilities are calculated in accordance with the method applicable to the <i>firm</i> for calculating 'best estimate liabilities for fee purposes' as defined in Fees 1.2 and Fees 3.4 (3) (c) with the following adjustments.</p> <p>...</p> <p>(3) If an <i>incoming EEA firm</i> does not report liabilities in the way contemplated by this table, the <i>participant firm's</i> liabilities are calculated in the same way as they would be for a <i>UK firm</i>.</p> <p>...</p>

Annex BA

Amendments to the Public Disclosures Part

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

...

3 PUBLIC DISCLOSURE OF LEVERAGE RATIO

3.1 This Chapter applies to every *firm* that is a *UK bank* or a *building society* that, on the *firm's* last *accounting reference date*, had *retail deposits* equal to or greater than £50 billion either on:

- (1) an individual basis;
- (2) if the *firm* is a UK parent institution ~~in a Member State~~, on the basis of its *consolidated situation*; or
- (3) if the *firm* is controlled by a UK parent financial holding company ~~in a Member State~~ or by a UK parent mixed financial holding company ~~in a Member State~~ and the PRA is responsible for supervision of that holding company on a *consolidated basis* under Article 111 of the CRD Part 6 of the Capital Requirements Regulations, on the basis of the *consolidated situation* of that holding company.

Application on an individual or consolidated basis

3.2 A *firm* that is:

- (1) not a member of a *consolidation group* in relation to which (2) or (3) applies must comply with this Chapter on an individual basis;
- (2) a UK parent institution ~~in a Member State~~ must comply with this Chapter on the basis of its *consolidated situation*;
- (3) controlled by a UK parent financial holding company ~~in a Member State~~ or a UK parent mixed financial holding company ~~in a Member State~~ for which the PRA is responsible for supervision on a *consolidated basis* under Part 6 of the Capital Requirements Regulations Article 111 of the CRD must comply with this Chapter on the basis of the *consolidated situation* of that holding company.

Annex BB

Amendments to the Record Keeping Part

In this Annex deleted text is struck through.

1 APPLICATIONS AND DEFINITIONS

1.1 Unless otherwise stated, this Part applies to a *CRR firm*

...

- (2) ~~with respect to the carrying on of *passport activities* by it from a *branch* in another *EEA state*; [deleted.]~~
- (3) in a *prudential context* with respect to activities wherever they are carried on; and
- (4) taking into account any activity of other members of a *group* of which the *firm* is a member.

...

2 RECORD KEEPING

2.1 A *firm* must arrange for orderly records to be kept of its business and internal organisation, including all services, activities and transactions undertaken by it, which must be sufficient to enable the *PRA* or any other relevant ~~competent authority under *MiFID II*~~ to:

- (1) fulfil its supervisory tasks and perform the enforcement actions under the *regulatory system*; and
- (2) in particular ascertain that the *firm* has complied with all obligations.

...

Annex BC

Amendments to the Recovery Plans Part

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

1 APPLICATIONS AND DEFINITIONS

...

1.2 In this Part, the following definitions shall apply:

Article 1(1)(b) entity

means a *financial institution* that is established in ~~an EEA State~~ the UK when the *financial institution* is a *subsidiary* of a *credit institution* or *investment firm*, or of an *Article 1(1)(c) entity* or an *Article 1(1)(d) entity* and is covered by the supervision of the *parent undertaking* on a *consolidated basis* in accordance with Articles 6 to 17 of *CRR*.

Article 1(1)(c) entity

means a *financial holding company*, *mixed financial holding company* or *mixed activity holding company* that is established in ~~an EEA State~~ the UK

Article 1(1)(d) entity

means a UK parent financial holding company ~~in an EEA State, an EEA parent financial holding company, a parent mixed financial holding company in an EEA State or an EEA~~ a UK parent mixed financial holding company.

competent authority

means a public authority or body officially recognised by national law which is empowered by national law to supervise *institutions* as part of the supervisory system in operation in the ~~EEA State~~ concerned or the European Central Bank with regard to the specified tasks conferred on it by Article 4 of Council Regulation (EU) No. 1024/2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions

means:

- a) the PRA, in respect of PRA-*authorised persons*
- b) the FCA, in respect of any other *person*;

conditions for early intervention

means where an *institution* infringes or is likely in the near future to infringe the requirements of the *CRR*, ~~CRD, MiFID II~~ or any of Articles 3 to 7, 14 to 17 and 24, 25 and 26 of *MiFIR* or requirements implementing CRD or MIFID II.

~~EEA consolidating supervisor~~

means a *competent authority* responsible for the exercise of supervision on a *consolidated basis* of:

- (1) ~~an EEA a UK parent institution~~; or
- (2) ~~institutions controlled by an EEA a UK parent financial holding company or an EEA a UK parent mixed financial holding company.~~

...

extraordinary public financial support

~~means State aid, or any other public financial support at supra-national level, which, if provided for at national level, would constitute State aid, that is provided in order to preserve or restore the viability, liquidity or solvency of an institution or Article 1(1)(b) entity, Article 1(1)(c) entity, Article 1(1)(d) entity or of a group of which such an institution or entity forms part.~~

...

EEA parent undertaking

~~means an EEA parent institution, an EEA parent financial holding company or an EEA parent mixed financial holding company.~~

...

parent financial holding company in an EEA State

~~means a financial holding company which is not itself a subsidiary of an institution authorised in the same EEA State, or of a financial holding company or mixed financial holding company set up in the same EEA State.~~

parent mixed financial holding company in an EEA State

~~means a mixed financial holding company which is not itself a subsidiary of an institution authorised in the same EEA State, or of a financial holding company or mixed financial holding company set up in the same EEA State.~~

parent institution in an EEA State

~~means an institution authorised in an EEA State which has an institution or financial institution as a subsidiary or which holds a participation in such an institution or financial institution, and which is not itself a subsidiary of another institution authorised in the same EEA State or of a financial holding company or mixed financial holding company set up in the same EEA State.~~

...

significant branch

~~means a branch of an institution that would be designated as being significant in accordance with Article 51(1) of the CRD.~~

2 RECOVERY PLANS

2.1 This Chapter applies to a *firm* that is not part of a *group* subject to consolidated supervision pursuant to ~~Articles 111 and 112 of the CRD.~~

...

3 GROUP RECOVERY PLANS

3.1 This Chapter applies to a *BRRD undertaking* which is:

- (1) ~~an EEA a UK parent undertaking unless the FCA is the EEA consolidating supervisor of its group; or~~
- (2) ~~a firm controlled by an EEA parent financial holding company or an EEA parent mixed financial holding company if: [deleted.]~~
 - (a) ~~the EEA parent financial holding company or EEA parent mixed financial holding company is not incorporated in the UK and does not have a place of business in the UK; and [deleted.]~~
 - (b) ~~the PRA is the EEA consolidating supervisor of the firm [deleted.]~~

3.2 If the ~~EEA consolidating supervisor~~ is the *PRA*, a *BRRD undertaking* must draw up a *group recovery plan* and submit the *group recovery plan* to the *PRA*. ~~If the EEA consolidating supervisor is not the PRA, a BRRD undertaking that is a qualifying parent undertaking must make arrangements to ensure that a group recovery plan is drawn up and submitted to the EEA consolidating supervisor.~~

3.3 The *group recovery plan* must consist of a recovery plan for the *group* headed by the ~~EEA UK parent undertaking~~ as a whole.

...

3.5 The *group recovery plan* must identify measures that may be required to be implemented at the level of the ~~EEA UK parent undertaking~~ and each individual *subsidiary*

...

3.7 The *group recovery plan* must include arrangements to ensure the coordination and consistency of measures to be taken at the level of the ~~EEA UK parent undertaking~~, at the level of an *Article 1(1)(c) entity* or *Article 1(1)(d) entity*, as well as measures to be taken at the level of a *subsidiary* and, where applicable, in accordance with the ~~CRD~~ at the level of a *significant branch*.

3.8 The *group recovery plan* must include the elements specified in 2.6 – 2.9. The *group recovery plan* must include, where applicable, arrangements for intra-group financial support adopted pursuant to an agreement for intra-group financial support that has been concluded in accordance with ~~Articles 19 – 26 of the BRRD~~ The Bank Recovery and Resolution (No 2) Order 2014 (2014/3348) or Group Financial Support 2 – 8.

...

3.12 A *BRRD undertaking* that is a *qualifying parent undertaking* must make arrangements to ensure it is demonstrated to the ~~EEA~~ *consolidating supervisor* that the *group recovery plan* meets the requirements set out in this Chapter and the following criteria:

...

...

5 GOVERNANCE ARRANGEMENTS

...

5.3 A *BRRD undertaking* which is required to draw up a *group recovery plan* must, taking into account the nature, scale and complexity of its business and the business of other members of its *group*, establish and maintain appropriate internal processes regarding the governance of the *group recovery plan* and must:

- (1) ensure that its *management body* oversees, assesses and approves the *group recovery plan* before the *BRRD undertaking* submits the *group recovery plan* to the ~~EEA~~ *consolidating supervisor*;

...

6 RECOVERY PLAN AND GROUP RECOVERY PLAN INDICATORS

...

6.6 A *BRRD undertaking* that is a *qualifying parent undertaking* must:

- (1) notify the *PRA* without delay if it (or any member of its *group*) decides to take action under the *group recovery plan* or to refrain from taking action and the *PRA* is the ~~EEA~~ *consolidating supervisor*; ~~and~~
- (2) ~~make arrangements to ensure the *EEA consolidating supervisor* is notified without delay if it (or any member of its *group*) decides to take action under the *group recovery plan* or to refrain from taking action and the *PRA* is not the *EEA consolidating supervisor* [deleted.]~~

...

Annex BD

Amendments to the Regulatory Reporting Part

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

1 APPLICATIONS AND DEFINITIONS

1.1 Unless otherwise stated, this Part applies to every *firm* permitted to carry on the *regulated activities* listed in column (1) of the table in 6.1, ~~except an *incoming EEA firm* with *permission for cross border services* only.~~

1.2 In this Part, the following definitions shall apply:

....

credit institution

- (1) ~~a credit institution authorised under the *CRD*; or [deleted.]~~
- (2) ~~an institution which would satisfy the requirements for authorisation as a credit institution under the *CRD* if it had its registered office (or if it does not have a registered office, its head office) in an *EEA State*.~~

means an *undertaking* the business of which is to take deposits or other repayable funds from the public and to grant credits for its own account, not including entities referred to in Art 2(5) of Directive 2013/36/EU

...

non-EEA UK bank

means a *bank* which is a *body corporate* or *partnership* formed under the law of any country or territory outside the ~~*EEA UK*~~.

...

UK consolidation group

means the *consolidation group* of a *firm* to which supervision on a *consolidated basis* by the *PRA* applies in accordance with ~~Article 114 of *CRD*~~ Part 6 of the *Capital Requirements Regulations*.

UK regulated EEA financial conglomerate

~~means a *financial conglomerate* (other than a *third-country financial conglomerate*) that satisfies one of the following conditions:~~

- (1) ~~GENPRU 3.1.29 R (Capital adequacy calculations for *financial conglomerates*) in the *PRA Handbook* applies with respect to it; or~~
- (2) a *firm* that is a member of that *financial conglomerate* is subject to obligations imposed through its *Part 4A permission* to ensure that *financial conglomerate* meets levels of capital adequacy based or stated to be based on Annex I of the *Financial Groups Directive*

2 REPORTING REQUIREMENTS – DATA ITEMS

...

2.4 Unless otherwise stated, any *data items* to be submitted in accordance with 2.1 to 2.3 by a ~~non-EEA non-UK bank, or an EEA bank,~~ should cover the activities of the *branch* operation in the *UK* only.

...

7 REGULATED ACTIVITY GROUP 1

7.1 The applicable *data items* referred to in the table in 6.1 are set out according to *firm* type in the table below:

RAG 1	Prudential category of <i>firm</i> , applicable <i>data items</i> and reporting format (1)						
	<i>UK bank other than a ring-fenced body</i>	<i>Ring-fenced body</i>	<i>Building society</i>	<i>Non-EEA bank Non-UK bank</i>	<i>EEA bank that has permission to accept deposits and that has its registered office (or, if it has no registered office, its head office) outside the EU [deleted.]</i>	[deleted.]	<i>Dormant account fund operator</i> (12)
Description of <i>data item</i>							
...							
Daily Flows	FSA047 ((13), (16) and (18))	FSA047 ((13), (16) and (18))	FSA047 ((13), (16) and (18))		FSA047 ((13), (15), (16) and (18)) [deleted.]	-	-
Enhanced Mismatch Report	FSA048 ((13), (16) and (18))	FSA 048 ((13), (16) and (18))	FSA048 ((13), (16) and (18))		FSA048 ((13), (15), (16) and (18)) [deleted.]	-	-
...							

(2) Applicable to ~~non-EEA non-UK~~ banks

...

...

12 FINANCIAL CONGLOMERATES

12.1 This Chapter applies only to a *firm* that is a member of a *financial conglomerate* and either:

- ...
- (1) it is at the head of a *UK-regulated EEA financial conglomerate*; or

- (2) its *Part 4A permission* contains a requirement which either:

...

- (b) applies 12.3 to the *firm* unless the UK mixed financial holding company of the *financial conglomerate* to which the *firm* belongs submits the report required under this rule (as if the rule applied to it).

...

...

20 CAPITAL+ REPORTS

...

20.6 A *firm* satisfies *Capital+ condition 1*:

- (1) if the *firm* is a UK parent institution in a Member State, where it has *retail deposits* equal to or greater than £50 billion and *total assets* equal to or greater than £320 billion on the basis of its *consolidated situation*;
- (2) if the *firm* is controlled by a UK parent financial holding company in a Member State, a UK parent mixed financial holding company in a Member State or a UK parent institution in a Member State and the *PRA* is responsible for supervision of that holding company or UK parent institution in a Member State on a *consolidated basis* under Article 111 of the *CRD Part 6 of the Capital Requirements Regulations*, where it has *retail deposits* equal to or greater than £50 billion and *total assets* equal to or greater than £320 billion on the basis of the *consolidated situation* of that UK holding company or UK parent institution in a Member State;

...

...

20.8 A *firm* satisfies *Capital+ condition 3*:

- (1) if the *firm* is a UK parent institution in a Member State, where it has *retail deposits* equal to or greater than £50 billion and *total assets* greater than £5 billion but less than £320 billion on the basis of its *consolidated situation*;
- (2) if the *firm* is controlled by a UK parent financial holding company in a Member State, a UK parent mixed financial holding company in a Member State or a UK parent institution in a Member State and the *PRA* is responsible for supervision of that UK holding company or UK parent institution in a Member State on a *consolidated basis* under Article 111 of the *CRD Part 6 of the Capital Requirements Regulations*, where it has *retail deposits* greater than or equal to £50 billion and *total assets* greater than £5 billion but less than £320 billion on the basis of the *consolidated situation* of that UK holding company or UK parent institution in a Member State;

...

20.10 A *firm* satisfies *Capital+ condition 5* if it:

- (1) is part of a *consolidation group*
- (2) has *total assets* greater than £5 billion
- (a) if the *firm* is a UK parent institution in a Member State, on the basis of its *consolidated situation*

- (b) if the *firm* is controlled by a UK parent financial holding company ~~in a Member State~~, a UK parent mixed financial holding company ~~in a Member State~~ or a UK parent institution ~~in a Member State~~ and the *PRA* is responsible for supervision of that UK holding company or UK parent institution ~~in a Member State~~ on a consolidated basis under Article 111 of the CRD Part 6 of the Capital Requirements Regulations, on the basis of the consolidated situation of that UK holding company or UK parent institution ~~in a Member State~~; and

...

20.22 Where a *firm* is required to submit a *data item* in accordance with this rule, that *data item* should be completed:

...

- (2) if the *firm* is a UK parent institution ~~in a Member State~~ and the *firm* satisfies *Capital+ condition 1* on the basis of 20.6(1) or *Capital+ condition 3* on the basis of 20.8(1), on the basis of its consolidated situation; or
- (3) if the *firm* is controlled by a UK parent financial holding company ~~in a Member State~~, a UK parent mixed financial holding company ~~in a Member State~~ or a UK parent institution ~~in a Member State~~ and the *PRA* is responsible for supervision of that holding company or UK parent institution ~~in a Member State~~ on a consolidated basis under Article 111 of the CRD Part 6 of the Capital Requirements Regulations and the *firm* satisfies *Capital+ condition 1* on the basis of 20.6(2) or *Capital+ condition 3* on the basis of 20.8(2), on the basis of the consolidated situation of that holding company or UK parent institution ~~in a Member State~~.

20.22A If a *firm* meets a *Capital+ condition* on the basis of 20.6(4), 20.8(4) or 20.10A, it must submit the *data item* on a sub-consolidated basis in addition to meeting any requirement to submit a *data item* on an individual basis or on the basis of its, its holding company's or its UK parent institution's ~~in a Member State's~~ consolidated situation.

...

20.24 Where a *firm* is required to submit a *data item* in accordance with this rule, as set out in the *Capital+ reporting table*, that *data item* should be completed:

- (1) if the *firm* is a UK parent institution ~~in a Member State~~ and the *firm* satisfies *Capital+ condition 5* on the basis of 20.10(2)(a) or *Capital+ condition 7* on the basis of 20.12, on the basis of its consolidated situation; or
- (2) if the *firm* is controlled by a UK parent financial holding company ~~in a Member State~~, a UK parent mixed financial holding company ~~in a Member State~~ or a UK parent institution ~~in a Member State~~ and the *PRA* is responsible for supervision of that holding company or UK parent institution ~~in a Member State~~ on a consolidated basis under Article 111 of the CRD Part 6 of the Capital Requirements Regulations and the *firm* satisfies *Capital+ condition 5* on the basis of 20.10(2)(b) or *Capital+ condition 7* on the basis of 20.12, on the basis of the consolidated situation of that holding company or UK parent institution ~~in a Member State~~.

...

Annex BE

Amendments to the Regulatory Reporting Part

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

...

7 REGULATED ACTIVITY GROUP 1

7.1 The applicable *data items* referred to in the table in 6.1 are set out according to *firm* type in the table below:

RAG 1	Prudential category of <i>firm</i> , applicable <i>data items</i> and reporting format (1)						
	<i>UK bank other than a ring-fenced body</i>	<i>Ring-fenced body</i>	<i>Building society</i>	<i>Non-EEA bank</i> <i>Non-UK bank</i>	<i>EEA bank that has permission to accept deposits and that has its registered office (or, if it has no registered office, its head office) outside the EU</i> [deleted.]	[deleted.]	<i>Dormant account fund operator</i> (12)
Description of <i>data item</i>							
Cash Flow Mismatch	PRA110 (13) (18) (35)	PRA110 (13) (18) (28) (35)	PRA110 (13) (18) (35)		PRA 110(13) (18) (35)		

Annex BF

Amendments to the Related Party Transaction Risk Part

In this Annex deleted text is struck through.

1 APPLICATIONS AND DEFINITIONS

1.1 This Part applies to:

- (1) a *UK bank*;
- (2) a *building society*; and
- (3) an *overseas firm* that:
 - (a) ~~is not an *incoming firm*; and [deleted.]~~
 - (b) has a *Part 4A permission* that includes permission to carry out *accepting deposits*.

...

Annex BG

Amendments to the Remuneration Part

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

1 APPLICATIONS AND DEFINITIONS

1.1 Unless otherwise stated, this Part applies to:

- (1) a *CRR firm* in relation to its;
- (a) *UK* activities; and
- (b) ~~passport activities carried on from a branch in another EEA State; and~~
[deleted.]
- (c) other activities wherever they are carried on, in a *prudential context*; and

...

1.3 (1) In this Part, the following definitions shall apply:

...

consolidation group entity

means an *institution* or *financial institution* which is, in relation to a *CRR firm* responsible for consolidation:

- (1) the *CRR firm* responsible for consolidation;
- (2) a *subsidiary* of the *CRR firm* responsible for consolidation; or
- (3) a *subsidiary* of the ~~EEA~~ UK parent financial holding company or ~~EEA~~ UK parent mixed financial holding company by which the *CRR firm* responsible for consolidation is controlled.

CRR firm responsible for consolidation

means a *CRR firm* which is either:

- (1) ~~an EEA~~ a UK parent institution; or
- (2) controlled by ~~an EEA~~ a UK parent financial holding company or by ~~an EEA~~ a UK parent mixed financial holding company and to which supervision on a consolidated basis by the PRA applies in accordance with ~~Article 111 of CRD~~ Part 6 of the Capital Requirements Regulations

...

total assets

means:

- (1) in relation to a *CRR firm* ~~or an EEA bank~~, its total assets as set out in its balance sheet on the relevant *accounting reference date*; and
- (2) in relation to a *third country CRR firm*, the total assets of the *third country CRR firm* as set out in its balance sheet on the relevant *accounting reference date* that cover the activities of the *branch* operation in the *UK*.

...

4 GROUPS

- 4.1 A *firm* must apply the requirements at *group*, *parent undertaking* and *subsidiary undertaking* levels, including those *subsidiaries* established in a country or territory which is not ~~the UK~~ ~~in an EEA State~~.

...

14 NON-COMPLIANCE

- 14.1 A *firm* must ensure that variable *remuneration* is not paid through vehicles or methods that facilitate non-compliance with obligations arising from ~~CRR, CRD~~ or this Part.

15 REMUNERATION STRUCTURES

...

- 15.11 A *firm* must ensure that any approval by the shareholders or owners or members of the *firm* for the purposes of 15.10 is carried out in accordance with the following procedure:

...

- (3) the *firm* must, without delay, inform the *PRA* of the recommendation to its shareholders or owners or members, including the proposed higher ratio and the reasons therefor and must demonstrate to the *PRA* that the proposed higher ratio does not conflict with the firm's obligations under the ~~CRD~~ and the *CRR* and provisions implementing the CRD, having regard in particular to the *firm's own funds* obligations;

...

- 15.13 A *firm* may apply a discount rate to a maximum of 25% of an *employee's* total variable *remuneration* provided it is paid in instruments that are deferred for a period of not less than five years. ~~In applying this discount rate, firms must apply the EBA Guidelines on the applicable notional discount rate for variable remuneration of 27 March 2014.~~

17 REMUNERATION BENCHMARKING REPORTING REQUIREMENTS

...

- 17.5 A *firm* that is not, and does not have, ~~an EEA a UK parent institution, an EEA a UK parent financial holding company or an EEA a UK parent mixed financial holding company~~ must complete that report on an unconsolidated basis in respect of *remuneration* awarded to *employees* of the *firm* in the last completed financial year.

...

- 17.7 The *firm* must ensure that the information in the *Remuneration Benchmarking Information Report* is denominated in euro, determined by reference to the exchange rate used by the European Commission for financial programming and the budget for December of the reported year.

18 HIGH EARNERS REPORTING REQUIREMENTS

- ...
- 18.4 A *firm* that is not, and does not have, ~~an EEA a UK parent institution, an EEA a UK parent financial holding company or an EEA a UK parent mixed financial holding company~~ must complete that report on an unconsolidated basis in respect of *remuneration* awarded in the last completed financial year to all *high earners* of the *firm* who mainly undertook their professional activities within the UK EEA.
- 18.5 A *firm* that is a *CRR firm responsible for consolidation* must complete that report on a *consolidated basis* in respect of *remuneration* awarded in the last completed financial year to all *high earners* who mainly undertook their professional activities within the ~~EEA UK~~ at:
- (1) the ~~EEA UK parent institution, EEA UK parent financial holding company or the EEA UK parent mixed financial holding company~~ of the *consolidation group*;
 - (2) each *consolidation group entity* that has its registered office (or if it has no registered office, its head office) in ~~the UK an EEA State~~; and
 - (3) each *branch* of any other *consolidation group entity* that is established or operating in ~~the UK an EEA State~~.
- ...

Annex BH

Amendments to the Reporting Part

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

3 PUBLIC DISCLOSURE: SOLVENCY AND FINANCIAL CONDITION REPORT

- ...
- 3.6 The disclosure required by 3.3(5)(b) must include the following:
- ...
- (2) the amount of any *capital add-on* imposed upon the *firm* ~~in accordance with Article 37 of the Solvency II Directive~~, by the PRA together with concise information on the justification given by the *PRA* for its imposition; and
 - (3) the impact of any *undertaking specific parameters* the *firm* is required to use in calculating the *standard formula* by the PRA ~~in accordance with Article 110 of the Solvency II Directive~~, together with concise information on the justification given by the *PRA* for requiring the use of those *undertaking specific parameters*.

Annex BI

Amendments to the Reporting Leverage Ratio Part

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

1 APPLICATIONS AND DEFINITIONS

- 1.1 Unless otherwise stated, this Part applies to every *firm* that is a *UK bank* or a *building society* that, on the *firm's* last *accounting reference date*, had *retail deposits* equal to or greater than £50 billion either on:
- (1) an individual basis;
 - (2) if the *firm* is a UK parent institution ~~in a Member State~~, on the basis of its *consolidated situation*; or
 - (3) if the *firm* is controlled by a UK parent financial holding company ~~in a Member State~~ or by a UK parent mixed financial holding company ~~in a Member State~~ and the *PRA* is responsible for supervision of that holding company on a *consolidated basis* under Article 111 of the CRD Part 6 of the Capital Requirements Regulations, on the basis of the *consolidated situation* of that holding company.

...

2 BASIS OF APPLICATION

...

- 2.2 A *firm* that is a UK parent institution ~~in a Member State~~ must comply with this Part on the basis of its *consolidated situation*.
- 2.3 A *firm* that is controlled by a UK parent financial holding company ~~in a Member State~~ or a UK parent mixed financial holding company ~~in a Member State~~ for which the *PRA* is responsible for supervision on a *consolidated basis* under Part 6 of the Capital Requirements Regulations ~~Article 111 of the CRD~~ must comply with this Part on the basis of the *consolidated situation* of that holding company.

Annex BJ

Amendments to the Reporting Pillar 2 Part

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

1 APPLICATIONS AND DEFINITIONS

...

- 1.4 A firm which is a UK parent institution ~~in a Member State~~ must comply with this Part on a consolidated basis.
- 1.5 A firm controlled by a UK parent financial holding company ~~in a Member State~~ or a UK parent mixed financial holding company ~~in a Member State~~ must comply with this Part on the basis of the consolidated situation of that holding company, if the PRA is responsible for supervision of the firm on a consolidated basis under Article 111 of the CRD Part 6 of the Capital Requirements Regulations
- 1.6 In this Part the following definitions shall apply:

...

parent financial holding company in a Member State

means (in accordance with point (26) of Article 3(1) of the ~~CRD~~) a financial holding company which is not itself a subsidiary of an institution authorised in the same EEA State, or of a financial holding company or mixed financial holding company set up in the same EEA State.

parent institution in a Member State

means (in accordance with point (24) of Article 3(1) of the ~~CRD~~) an institution authorised in an EEA State which has an institution or financial institution as subsidiary or which holds a participation in such an institution or financial institution and which is not itself a subsidiary of another institution authorised in the same EEA State or of a financial holding company or mixed financial holding company set up in the same EEA State.

parent mixed financial holding company in a Member State

means (in accordance with point (28) of Article 3(1) of the ~~CRD~~) a mixed financial holding company which is not itself a subsidiary of an institution authorised in the same EEA State, or of a financial holding company or mixed financial holding company set up in the same EEA State

Annex BK

Amendments to the Resolution Pack Part

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

1 APPLICATIONS AND DEFINITIONS

...

1.2 In this Part, the following definitions shall apply:

competent authority

means ~~a public authority or body officially recognised by national law which is empowered by national law to supervise institutions as part of the supervisory system in operation in the EEA State concerned or the European Central Bank with regard to the specific tasks conferred on it by Article 4 of Council Regulation (EU) No. 1024/2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions.~~

EEA consolidating supervisor

means a *competent authority* responsible ~~under the CRD~~ for the exercise of supervision on a consolidated basis of:

- (1) ~~an EEA a UK~~ parent institution; or
- (2) institutions controlled by ~~an EEA a UK~~ parent financial holding company or ~~an EEA a UK~~ parent mixed financial holding company.

EEA UK parent undertaking

means ~~an EEA a UK~~ parent institution, ~~an EEA a UK~~ parent financial holding company or ~~an EEA a UK~~ parent mixed financial holding company.

group-level resolution authority

means the *resolution authority* in the ~~EEA State~~ in which the *EEA consolidating supervisor* is situated.

...

group resolution plan

means a plan for the resolution of a *group* drawn up in accordance with ~~Articles 12 and 13 of the BRRD Article 40 and Schedule 2 of The Bank Recovery and Resolution (No 2) Order 2014 (2014/3348).~~

parent financial holding company in an EEA State

means ~~a financial holding company which is not itself a subsidiary of an institution authorised in the same EEA State, or of a financial holding company or mixed financial holding company set up in the same EEA State.~~

parent mixed financial holding company in an EEA State

~~means a mixed financial holding company which is not itself a subsidiary of an institution authorised in the same EEA State, or of a financial holding company or mixed financial holding company set up in the same EEA State.~~

~~parent institution in an EEA State~~

~~means an institution authorised in an EEA State which has an institution or financial institution as subsidiary or which holds a participation in such an institution or financial institution, and which is not itself a subsidiary of another institutions authorised in the same EEA State or of a financial holding company or mixed financial holding company set up in the same EEA State.~~

~~resolution authority~~

~~means an authority designated by an EEA State in accordance with Article 3 of the BRRD the Bank of England~~

...

3 GROUP RESOLUTION PACK

3.1 This Chapter applies to a BRRD undertaking which is:

- (1) ~~an EEA a UK parent undertaking unless the FCA is the EEA consolidating supervisor of its group; or~~
- (2) ~~a firm controlled by an EEA parent financial holding company or an EEA parent mixed financial holding company if: [deleted.]~~
 - (a) ~~the holding company is not incorporated in the UK and does not have a place of business in the UK; and [deleted.]~~
 - (b) ~~the PRA is the EEA consolidating supervisor of the firm [deleted.]~~

...

3.4 A BRRD undertaking must submit its group resolution pack to the PRA, ~~if the PRA is the EEA consolidating supervisor and, in any other case, to the group-level resolution authority.~~

...

Annex BL

Amendments to the Ring-Fenced Bodies Part

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

...

16 ACCESS TO CENTRAL COUNTERPARTIES AND CENTRAL SECURITIES DEPOSITORIES

...

- 16.3 For the purposes of this Chapter, if a *ring-fenced body* accesses the services of a *central counterparty* or a *central securities depository* not established in ~~an EEA state~~ the UK or any part of whose operations are not subject to the law of ~~an EEA state~~ the UK, the *ring-fenced body* will be considered to comply with the *rules* in this Chapter if it has taken necessary steps to ensure that its positions, if applicable, and assets are identifiable separately from the positions, if applicable, and assets of any other *person* by measures that deliver outcomes comparable to those set out in the *rules* in this Chapter.

...

Annex BM

Amendments to the Risk Control Part

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

1 APPLICATIONS AND DEFINITIONS

1.1 Unless otherwise stated, this Part applies to a *CRR firm*

...

(2) ~~with respect to the carrying on of *passport*ed activities by it from a *branch* in another *EEA state*; [deleted.]~~

...

1.1A 2.1 to 2.6 do not apply to a *firm* with respect to the carrying on of *benchmarking activities* except to the extent that ~~they transpose an *EU instrument*~~ those rules constitute *retained EU law*

Annex BN

Amendments to the Senior Management Function Part

In this Annex new text is underlined.

1 APPLICATION AND DEFINITIONS

1.1 Unless otherwise stated, this Part applies to every *firm* that is :

- (1) a *CRR firm*;
- (2) a *credit union*; or
- (3) a *third country CRR firm* in relation to); ~~the activities of its establishment in the UK.~~
 - (a) the activities of its establishment in the UK; or
 - (b) if it does not have an establishment in the UK, its activities in the UK.

...

7 UK BRANCH OF OVERSEAS FIRM

7.1 This Chapter applies only to a *third country CRR firm* in relation to; ~~the activities of its establishment in the UK.~~

- (a) the activities of its establishment in the UK; or
- (b) if it does not have an establishment in the UK, its activities in the UK.

7.2 The *Head of Overseas Branch Function* (SMF 19) is the function of having responsibility alone or jointly with others for; ~~the conduct of all activities of the UK establishment of a third country firm which are subject to the UK regulatory system.~~

- (i) the conduct of all activities of the UK establishment of a *third country firm* which are subject to the UK regulatory system; or
- (ii) where the firm does not have an establishment in the UK, the conduct of all activities which are subject to the UK regulatory system.

...

Annex BO

Amendments to the Senior Managers Regime – Applications and Notifications Part

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

1 APPLICATION AND DEFINITIONS

1.1 Unless otherwise stated, this Part applies to every *firm* that is:

- (1) a *CRR firm*;
- (2) a *credit union*; or
- (3) a *third country CRR firm* in relation to: ~~the activities of its establishment in the UK.~~
 - (a) the activities of its establishment in the UK; or
 - (b) if it does not have an establishment in the UK, its activities in the UK

1.2 In this Part, the following definitions shall apply:

...

current approved person approval

means

- (1) an approval granted to a *person* under section 59 of *FSMA* (Approval for particular arrangements):
 - (a) by the *PRA* for the performance of a *PRA senior management function*; or
 - (b) by the *FCA* for the performance for the performance of an *FCA designated senior management function* or a *significant influence function*;

but excludes an approval under section 59ZZA of *FSMA*.

...

1.3 In this Part, *PRA approved person* also includes a *person in relation to whom a notice under section 59ZZA has been given to an authorised person*.

...

2A TPR SMF APPLICATION

2A (1) In the case of a *TPR SMF application*, the following directions shall have effect in substitution for any directions relating to the provision of information, documents, statement of responsibilities and the form of application that would otherwise apply on the making of an application under section 60 of *FSMA*.

- (2) The PRA directs that the application must contain the information and be accompanied by such documents as are set out in the form approved by the PRA for the purposes of this direction; except that where the application is in respect of a person who holds a current approved persons approval, Form E may be used in accordance with 2.3 instead.
- (3) The PRA directs that the application must be accompanied by a statement of responsibilities in accordance with *Allocation of Responsibilities 2.1*, containing such information as is set out in the form approved by the PRA for the purposes of this direction; except that where Form E is used pursuant to (2) above, the application must provide a statement of responsibilities in the form specified in 2.7(2).
- (4) A function performed by a person in relation to whom a notice under section 59ZZA of FSMA could be given, shall not (otherwise than for the purposes of making an application under section 60 of FSMA), be treated as a controlled function until the earliest of -
- (a) 12 weeks beginning on the day on which exit day occurs
 - (b) the giving of the notice under section 59ZZA of FSMA, or
 - (c) the notification by the PRA of its decision to grant or refuse the application.

7 PROCEDURE FOR MAKING APPLICATIONS AND NOTIFICATIONS

- 7.1 (1) The PRA directs that:
- (a) subject to (aa) a firm other than a credit union must make any applications, notifications or submissions required by this Part by submitting the form specified using the ONA system; and
 - (aa) a firm a TPR SMF application must make that application and by submitting information, documents, statement of responsibilities and forms required by 2A: in the manner set out in Notifications 7;

Annex BP

Amendments to the Skills, Knowledge and Expertise Part

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

1 APPLICATIONS AND DEFINITIONS

1.1 Unless otherwise stated, this Part applies to a *CRR firm*

...

(2) ~~with respect to the carrying on of *passport activities* by it from a *branch* in another *EEA state* [deleted.]~~

...

1.1A 2.1A to 2.1B do not apply to a *firm* with respect to the carrying on of *benchmarking activities* except to the extent that ~~they transpose an *EU instrument*~~ those rules constitute *retained EU law*.

...

Annex BQ

Amendments to the Stay In Resolution Part

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

1 APPLICATIONS AND DEFINITIONS

...

1.3 The condition in 1.2 is that the *subsidiary* is:

- (1) a *credit institution*;
- (2) an *investment firm* or an *undertaking* which would be an *investment firm* if it had its head office in ~~an EEA State~~ the UK; or
- (3) a *financial institution*; and

is not a *BRRD undertaking* which falls within 1.1

1.4 In this Part, the following definitions shall apply:

...

excluded person

means:

...

- (b) ~~a person who has been designated by an EEA State as a system under Article 2(a) of the Directive 98/26/EC of the European Parliament and of the Council on settlement finality in payment and securities settlement systems or an operator of such a system, [deleted.]~~
- (c) an exchange, other trading facility, payment system, settlement system or other financial market utility or infrastructure established in a *third country* not within (a) ~~or (b)~~;

...

3 TRANSITIONAL PROVISIONS

3.1 From 1 June 2016 this Part applies in relation to a *third-country law financial arrangement* under 2.1 where a direct or indirect counterparty is:

- (1) a *credit institution*;
- (2) an *investment firm*; or
- (3) an *undertaking* which would be an *investment firm* if it had its head office in ~~an EEA State~~ the UK.

...

Annex BR

Amendments to the Technical Provisions Part

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

1 APPLICATIONS AND DEFINITIONS

...

1.2 In this Part, the following definitions shall apply;

...

cost-of-capital rate

means the rate (above the relevant risk-free interest rate) that must be used in the determination of the cost that a ~~Solvency II undertaking~~ UK Solvency II firm would incur in order to hold an amount of *eligible own funds* equal to the SCR necessary to support the insurance and *reinsurance obligations* over their lifetime, as specified in the *Solvency II Regulations* ~~adopted under Article 86 of the Solvency II Directive.~~

2 CALCULATION OF TECHNICAL PROVISIONS

...

2.2 The value of *technical provisions* must correspond to the current amount that the *firm* would have to pay if it were to transfer its insurance and *reinsurance obligations* immediately to another ~~Solvency II undertaking~~ UK Solvency II firm.

...

4 RISK MARGIN

4.1 Where *firms* value the *best estimate* and *risk margin* separately, the *risk margin* must be an amount equal to the cost that a ~~Solvency II undertaking~~ UK Solvency II firm would incur in order to hold *eligible own funds* to cover the SCR necessary to support the insurance and *reinsurance obligations* over their lifetime, determined using the *cost-of-capital rate*.

4.2 The *risk margin* must be such as to ensure that the value of the *technical provisions* is equivalent to the amount that a ~~Solvency II undertaking~~ UK Solvency II firm would be expected to require in order to take over and meet the insurance and *reinsurance obligations* over their lifetime.

7 CALCULATION OF THE MATCHING ADJUSTMENT

...

7.2 The *matching adjustment* shall be calculated for each currency in accordance with the following principles:

...

- (4) the use of external credit assessments in the calculation of the *matching adjustment* shall be in line with the specifications set out in the *Solvency II Regulations* ~~adopted under Article 111(1)(n) of the *Solvency II Directive*.~~

7.3 For the purposes of 7.2(2) and subject to 7.5, the fundamental spread shall be:

...

- (2) for exposures to ~~the UK's EEA States'~~ central governments and central banks, no lower than 30% of the long term average of the spread over the risk-free interest rate of assets of the same duration, credit quality and asset class, as observed in financial markets;
- (3) for assets other than exposures to ~~the UK's EEA States'~~ central governments and central banks, no lower than 35% of the long-term average of the spread over the risk-free interest rate of assets of the same duration, credit quality and asset class, as observed in financial markets;

...

8 VOLATILITY ADJUSTMENT

8.1 A firm must not apply a *volatility adjustment* to the *relevant risk-free interest rate term structure* to calculate the *best estimate* of its insurance or *reinsurance* obligations unless:

...

- (2) the *volatility adjustment* has been set out in *Solvency II Regulations* ~~adopted under Article 77e of the *Solvency II Directive*.~~ or published by the PRA under regulation 4B of the *Solvency 2 Regulations 2015*.

...

8.4 A firm must only apply a *volatility adjustment* that includes a relevant country increase referred to in ~~Article 77d(4) of the *Solvency II Directive*~~ regulation 4B(6) of the *Solvency 2 Regulations 2015* to calculate the *best estimate* of its insurance or *reinsurance* obligations of products sold in the insurance market of that country, respectively.

15 COMMUNITY CO INSURANCE OPERATIONS

15.1 ~~In relation to *Community co-insurance operations*, where a firm is a *leading insurer* or a *relevant insurer*, the amount of *technical provisions* shall be determined according to 2 to 13. [Deleted.]~~

15.2 ~~The *technical provisions* calculated by a firm which is a *relevant insurer* shall be at least equal to those determined by the *leading insurer*. [Deleted.]~~

Annex BS

Amendments to the Third Country Branches Part

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

1 APPLICATIONS AND DEFINITIONS

...

1.2 In this Part, the following definitions shall apply:

...

~~EEA MCR~~

~~means a capital requirement calculated in accordance with the *Minimum Capital Requirement* Part of the *PRA Rulebook* but taking account only of the operations effected by the *third country branch* and all the *third country undertaking EEA branches*~~

~~EEA SCR~~

~~means a capital requirement calculated in accordance with the *SCR Rules* but taking account only of the operations effected by the *third country branch* and all the *third country undertaking EEA branches*~~

~~EEA technical provisions~~

~~means the technical provisions established in accordance with the *Technical Provisions Part* of the *PRA Rulebook* to cover the insurance and reinsurance obligations assumed by a *UK deposit insurer* in the *EEA*~~

~~EEA deposit insurer~~

~~means a *third country branch undertaking* that has made a deposit in an *EEA State* (other than the *UK*) under Article 162(2)(e) of the *Solvency II Directive* in accordance with Article 167 of the *Solvency II Directive*~~

...

~~*third country branch undertaking SCR*~~

means

- (1) ~~for a *UK deposit insurer*, *EEA SCR*;~~
- (2) ~~for an *EEA deposit insurer*, its solvency capital requirement calculated according to the relevant *Solvency II EEA implementing measures* in the *EEA State* that supervises the solvency of the entire business of the branches within the *EEA* in accordance with Article 167 of the *Solvency II Directive*;~~
- (3) ~~for all other *third country branch undertakings*, the *branch SCR*. [deleted.]~~

2 ACCOUNTING RECORDS IN THE UK

- 2.1 A *third country branch undertaking* must maintain at a place of business in the *UK* all records relating to:
- (1) the activities carried on from its *third country branch*; and
 - (2) if it is a *UK deposit insurer*, the activities carried out from all the *third country undertaking EEA branches* ~~[deleted.]~~

3 LOCALISATION AND DEPOSIT OF ASSETS

- 3.1 A *third country branch undertaking* (except a *UK deposit insurer*, an *EEA deposit insurer* and a *third country branch undertaking* that has a *third country pure reinsurance branch*) must hold in the UK assets required to cover the *branch SCR* as follows:
- (1) in the *UK*, assets representing the *branch SCR* up to the amount of the *branch MCR*; and ~~[deleted.]~~
 - (2) in any *EEA State*, assets representing the amount of the *branch SCR* in excess of the amount of the *branch MCR* ~~[deleted.]~~
- 3.2 A *UK deposit insurer* must hold assets required to cover the *EEA SCR* as follows:
- (1) in any of the *EEA States* where the *UK deposit insurer* pursues its activities, assets representing the *EEA SCR* up to the amount of the *EEA MCR*; and ~~[deleted.]~~
 - (2) in any *EEA State*, assets representing the amount of the *EEA SCR* in excess of the amount of the *EEA MCR* ~~[deleted.]~~
- 3.3 A *third country branch undertaking* (except an *EEA deposit insurer* and a *third country branch undertaking* that has a *third country pure reinsurance branch*) must hold on deposit as security in the *UK* with a *CRD credit institution* assets of an amount equal to at least one quarter of the absolute floor of the *MCR* set out in Minimum Capital Requirement 3.2.

4 SOLVENCY CAPITAL REQUIREMENT AND MINIMUM CAPITAL REQUIREMENT

- 4.1 A *third country branch undertaking* ~~(except a *UK deposit insurer* and an *EEA deposit insurer*)~~ must:
- (1) calculate a *branch SCR*; and
 - (2) cover the *branch SCR* with *eligible own funds*.
- 4.2 A *third country branch undertaking* ~~(except a *UK deposit insurer* and an *EEA deposit insurer*)~~ must:
- (1) calculate a *branch MCR*; and
 - (2) cover the *branch MCR* with *eligible own funds*.
- ...
- 4.4 A *UK deposit insurer* must:

- (1) calculate an ~~EEA SCR~~; and
- (2) cover the ~~EEA SCR with eligible own funds~~ ~~[deleted.]~~

4.5 A ~~UK deposit insurer~~ must:

- (1) calculate an ~~EEA MCR~~; and
- (2) cover the ~~EEA MCR with eligible own funds~~ ~~[deleted.]~~

4.6 For the purposes of the calculations referred to in 4.4(1) and 4.5(1), the ~~UK deposit insurer~~ must take account only of the operations effected by the ~~third country branch~~ and all the ~~third country undertaking EEA branches~~ ~~[Deleted.]~~

...

6 TECHNICAL PROVISIONS AND OWN FUNDS

6.1 A ~~third country branch undertaking (except a UK deposit insurer and an EEA deposit insurer)~~ must establish adequate ~~branch technical provisions~~.

6.2 A ~~UK deposit insurer~~ must establish adequate ~~EEA technical provisions~~. ~~[Deleted.]~~

6.3 A ~~third country branch undertaking (except an EEA deposit insurer)~~ must value assets and liabilities in accordance with the Valuation Part of the PRA Rulebook for the purposes of establishing the ~~branch technical provisions (or, in the case of a UK deposit insurer, the EEA technical provisions)~~.

6.4 A ~~third country branch undertaking (except an EEA deposit insurer)~~ must determine and classify its ~~third country branch undertaking own funds~~ for the purposes of complying with its ~~branch SCR and branch MCR (or, in the case of a UK deposit insurer, its EEA SCR and EEA MCR)~~ in accordance with the Own Funds Part of the PRA Rulebook as if it were a UK Solvency II firm.

6.5 A ~~third country branch undertaking (except an EEA deposit insurer)~~ must fulfil the requirements in Own Funds 5 for the purposes of complying with its ~~branch SCR and branch MCR (or, in the case of a UK deposit insurer, its EEA SCR and EEA MCR)~~ as if it were a UK Solvency II firm.

7 CONDITIONS GOVERNING BUSINESS

...

- 7.2
- (1) A reference to “SCR” is to be interpreted as a reference to “~~third country branch — undertaking SCR~~” the branch SCR.
 - (2) A reference to “MCR” is to be interpreted as a reference to:
 - (a) for a ~~UK deposit insurer~~, the ~~EEA MCR~~; ~~[deleted.]~~
 - (b) for an ~~EEA deposit insurer~~, its minimum capital requirement calculated in accordance with the relevant ~~Solvency II EEA implementing measures~~ in the ~~EEA State~~ that supervises the solvency of the entire business of the branches within the ~~EEA~~ in accordance with Article 167 of the ~~Solvency II Directive~~; ~~[deleted.]~~

- (c) ~~for all other *third country branch undertakings*, the *branch MCR*.~~
- (3) A reference to “*technical provisions*” is to be interpreted as a reference to:
 - (a) ~~for a *UK deposit insurer*, the *EEA technical provisions*; [deleted.]~~
 - (b) ~~for an *EEA deposit insurer*, its *technical provisions* calculated in accordance with the relevant *Solvency II EEA implementing measures* in the *EEA State* that supervises the solvency of the entire business of the branches within the *EEA* in accordance with Article 167 of the *Solvency II Directive* [deleted.]~~
 - (c) ~~for all other *third country branch undertakings*, the *branch technical provisions*.~~

...

- (5) A reference to “*internal model*” is to be interpreted as a reference to any *internal model* used by a *third country branch undertaking* to calculate the ~~*third country branch undertaking SCR*~~ *branch SCR*

7.3 A ~~*third country branch undertaking*~~ (except a ~~*UK deposit insurer*~~) must apply the requirements referred to in 7.1 taking account only of matters relevant to the operations effected by the *third country branch*.

7.4 A ~~*UK deposit insurer*~~ must apply the requirements referred to in 7.1 taking account only of matters relevant to the operations effected by the ~~*third country branch*~~ and all the ~~*third country undertaking EEA branches*~~. [Deleted.]

8 INVESTMENTS

8.1 A *third country branch undertaking* must fulfil the requirements laid down in the Investments Part of the *PRA Rulebook*, as modified by 8.2 ~~to~~ and 8.48.3.

...

8.3 A ~~*third country branch undertaking*~~ (except a ~~*UK deposit insurer*~~) must fulfil the requirements in the Investments Part of the *PRA Rulebook* taking account only of the operations effected by the *third country branch*.

8.4 A ~~*UK deposit insurer*~~ must fulfil the requirements in the Investments Part of the *PRA Rulebook* taking account only of the operations effected by the ~~*third country branch*~~ and all the ~~*third country undertaking EEA branches*~~. [Deleted.]

9 REPORTING

9.1 A *third country branch undertaking* must fulfil the requirements laid down in Reporting 2.1 to 2.5 as modified 9.2 ~~and~~ 9.3.

9.2 A ~~*third country branch undertaking*~~ (except a ~~*UK deposit insurer*~~) must fulfil the requirements referred to in 9.1 taking account only of matters relevant to the operations effected by the *third country branch*.

9.3 A ~~*UK deposit insurer*~~ must fulfil the requirements referred to in 9.1 taking account only of matters relevant to the operations effected by the ~~*third county branch*~~ and all the ~~*third country undertaking EEA branches*~~. [Deleted.]

10 THIRD COUNTRY BRANCH UNDERTAKINGS IN DIFFICULTY

- 10.1 A *third country branch undertaking* (~~except an EEA deposit insurer~~) must fulfil the requirements laid down in Undertakings in Difficulty 2 to 5 as modified by 10.2.
- 10.2 (1) A reference to “SCR” is to be interpreted as a reference to the *branch SCR* ~~or, for a UK deposit insurer, to the EEA SCR.~~
- (2) A reference to “MCR” is to be interpreted as a reference to the *branch MCR* ~~or, for a UK deposit insurer, to the EEA MCR.~~
- (3) A reference to “*technical provisions*” is to be interpreted as a reference to the *branch technical provisions* ~~or, for a UK deposit insurer, to the EEA technical provisions.~~

11 SEPERATION OF LONG-TERM BUSINESS AND GENERAL BUSINESS

- 11.1
- (2) ~~Composites 3 and 4 do not apply to EEA deposit insurers. [deleted.]~~
- 11.2 (1) The requirements referred to in 11.1 must be fulfilled taking account only of the operations effected by the *third country branch* ~~and, in the case of a UK deposit insurer, the operations effected by the third country branch and all the third country undertaking EEA branches.~~
- (2) The reference to “SCR” in Composites 4.6 is to be interpreted as a reference to the *branch SCR* ~~and, for a UK deposit insurer, the EEA SCR.~~
- (3) The *notional life MCR*, *notional non-life MCR*, the *notional life SCR* and *notional non-life SCR* referred to in the Composites Part of the PRA Rulebook shall be calculated taking account only of the operations effected by the *third country branch* ~~and, in the case of a UK deposit insurer, the operations effected by the third country branch and all the third country undertaking EEA branches.~~

15 SOLVENCY II REGULATIONS

- ...
- 15.2 In complying with requirements imposed on it in the Solvency II Firms Sector of the PRA Rulebook, a *third country branch undertaking* must ensure that any provisions of the *Solvency II Regulations* relevant to the *third country branch* ~~or, for a UK deposit insurer, all the third country undertaking EEA branches~~, is applied in order to achieve the same effect as that provision of the *Solvency II Regulations* would have (that is, complying with the requirements of the relevant provision) when applied to a *UK Solvency II firm*.

Annex BT

Amendments to the Transitional Measures Part

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

...

3 REPORTING TO THE PRA AND PUBLIC DISCLOSURE

...

3.4 Where *Group Supervision 2.1(1)* or (2) applies, the submission under *Group Supervision 17.3* of the group regular supervisory report and annual quantitative templates required to be submitted in accordance with the *Solvency II Regulations* must be made by no later than:

- (1) 26 weeks after the financial year end of the ~~participating Solvency II undertaking~~ participating UK Solvency II firm, ultimate *insurance holding company* or ultimate *mixed financial holding company* in relation to its financial year ending on or after 30 June 2016 but before 1 January 2017;
- (2) 24 weeks after the financial year end of the ~~participating Solvency II undertaking~~ participating UK Solvency II firm, ultimate *insurance holding company* or ultimate *mixed financial holding company* in relation to its financial year ending on or after 1 January 2017 but before 1 January 2018;
- (3) 22 weeks after the financial year end of the ~~participating Solvency II undertaking~~ participating UK Solvency II firm, ultimate *insurance holding company* or ultimate *mixed financial holding company* in relation to its financial year ending on or after 1 January 2018 but before 1 January 2019;
- (4) 20 weeks after the financial year end of the ~~participating Solvency II undertaking~~ participating UK Solvency II firm, ultimate *insurance holding company* or ultimate *mixed financial holding company* in relation to its financial year ending on or after 1 January 2019 but before 1 January 2020.

3.5 A ~~participating Solvency II undertaking~~ participating UK Solvency II firm that is a *firm* or, if there are none, the *relevant insurance group undertakings* must disclose the solvency and financial condition at the level of the *group* under *Group Supervision 18.1* by no later than:

- (1) 26 weeks after the financial year end of the ~~participating Solvency II undertaking~~ participating UK Solvency II firm, ultimate *insurance holding company* or ultimate *mixed financial holding company* in relation to its financial year ending on or after 30 June 2016 but before 1 January 2017;
 - (2) 24 weeks after the financial year end of the ~~participating Solvency II undertaking~~ participating UK Solvency II firm, ultimate *insurance holding company* or ultimate *mixed financial holding company* in relation to its financial year ending on or after 1 January 2017 but before 1 January 2018;
 - (3) 22 weeks after the financial year end of the ~~participating Solvency II undertaking~~ participating UK Solvency II firm, ultimate *insurance holding company* or ultimate *mixed financial holding company* in relation to its financial year ending on or after 1 January 2018 but before 1 January 2019;
-

- (4) 20 weeks after the financial year end of the ~~participating Solvency II undertaking~~ participating UK Solvency II firm, ultimate *insurance holding company* or ultimate *mixed financial holding company* in relation to its financial year ending on or after 1 January 2019 but before 1 January 2020.

5 STANDARD FORMULA: THE BASIC SCR

- 5.1 Notwithstanding Solvency Capital Requirement – General Provisions 2, 3.1, 3.3, 3.4 and Solvency Capital Requirement – Standard Formula 3.1 to 3.3, the standard parameters to be used when calculating the *market risk* concentrations sub-module and the spread risk sub-module in accordance with the *standard formula* must be adjusted as follows:

...

- (3) from 1 January 2019 until *exit day*, the standard parameters must be reduced by 50% in relation to exposures to *EEA States*' central governments or central banks denominated and funded in the domestic currency of any other *EEA State*;
- (4) ~~from 1 January 2020 and onwards, the standard parameters must not be reduced in relation to exposures to *EEA States*' central governments or central banks denominated and funded in the domestic currency of any other *EEA State*.~~ [deleted.]

...

8 GROUPS – INTERNAL MODELS

- 8.1 Notwithstanding Group Supervision 11.2, until 31 March 2022, the *group SCR* of a *group* based on consolidated data (consolidated *group SCR*) must be calculated on the basis of either:

...

- (3) approved *internal models*, where each approved *internal model* is applicable to a part of a *group* where both the ~~Solvency II undertaking~~ UK Solvency II firm and the ultimate *parent undertaking* are located in the ~~same EEA State~~ UK and that part of the *group* forms a distinct part having a significantly different risk profile from the rest of the *group*.

...

9 GROUPS

...

- 9.2 Where *Group Supervision* 2.1(1) or (2) applies, if a ~~participating Solvency II undertaking~~ participating UK Solvency II firm ~~that is a firm~~ or any *relevant insurance group undertaking* complies with the *pre-Solvency II GCRR* but during 2016 does not comply with the *group SCR*:

...

...

13 REPORT ON FINANCIAL AND SOLVENCY CONDITIONS

13.1 This Chapter applies to a disclosure of the *SFCR* by a *firm* or, as may be applicable, the report on solvency and financial condition at the level of the *group* by ~~participating Solvency II undertakings~~ *participating UK Solvency II firms* or the *relevant insurance group undertakings* within the *group*, made in relation to the first two relevant financial years starting on or after the *Solvency II implementation date*.

13.2 In the disclosure required by Reporting 3.1, a firm may, unless required under other legal or regulatory requirements (including any ~~Solvency II EEA implementing measure~~), opt not to disclose the following separately when disclosing the amount of the *MCR* and *SCR* under Reporting 3.6:

...

13.3 In the disclosure required by Reporting 3.1 as applied to a *group* by Group Supervision 18.1, the ~~participating Solvency II undertakings~~ *participating UK Solvency II firms* that are ~~firms~~ or, if there are none, the *relevant insurance group undertakings* may, unless required under other legal or regulatory requirements (including any ~~Solvency II EEA implementing measure~~), opt not to disclose the following separately when disclosing the amount of the *group SCR* under Reporting 3.6:

...

Annex BU

Amendments to the Undertakings in Difficulty Part

In this Annex new text is underlined.

...

3 NON-COMPLIANCE WITH THE SCR

...

3.2 If the *PRA* has extended the period referred to in 3.1(3), by reason of the declaration

(a) before *exit day* by *EIOPA* , or

(b) on or after *exit day* by the *PRA* pursuant to regulation 4A of the *Solvency 2 Regulations 2015*

of *exceptional adverse situations* affecting the *firm*, the *firm* must submit a progress report to the *PRA* every three *months* setting out the measures taken and the progress made to re-establish the level of *eligible own funds* covering the *SCR* or to reduce its risk profile to ensure compliance with the *SCR*.

...

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

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

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

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

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

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

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

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

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

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

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

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

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

List of BTS consulted on in CP26/18

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

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

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

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

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

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

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

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

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

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

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

Powers exercised

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

Pre-conditions to making

- B. The PRA and the FCA are the appropriate regulators for the Capital Requirements EU Regulations.
- C. The PRA proposes to exercise the power in regulation 3 of the Regulations to modify the Capital Requirements EU Regulations and considers that (a) Condition A is satisfied and (b) the modifications to the Capital Requirements EU Regulations can most appropriately be made by using the procedure set out in regulation 4 of the Regulations.
- D. The PRA has consulted the FCA on a division of responsibility and on the modifications contained in Annexes A to P to this instrument in accordance with regulations 3 and 5 of the Regulations.
- E. [A draft of] this instrument has been approved by the Treasury, the Minister considering that it makes appropriate provision to prevent, remedy or mitigate any failure of retained EU law to operate effectively, or any other deficiency in retained EU law, arising from the withdrawal of the United Kingdom from the European Union.

Interpretation

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

Division

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

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

“Article A1

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

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

“Article A1

This Part of the Regulation applies to PRA-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 heading “Capital Requirements Regulation”, omit the words “This Regulation shall be binding in its entirety and directly applicable in all Member States”.
- K. Additionally, the PRA makes the modifications in the Annex listed in column (2) below to the corresponding Capital Requirements EU Regulation (or part thereof) listed in column (1) below.

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

Part 2 (PRA) of Commission Delegated Regulation 2018/728	P

Commencement

L. This instrument comes into force on exit day.

Citation

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

By order of the Prudential Regulation Committee

[DATE]

Annex A**CLASSES OF INSTRUMENTS TO BE USED FOR VARIABLE REMUNERATION****1 MODIFICATIONS TO PART 2 (PRA) OF EU REGULATION 527/2014**

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

...

*Article B1***Definitions****In this Regulation:**

- (1) “appropriate regulator” has the meaning given by regulation 2(1) of the Capital Requirements Regulations 2013;
- (2) “authorised person” has the same meaning as in FSMA (see sections 31(2) and 417(1) of that Act);
- (3) “Directive 2013/36/EU UK law” means the law of the United Kingdom (or any part of it) which, immediately before exit day, implemented Directive 2013/36/EU as that law has effect on exit day;
- (4) “the FCA” means the Financial Conduct Authority;
- (5) “FSMA” means the Financial Services and Markets Act 2000;
- (6) “the PRA” means the Prudential Regulation Authority;
- (7) “PRA-authorised person” has the same meaning as in FSMA (see sections 2B(5) and 417(1) of that Act);
- (8) a reference to a provision of the PRA rulebook is to the rules made by the PRA under FSMA as amended by rule-making instruments made before exit day under FSMA or EU Exit Instruments made at any time under the Financial Regulators’ Powers (Technical Standards etc.) (Amendment etc.) (EU Exit) Regulations 2018;

- (9) a reference to a provision of a sourcebook is to a sourcebook in the FCA Handbook of Rules and Guidance made by the FCA under FSMA as amended by rule-making instruments made before exit day under FSMA or EU Exit Instruments made at any time under the Financial Regulators' Powers (Technical Standards etc.) (Amendment etc.) (EU Exit) Regulations 2018

Article 1

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

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

...

Article 2

Conditions for classes of Additional Tier 1 instruments

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

...

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

...

Article 4

Conditions for classes of Other Instruments

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

...

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

Article 5

Write down, write up and conversion procedures

...

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

...

Annex B

MATERIAL RISK-TAKERS

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

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

...

*Article 1A***Definitions****In this Regulation:**

- (1) “appropriate regulator” has the meaning given by regulation 2(1) of the Capital Requirements Regulations 2013;
- (2) “authorised person” has the same meaning as in FSMA (see sections 31(2) and 417(1) of that Act);
- (3) “Directive 2013/36/EU UK law” means the law of the United Kingdom (or any part of it) which, immediately before exit day, implemented Directive 2013/36/EU as that law has effect on exit day;
- (4) “the FCA” means the Financial Conduct Authority;
- (5) “FSMA” means the Financial Services and Markets Act 2000;
- (6) “the PRA” means the Prudential Regulation Authority;
- (7) “PRA-authorised person” has the same meaning as in FSMA (see sections 2B(5) and 417(1) of that Act);
- (8) a reference to a provision of the PRA rulebook is to the rules made by the PRA under FSMA as amended by rule-making instruments made before exit day under FSMA or EU Exit Instruments made at any time under the Financial Regulators’ Powers (Technical Standards etc.) (Amendment etc.) (EU Exit) Regulations 2018;
- (9) a reference to a provision of a sourcebook is to a sourcebook in the FCA Handbook of Rules and Guidance made by the FCA under FSMA as amended by rule-making instruments made before exit day under FSMA or EU Exit Instruments made at any

time under the Financial Regulators' Powers (Technical Standards etc.) (Amendment etc.) (EU Exit) Regulations 2018.

Article 2

Application of the criteria

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

Article 3

Qualitative criteria

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

...

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

...

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

...

Article 4

Quantitative criteria

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

...

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

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

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

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

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

Article 5

Calculation of remuneration awarded

1. For the purposes of this Regulation, remuneration which has been awarded but has not yet been paid shall be valued as at the date of the award without taking into account the application of the discount rate referred to in applicable remuneration rules Article 94(1)(g)(iii) of Directive 2013/36/EU or reductions in payouts, whether through clawback, malus, or otherwise. All amounts shall be calculated gross and on a full-time equivalent basis.
 - 1A. In paragraph 1 “applicable remuneration rules” means—
 - (a) in the case of PRA-authorised persons, rule 15.13 of the Remuneration Part of the PRA rulebook;
 - (b) in the case of other authorised persons, rules 19A.3.44D and 19D.3.52 of the FCA Senior management arrangements, Systems and Controls sourcebook.

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

...

Annex C

**GEOGRAPHICAL LOCATION OF RELEVANT CREDIT EXPOSURES FOR COUNTERCYCLICAL
CAPITAL BUFFER RATES**

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

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

Article 1

Definitions

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

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

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

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

Article 2

Location of general credit exposures

...

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

....

Article 3

Geographical location of trading book exposures

...

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

...

Article 4

Geographical location of securitisation exposures

....

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

...

Annex D

BENCHMARKING: REPORTING

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

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

...

*Article 1***~~Reporting by the institutions for the purposes of Article 78(2) of Directive 2013/36/EU on an individual and consolidated basis~~**

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

...

*Article 4***Reference and remittance dates**

...

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

...

Annex E

BENCHMARKING: PORTFOLIO ASSESSMENTS

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

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

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

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

...

*Article 3***Overview**

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

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

*Article 7***General assessment standards for internal approaches for credit risk**

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

...

Article 9

General assessment standards for internal approaches for market risk

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

...

Article 10

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

...

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

...

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

....

Article 11

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

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

....

Annex F

DEFINITION OF OWN FUNDS

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

- 6.1 In this Annex, new text is underlined and deleted text is struck through:
- 6.2 Part 2 (PRA) of EU Regulation 241/2014 means Commission Delegated Regulation (EU) No 241/2014 of 7 January 2014 supplementing Regulation (EU) No 575/2013 of the European Parliament and of the Council with regard to regulatory technical standards for Own Funds requirements for institutions as it forms part of domestic law by virtue of section 3 of the Act and this Instrument, is modified as follows:

...

*Article B1***Definitions**1. In this Regulation -

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

*Article 1***Subject matter**

This Regulation lays down rules concerning:

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

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

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

...

Article 2

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

...

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

...

Article 4

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

- 1. Competent authorities may determine that a type of undertaking recognised under the applicable law of the United Kingdom (or any part of it) ~~applicable national law~~ qualifies as a cooperative society for the purpose of Part Two of Regulation (EU) No 575/2013, where all of the conditions in paragraphs 2, 3 and 4 are met.
- 2. To qualify as a cooperative society for the purposes of paragraph 1, ~~an institution’s legal status shall fall within one of the following categories~~ an institution must be a registered society within the meaning of the Co-operative and Community Benefit Societies Act 2014 or a society registered or treated as registered under the Co-operative and Community Benefit Societies Act (Northern Ireland) 1969.
 - (a) ~~in Austria: institutions registered as ‘eingetragene Genossenschaft (e.Gen.)’ or ‘registrierte Genossenschaft’ under the ‘Gesetz über Erwerbs- und Wirtschaftsgenossenschaften (GenG)’;~~

- ~~(b) in Belgium: institutions registered as ‘société coopérative/coöperatieve vennootschap’ and approved in application of the Royal Decree of 8 January 1962 fixing the conditions of approval of the national groupings of cooperative societies and cooperative societies;~~
- ~~(c) in Cyprus: institutions registered as ‘Συνεργατικό Πιστωτικό Ίδρυμα ή ΣΠΗ’ established by virtue of the Cooperative Societies Laws of 1985;~~
- ~~(d) in the Czech Republic: institutions authorised as ‘spořitelní a úvěrní družstvo’ under ‘zákon upravující činnost spořitelních a úvěrních družstev’;~~
- ~~(e) in Denmark: institutions registered as ‘andelskasser’ or ‘sammenslutninger af andelskasser’ under the Danish Financial Business Act;~~
- ~~(f) in Finland: institutions registered as one of the following:

 - ~~(1) ‘Osuuspankki’ or ‘andelsbank’ under ‘laki osuuspankeista ja muista osuuskuntamuotoisista luottolaitoksista’ or ‘lag om andelsbanker och andra kreditinstitut i andelslagsform’;~~
 - ~~(2) ‘Muu osuuskuntamuotoinen luottolaitos’ or ‘annat kreditinstitut i andelslagsform’ under ‘laki osuuspankeista ja muista osuuskuntamuotoisista luottolaitoksista’ or ‘lag om andelsbanker och andra kreditinstitut i andelslagsform’;~~
 - ~~(3) ‘Keskusyhteisö’ or ‘centralinstitutet’ under ‘laki talletuspankkien yhteenliittymästä’ or ‘lag om en sammanslutning av inlåningsbanker’;~~~~
- ~~(g) in France: institutions registered as ‘sociétés coopératives’ under the ‘Loi n°47-1775 du 10 septembre 1947 portant statut de la coopération’ and authorised as ‘banques mutualistes ou coopératives’ under the ‘Code monétaire et financier, partie législative, Livre V, titre Ier, chapitre II’;~~
- ~~(h) in Germany: institutions registered as ‘eingetragene Genossenschaft (eG)’ under the ‘Gesetz betreffend die Erwerbs- und Wirtschaftsgenossenschaften (Genossenschaftsgesetz – GenG)’;~~
- ~~(i) in Greece: institutions registered as ‘Πιστωτικοί Συνεταιρισμοί’ under the Cooperative Law 1667/1986 that operate as credit institutions and may be labeled as ‘Συνεταιριστική Τράπεζα’ according to the Banking Law 3601/2007;~~
- ~~(j) in Hungary: institutions registered as ‘Szövetkezeti hitelintézet’ under Act CXII of 1996 on Credit Institutions and Financial Enterprises;~~
- ~~(k) in Italy: institutions registered as one of the following:

 - ~~(1) ‘Banche popolari’ referred to in Legislative Decree 1 September 1993, no. 385;~~
 - ~~(2) ‘Banche di credito cooperativo’ referred to in Legislative Decree 1 September 1993, no. 385;~~
 - ~~(3) ‘Banche di garanzia collettiva dei fidi’ referred to in art. 13 of Decree Law 30 September 2003, no. 269, converted into Law 24 November 2003, no. 326;~~~~
- ~~(l) in Luxembourg: institutions registered as ‘sociétés coopératives’ as defined in Section VI of the law of 10 August 1915 on commercial companies;~~

- (m) ~~in the Netherlands: institutions registered as ‘coöperaties’ or ‘onderlinge waarborgmaatschappijen’ under ‘Title 3 of Book 2 Rechtspersonen of the Burgerlijk wetboek’;~~
 - (n) ~~in Poland: institutions registered as ‘bank spółdzielczy’ under the provisions of ‘Prawo bankowe’;~~
 - (o) ~~in Portugal: institutions registered as ‘Caixa de Crédito Agrícola Mútuo’ or as ‘Caixa Central de Crédito Agrícola Mútuo’ under the ‘Regime Jurídico do Crédito Agrícola Mútuo e das Cooperativas de Crédito Agrícola’ approved by Decreto Lei n.º 24/91, de 11 de Janeiro;~~
 - (p) ~~in Romania: institutions registered as ‘Organizații cooperatiste de credit’ under the provisions of Government Emergency Ordinance no. 99/2006 on credit institutions and capital adequacy, approved with amendments and supplements by Law no. 227/2007;~~
 - (q) ~~in Spain: Institutions registered as ‘Cooperativas de Crédito’ under the ‘Ley 13/1989, de 26 de mayo, de Cooperativas de Crédito’;~~
 - (r) ~~in Sweden: institutions registered as ‘Medlemsbank’ under ‘Lag (1995:1570) om medlemsbanker’ or as ‘Kreditmarknadsförening’ under ‘Lag (2004:297) om bank och finansieringsrörelse’;~~
 - (s) ~~in the United Kingdom: institutions registered as ‘cooperative societies’ under the Industrial and Provident Societies Act 1965 and under the Industrial and Provident Societies Act (Northern Ireland) 1969.~~
3. With respect to Common Equity Tier 1 capital, to qualify as a cooperative society for the purposes of paragraph 1, the institution shall be able to issue, under the applicable law of the United Kingdom (or any part of it)~~according to the national applicable law or company—the society’s~~ statutes, at the level of the legal entity, only capital instruments referred to in Article 29 of Regulation (EU) No 575/2013.
 4. To qualify as a cooperative society for the purposes of paragraph 1, when under the applicable law of the United Kingdom (or any part of it), the holders, of the Common Equity Tier 1 instruments referred to in paragraph (3) which may be members or non-members of the institution, have the ability to resign, ~~applicable national law,~~ they may also have the right to put the capital instrument back to the institution, but only subject to the restrictions of the applicable law of the United Kingdom (or any part of it)~~national law, company—its~~ statutes, of Regulation (EU) No 575/2013, and of this Regulation.

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

Article 5

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

1. Competent authorities may determine that a type of undertaking recognised under ~~applicable national law~~ the applicable law of the United Kingdom (or any part of it) qualifies as a savings institution for the purpose of Part Two of Regulation (EU) No 575/2013, where all the conditions in paragraphs 2, 3 and 4 are met.
2. ~~To qualify as a savings institution for the purposes of paragraph 1, the institution's legal status shall fall within one of the following categories:~~
 - (a) ~~in Austria: institutions registered as 'Sparkasse' under para. 1 (1) of the 'Bundesgesetz über die Ordnung des Sparkassenwesens (Sparkassengesetz—SpG)';~~
 - (b) ~~in Denmark: institutions registered as 'Sparekasser' under the Danish Financial Business Act;~~
 - (c) ~~in Finland: institutions registered as 'Säästöpankki' or 'Sparbank' under 'Säästöpankkilaki' or 'Sparbankslag';~~
 - (d) ~~in Germany: institutions registered as 'Sparkasse' as follows:~~
 - (1) ~~Sparkassengesetz für Baden-Württemberg (SpG)';~~
 - (2) ~~'Gesetz über die öffentlichen Sparkassen (Sparkassengesetz—SpkG) in Bayern';~~
 - (3) ~~'Gesetz über die Berliner Sparkasse und die Umwandlung der Landesbank Berlin—Girozentrale— in eine Aktiengesellschaft (Berliner Sparkassengesetz—SpkG)';~~
 - (4) ~~'Brandenburgisches Sparkassengesetz (BbgSpkG)';~~
 - (5) ~~'Sparkassengesetz für öffentlich-rechtliche Sparkassen im Lande—Bremen (Bremisches Sparkassengesetz)';~~
 - (6) ~~'Hessisches Sparkassengesetz';~~
 - (7) ~~'Sparkassengesetz des Landes Mecklenburg-Vorpommern (SpkG)';~~
 - (8) ~~'Niedersächsisches Sparkassengesetz (NSpG)';~~
 - (9) ~~'Sparkassengesetz Nordrhein-Westfalen (Sparkassengesetz—SpkG)';~~
 - (10) ~~Sparkassengesetz (SpkG) für Rheinland-Pfalz';~~
 - (11) ~~'Saarländisches Sparkassengesetz (SSpG)';~~
 - (12) ~~'Gesetz über die öffentlich-rechtlichen Kreditinstitute im Freistaat—Sachsen und die—Sachsen-Finanzgruppe';~~
 - (13) ~~'Sparkassengesetz des Landes Sachsen-Anhalt (SpkG-LSA)';~~
 - (14) ~~'Sparkassengesetz für das Land Schleswig-Holstein (Sparkassengesetz—SpkG)';~~
 - (15) ~~'Thüringer Sparkassengesetz (ThürSpkG)';~~
 - (e) ~~in Spain: institutions registered as 'Cajas de Ahorros' under 'Real Decreto Ley 2532/1929, de 21 de noviembre, sobre Régimen del Ahorro Popular';~~
 - (f) ~~in Sweden: institutions registered as 'Sparbank' under 'Sparbankslag (1987:619)';~~

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

Article 6

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

1. Competent authorities may determine that a type of undertaking recognised under applicable national law ~~the applicable law of the United Kingdom (or any part of it)~~ qualifies as a mutual for the purpose of Part Two of Regulation (EU) No 575/2013, where all of the conditions in paragraphs 2, 3 and 4 are met.
2. To qualify as a mutual for the purposes of paragraph 1, the institution's ~~legal status shall fall within one of the following categories: institutions must be incorporated (or deemed to be incorporated) under the Building Societies Act 1986 or registered as a savings bank within the meaning of the Savings Bank (Scotland) Act 1819.~~
 - (a) ~~in Denmark: Associations ('Foreninger') or funds ('Fonde') which originate from the conversion of insurance companies ('Forsikringselskaber'), mortgage credit institutions ('Realkreditinstitutter'), savings banks ('Sparekasser'), cooperative savings banks ('Andelskasser') and affiliations of cooperative savings banks ('Sammenslutninger af andelskasser') into limited companies as defined under the Danish Financial Business Act;~~
 - (b) ~~in Ireland: institutions registered as 'building societies' under the Building Societies Act 1989;~~
 - (c) ~~in the United Kingdom: institutions registered as 'building societies' under the Building Societies Act 1986; institutions registered as a 'savings bank' under the Savings Bank (Scotland) Act 1819.~~
3. With respect to Common Equity Tier 1 capital, to qualify as a mutual for the purposes of paragraph 1, the institution is only allowed to issue, under the applicable law of the United Kingdom (or any part of it) ~~according to the national applicable law or~~

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

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

Article 7

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

1. Competent authorities may determine that a type of undertaking recognised under the applicable law of the United Kingdom (or any part of it)~~applicable national law~~ qualifies as a similar institution to cooperatives, mutuals and savings institutions for the purpose of Part Two of Regulation (EU) No 575/2013, where all of the conditions in paragraphs ~~2,3~~ and 4 are met.
2. ~~To qualify as a similar institution to cooperatives, mutuals and savings institutions for the purposes of paragraph 1, the institution's legal status falls under one of the following categories:~~
 - (a) ~~in Austria: the 'Pfandbriefstelle der österreichischen Landes-Hypothekenbanken' under the 'Bundesgesetz über die Pfandbriefstelle der österreichischen Landes-Hypothekenbanken (Pfandbriefstelle-Gesetz - PfBrStG);~~
 - (b) ~~in Finland: institutions registered as 'Hypoteekkiyhdistys' or 'Hypoteksförening' under 'Laki hypoteekkiyhdistyksistä' or 'Lag om hypoteksföreningar'.~~
3. With respect to Common Equity Tier 1 capital, to qualify as a similar institution to cooperatives, mutuals and savings institutions for the purposes of paragraph 1, the institution shall be only able to issue, under the applicable law of the United Kingdom (or any part of it)~~according to the national applicable law or its company~~ statutes, at the level of the legal entity, capital instruments referred to in Article 29 of Regulation (EU) No 575/2013.
4. To qualify as a similar institution to cooperatives, mutuals and savings institutions for the purposes of paragraph 1, one or more of the following conditions shall also be met:
 - (a) where the holders, which may be members or non-members of the institution, of the Common Equity Tier 1 instruments referred to in paragraph 3 have the ability to resign under the applicable law of the United Kingdom (or any part of it)~~applicable national law~~, they may also have the right to put the capital instrument back to the institution, but only subject to the restrictions of that applicable national law, company its statutes and of Regulation (EU) No 575/2013 and this Regulation. That does not prevent the institution from issuing, under the applicable law of the United Kingdom (or any part of it) [or

of a third country], Common Equity Tier 1 instruments complying with Article 29 of Regulation (EU) No 575/2013 to members and non-members that do not grant a right to put the capital instrument back to the institution;

- (b) the sum of capital, reserves and interim or year-end profits, is not allowed, under the applicable law of the United Kingdom (or any part of it)~~according to national applicable law~~, to be distributed to holders of Common Equity Tier 1 instruments. That condition is deemed to be fulfilled even where the institution issues Common Equity Tier 1 instruments that grant the holders, on a going concern basis, a right to a part of the profits and reserves, where allowed by such ~~the applicable national~~ law, provided that that part is proportionate to their contribution to the capital and reserves or, where permitted by ~~the applicable national~~ law, in accordance with an alternative arrangement. The institution may issue Common Equity Tier 1 instruments that grant the holders, in the case of insolvency or liquidation of the institution, the right to reserves which do not need to be proportionate to the contribution to capital and reserves provided that the conditions of Article 29(4) and (5) of Regulation (EU) No 575/2013 are met;
- (c) the total amount or a partial amount of the sum of capital and reserves is owned by members of the institution who do not, in the ordinary course of business, benefit from direct distribution of the reserves, in particular through the payment of dividends.

...

Article 7b

Preferential distributions regarding preferential rights to payments of distributions

...

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

...

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

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

Article 8

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

...

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

...

Article 9

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

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

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

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

...

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

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

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

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

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

...

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

...

Subsection 4

Limitations on redemption of capital instruments

Article 10

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

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

...

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

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

Article 11

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

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

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

...

Article 13

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

...

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

...

Article 14

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

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

...

*Article 15a***Indirect holdings for the purposes of Article 36(1)(f),(h) and (i) of Regulation (EU) No 575/2013**

...

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

...

*Article 16***Deductions of foreseeable tax charges for the purposes of Article 36(1)(l) and Article 56(f) of Regulation (EU) No 575/2013**

...

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

*Article 17***Other deductions for capital instruments of financial institutions for the purposes of Article 36(3) of Regulation (EU) No 575/2013**

...

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

*Article 18***Capital instruments of third country insurance and reinsurance undertakings for the purposes of Article 36(3) of Regulation (EU) No 575/2013**

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

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

...

Article 19

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

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

...

SECTION 2

*Conversion or write-down of the principal amount**Article 21***Nature of the write-up of the principal amount following a write-down for the purposes of Article 52(1)(n) and Article 52(2)(c)(ii) of Regulation (EU) No 575/2013**

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

...

*Article 24a***Distribution on Own Funds Instruments — Broad Market Indices**

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

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

...

Article 29

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

...

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

...

Article 34a

Minority interests included in consolidated Common Equity Tier 1 capital

....

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

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

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

...

CHAPTER Va

OWN FUNDS BASED ON FIXED OVERHEADS

Article 34b

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

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

Annex G

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

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

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

...

Article 1

Definitions

The following definitions shall apply:

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

...

Annex H

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

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

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

...

Article 1

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

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

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

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

...

Annex I

MATERIALITY OF MODEL EXTENSIONS AND CHANGES

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

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

Annex J

SUPERVISORY REPORTING

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

- 10.1 In this Annex, new text is underlined and deleted text is struck through.
- 10.2 Part 2 (PRA) of EU Regulation 680/2014 means Commission Implementing Regulation (EU) No 680/2014 of 16 April 2014 laying down implementing technical standards with regard to supervisory reporting of institutions according to Regulation (EU) No 575/2013 of the European Parliament and of the Council as it forms part of domestic law by virtue of section 3 of the Act and this Instrument, is modified as follows:

...

Article 2

Reporting reference dates

....

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

Article 3

Reporting remittance dates

...

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

...

Article 5

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

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

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

...

- (4) the information on the geographical distribution of exposures by country as specified in template 9 of Annex I, according to the instructions in Part II point 3.4 of Annex II, where non-domestic original exposures in all 'non-domestic' countries in all exposures

classes, as reported in row 850 of template 4 of Annex I, are equal or higher than 10 % of total domestic and non-domestic original exposures as reported in row 860 of template 4 of Annex I. For this purpose exposures shall be deemed to be domestic where they are exposures to counterparties located in the ~~Member State where the institution is located~~ United Kingdom. The entry and exit criteria of Article 4 shall apply;

...

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

...

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

...

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

- (i) the ratio of the individual balance sheet total to the sum of individual balance sheet totals of all institutions within the ~~same Member State~~ United Kingdom is equal to or above 1 %, where balance sheet total figures are based on year-end figures for the year before the year preceding the reporting reference date;
- (ii) the total value of the institution's assets exceeds EUR 30 billion;
- (iii) the total value of the institution's assets exceeds both EUR 5 billion and 20 % of the GDP of the ~~Member State where it is established~~ United Kingdom;
- (iv) the institution is one of the three largest institutions established in a ~~particular Member State~~ the United Kingdom measured by the total value of its assets;
- (v) ~~the institution is the parent of subsidiaries, which are themselves credit institutions established in at least two Member States other than the Member State where the parent institution is authorised and where both of the following conditions are met:~~

- ~~- the value of the institution's consolidated total assets exceeds EUR 5 billion;~~
- ~~- more than 20 % of either the institution's consolidated total assets as defined in template 1.1 of Annex III or IV, as applicable, or the institution's consolidated total liabilities as defined in template 1.2 of Annex III or IV, as applicable, relates to~~

~~activities with counterparties located in a Member State other than that where the parent institution is authorised;~~

...

Article 6

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

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

...

Article 9

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

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

...

Article 10

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

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

Article 11

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

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

...

Article 12

...

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

...

Article 16a

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

...

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

Article 16b

...

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

...;

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

...

Annex K

DISCLOSURES TO IDENTIFY GLOBAL SYSTEMICALLY IMPORTANT INSTITUTIONS

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

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

11.2 Part 2 (PRA) of EU Regulation 1030/2014 means Article 3 of Commission Implementing Regulation (EU) No 1030/2014 of 29 September 2014 laying down implementing technical standards with regard to the uniform formats and date for the disclosure of the values used to identify global systemically important institutions according to Regulation (EU) No 575/2013 of the European Parliament and of the Council as it forms part of domestic law by virtue of section 3 of the Act and this Instrument, is modified as follows:

...

*Article 2***Date of disclosure**

...

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

...

*Article 3***Disclosure location**

...

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

...

Annex L

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

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

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

...

Article 7

Additional exposure constituted by the structure of a transaction

...

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

...

Annex M

DISCLOSURE OF INFORMATION ON THE COUNTER-CYCLICAL CAPITAL BUFFER

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

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

...

Article 1

Subject matter

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

...

Annex N

TRANSITIONAL TREATMENT OF EQUITY EXPOSURES

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

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

...

Article 1

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

...

Annex O

MATERIALITY THRESHOLD FOR CREDIT OBLIGATIONS PAST DUE**15 MODIFICATIONS TO PART 2 (PRA) OF EU REGULATION 2018/171**

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

...

Article 4

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

*Article 5***Updating of the materiality thresholds**

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

...

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

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

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

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

...

Article 1

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

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

...

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

Powers exercised

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

Pre-conditions to making

- B. The PRA is the appropriate regulator for the EU regulations specified in Part 2 of the Schedule to the Regulations.
- C. The PRA has consulted [the Bank of England and Financial Conduct Authority] in accordance with regulation 5.
- D. A draft of this instrument has been approved by the Treasury, the Minister considering that it makes appropriate provision to prevent, remedy or mitigate any failure of retained EU law to operate effectively, or any other deficiency in retained EU law, arising from the withdrawal of the United Kingdom from the European Union.

Interpretation

- E. In this instrument –
- (a) “the Act” means the European Union (Withdrawal) Act 2018.
 - (b) “the Capital Requirements EU Regulations” means the EU Regulations specified in Part 4 of the Schedule to the Regulations under the headings “Capital Requirements Directive” and “Capital Requirements Regulation”;
 - (c) “exit day” has the meaning given in the Act

Modifications

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

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

Commencement

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

Citation

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

By order of the Prudential Regulation Committee
[DATE]

Annex A

GLOBAL SYSTEMICALLY IMPORTANT INSTITUTIONS

1 MODIFICATIONS TO EU REGULATION 1222/2014

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

*Article 1***Subject matter and scope**

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

*Article 2***Definitions**

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

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

Article 3

Common parameters for the methodology

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

...

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

Article 4

Identification procedure

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

...

Article 5

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

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

*Article 6***Indicators**

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

Annex B

LIQUIDITY: CURRENCIES WITH CONSTRAINTS ON THE AVAILABILITY OF LIQUID ASSETS

2 MODIFICATIONS TO EU REGULATION 2016/709

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

*Article 4***Application of the derogation provided for in Article 419(2)(a) of Regulation (EU) No 575/2013**

...

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

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

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

Annex C

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

3 MODIFICATIONS TO EU REGULATION 2017/1230

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

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

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

Article 2

Low liquidity risk profile of the liquidity provider and receiver

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

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

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

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

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

...

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

Article 3

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

...

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

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

Powers exercised

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

Pre-conditions to making

- B. The PRA and the FCA are the appropriate regulators for the Capital Requirements EU Regulations specified in Part 4 of the Schedule to the Regulations.
- C. The PRA proposes to exercise the power in regulation 3 of the Regulations to modify the Capital Requirements EU Regulations.
- D. The FCA has been consulted on the modifications contained in Annex A to this instrument in accordance with regulation 5 of the Regulations and has consented to the modifications contained in Annex A to this instrument in accordance with regulation 3(2) of the Regulations.
- E. A draft of this instrument has been approved by the Treasury, the Minister considering that it makes appropriate provision to prevent, remedy or mitigate any failure of retained EU law to operate effectively, or any other deficiency in retained EU law, arising from the withdrawal of the United Kingdom from the European Union.

Interpretation

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

Modifications

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

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

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

Commencement

H. This instrument comes into force on exit day.

Citation

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

By order of the Prudential Regulation Committee

[DATE]

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

Powers exercised

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

Pre-conditions to making

- B. The PRA is the appropriate regulator for the Central Securities Depositories EU Regulations (or parts thereof) specified in Part 2 of the Schedule to the Regulations.
- C. The PRA has consulted the Bank of England and FCA in accordance with regulation 5 of the Regulations.
- D. A draft of this instrument has been approved by the Treasury, the Minister considering that it makes appropriate provision to prevent, remedy or mitigate any failure of retained EU law to operate effectively, or any other deficiency in retained EU law, arising from the withdrawal of the United Kingdom from the European Union.

Interpretation

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

Modifications

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

Commencement

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

Citation

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

By order of the Prudential Regulation Committee

[DATE]

Annex

FINANCIAL RESOURCES FOR CREDIT AND LIQUIDITY RISKS

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

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

*Article 9***General rules on collateral and other equivalent financial resources**

...

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

...

*Article 10***Collateral for the purposes of point (d) of Article 59(3), and point (d) of Article 59(4) of Regulation (EU) No 909/2014**

...

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

...

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

...

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

...

Article 11

Other collateral

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

...

Article 14

Collateral concentration limits

...

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

...

Article 15

Other equivalent financial resources

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

Article 23

General requirements for the management of intraday credit risk

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

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

...

Article 36

Stress testing the sufficiency of liquid financial resources

...

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

...

Article 38

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

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

Article 42

Entry into force

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

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

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

Powers exercised

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

Pre-conditions to making

- B. The PRA and the FCA are the appropriate regulators for the EU EMIR.
- C. The PRA proposes to exercise the power in regulation 3 of the Regulations to modify the EU EMIR.
- D. The FCA has been consulted on the modifications contained in the Annex to this instrument in accordance with regulation 5 of the Regulations and has consented to the modifications contained in the Annex to this instrument in accordance with regulation 3(2) of the Regulations.
- E. A draft of this instrument has been approved by the Treasury, the Minister considering that it makes appropriate provision to prevent, remedy or mitigate any failure of retained EU law to operate effectively, or any other deficiency in retained EU law, arising from the withdrawal of the United Kingdom from the European Union.

Interpretation

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

Modifications

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

Commencement

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

Notes

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

Citation

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

By order of the Prudential Regulation Committee

[DATE]

Annex**RISK-MITIGATION TECHNIQUES FOR OTC DERIVATIVE CONTRACTS NOT CLEARED BY A CENTRAL COUNTERPARTY****1 MODIFICATIONS TO EU REGULATION 2016/2251**

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

*Article 1***Definitions**

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

...

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

...

*Article 4***Eligible collateral**

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

...

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

...

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

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

...

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

Article 5

Eligibility criteria for units or shares in UK UCITS

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

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

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

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

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

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

Article 6

Credit quality assessment

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

...

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

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

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

...

Article 8

Concentration limits for initial margin

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

...

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

...

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

...

Article 19

Collateral management and segregation

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

...

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

...

*Article 23***CCPs authorised as credit institutions**

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

*Article 24***Non-financial counterparties and third-country counterparties**

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

...

*Article 28***Threshold based on notional amount**

...

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

...

*Article 29***Threshold based on initial margin amounts**

...

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

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

...

Article 31

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

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

...

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

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

...

CHAPTER III

INTRAGROUP DERIVATIVE CONTRACTS

SECTION 1

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

Article 32

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

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

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

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

Article 33

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

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

...

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

...

Article 34

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

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

...

Article 36

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

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

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

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

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

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

2. ~~By way of derogation from paragraph 1, where the conditions of paragraph 3 of this Article are met, Article 9(2), Article 11, Articles 13 to 18, points (c), (d) and (f) of Article 19(1), Article 19(3) and Article 20 shall apply as follows:~~
- (a) ~~3 years after the date of entry into force of this Regulation where no equivalence decision has been adopted pursuant to Article 13(2) of Regulation (EU) No 648/2012 for the purposes of Article 11(3) of that Regulation in respect of the relevant third country;~~
- (b) ~~the later of the following dates where an equivalence decision has been adopted pursuant to Article 13(2) of Regulation (EU) No 648/2012 for the purposes of Article 11(3) of that Regulation in respect of the relevant third country:~~
- (i) ~~4 months after the date of entry into force of the decision adopted pursuant to Article 13(2) of Regulation (EU) No 648/2012 for the purposes of Article 11(3) of that Regulation in respect of the relevant third country;~~
- (ii) ~~the applicable date determined pursuant to paragraph 1.~~
3. ~~The derogation referred to in paragraph 2 shall only apply where counterparties to a non-centrally cleared OTC derivative contract meet all of the following conditions:~~
- (a) ~~one counterparty is established in a third country and the other counterparty is established in the Union;~~
- (b) ~~the counterparty established in a third country is either a financial counterparty or a non-financial counterparty;~~
- (c) ~~the counterparty established in the Union is one of the following:~~

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

Article 37

Application of Articles 9(1), 10 and 12

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

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

Article 38

Dates of application for specific contracts

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

[Note: the Articles referred paragraph Articles 36(1) and 37 do not form part of domestic law on and after exit day by virtue of section 3 of the Act in respect of all non-centrally OTC derivatives which are single-stock equity options or index options.]

2. ~~By way of derogation from Articles 36(1) and 37, where a counterparty established in the Union enters into a non-cleared OTC derivative contract with another counterparty which belongs to the same group, the Articles referred to in Articles 36(1) and 37 shall apply from the dates specified in accordance with those Articles, or 4 July 2017, whichever is the later.~~

Article 39

Calculation of aggregate average notional amount

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

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

...

Article 40

Entry into force

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

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

...

ANNEX II

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

...

Table 2

Haircuts for short term credit quality assessments

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

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

...

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

...

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

Powers exercised

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

Pre-conditions to making

- B. The PRA and the FCA are the appropriate regulators for the Bank Recovery and Resolution EU Regulations.
- C. The PRA proposes to exercise the power in regulation 3 of the Regulations to modify the Bank Recovery and Resolution EU Regulations and considers that (a) Condition A is satisfied; and (b) that the modifications to the Bank Recovery and Resolution EU Regulations can most appropriately be made by using the procedure set out in regulation 4 of the Regulations.
- D. The PRA has consulted the FCA on a division of responsibility and on the modifications contained in Annexes A and B to this instrument in accordance with regulations 3 and 5 of the Regulations.
- E. the PRA has consulted the Bank of England in accordance with regulation 5 of the Regulations.
- F. A draft of this instrument has been approved by the Treasury, the Minister considering that it makes appropriate provision to prevent, remedy or mitigate any failure of retained EU law to operate effectively, or any other deficiency in retained EU law, arising from the withdrawal of the United Kingdom from the European Union.

Interpretation

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

Division

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

“Article A1

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

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

“Article A1

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

Modifications

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

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

Commencement

L. This instrument comes into force on exit day.

Citation

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

By order of the Prudential Regulation Committee

[DATE]

Annex A

GROUP FINANCIAL SUPPORT AGREEMENTS**MODIFICATIONS TO PART 2 (PRA) OF EU REGULATION 2016/911**

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

COMMISSION IMPLEMENTING REGULATION (EU) 2016/911**of 9 June 2016**

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

*Article 1***Form of disclosure**

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

...

*Article 1A***Definitions**

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

...

Article 2

Terms to be disclosed

...

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

Article 3

Entry into force

...

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

Annex B

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

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

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

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

COMMISSION DELEGATED REGULATION (EU) 2016/1075

of 23 March 2016

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

CHAPTER I

COMMON PROVISIONS AND RECOVERY PLANS

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

*Article 1***Subject matter**

This Regulation further specifies:

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

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

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

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

Article 2

Definitions

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

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

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

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

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

...

Article 4

Summary of the key elements of the recovery plan

...

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

Article 5

Governance

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

...

- (2)

...

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

...

Article 7

The description of entities covered by the recovery plan

...

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

...

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

...

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

...

Article 9

Actions, arrangements and measures under recovery options

...

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

...

*Article 13***Cross references**

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

...

*Article 16***Completeness of recovery plans**

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

...

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

...

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

...

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

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

- (8) whether for each of the scenarios of severe macroeconomic and financial stress which is reflected in the plan in accordance with Chapter 2 of the Recovery Plans Part of the PRA Rulebook or in rules IFPRU 11.38R to IFPRU 11.3.13R and IFPRU11.3.20R of the Recovery and Resolution Part of the FCA Handbook ~~Article 7(6) of Directive 2014/59/EU~~, the plan identifies whether there are:

...

Article 17

Quality of recovery plans

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

...

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

...

Article 18

Implementation of the arrangements proposed in the recovery plans

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

...

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

...

Article 19

Recovery options

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

...

Article 20

Specific requirements for group recovery plans

- (1) When assessing the extent to which a group recovery plan satisfies the criteria set out in rules 3.8 and 3.9 of the Recovery Plans Part of the PRA Rulebook or rules IFPRU 11.3.8R to IFPRU11.3.13R and IFPRU 11.3.20R of the Recovery and Resolution Part of the FCA Handbook articles 7(4) and (6) of Directive 2014/59/EU, the competent authority shall review the following:

...

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

...

CHAPTER III INTRA GROUP FINANCIAL SUPPORT

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

Article 33

Prospect to redress financial difficulties

...

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

Article 34

Terms of the support

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

...

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

...

Article 35

Liquidity and solvency of the providing entity

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

...

Article 36

Resolvability of the providing entity

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

...

**CHAPTER V
RESOLUTION**

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

Article 42

Definitions

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

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

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

Article 43

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

1. For the purposes of the Contractual Recognition of Bail-In Part of the PRA Rulebook and or rule IFPRU 11.6 of the Recovery and Resolution Part of the FCA Handbook, a secured liability shall not be considered as an excluded liability where, at the time at which it is created, it is:
 - ...
 - (b) fully secured but governed by contractual terms that do not oblige the debtor to maintain the liability fully collateralised on a continuous basis in compliance with regulatory requirements of ~~Union~~ the law of the United Kingdom or of a third country law achieving effects that can be deemed equivalent to United Kingdom ~~Union-law~~

2. ~~For the purposes of point (d) of the first subparagraph of Article 55(1) of Directive 2014/59/EU, liabilities issued or entered into after the date of application of the provisions adopted by Member States for the transposition of Section 5 of Chapter IV of Title IV of Directive 2014/59/EU in a Member State referred to in Article 42(1) of this Regulation shall comprise rule 2.3 of the Contractual Recognition of Bail-In Part of the PRA Rulebook or rule IFPRU 11.6.3 R of the Recovery and Resolution Part of the FCA Handbook, recognition of bail-in applies to:~~
 - (a) liabilities created after the relevant ~~that~~ date, regardless of whether they are created under relevant agreements entered into before that date, including under master or framework agreements between the contracting parties governing multiple liabilities;
 - (b) liabilities created before or after that date under relevant agreements entered into before that date and which are subject to a material amendment;
 - (c) liabilities under debt instruments issued after that date.

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

Recovery and Resolution Part of the FCA Handbook.

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

Article 44

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

Contractual term in a relevant agreement shall include the following:

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

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

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

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

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

...

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

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

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

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

*Article 45***General requirements for notifications**

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

*Article 46***Notification by the management body to a competent authority**

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

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

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

...

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

Article 47

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

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

...

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

...

Article 48

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

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

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

...

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

...

Article 49

Notice

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

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

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

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

...

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

Powers exercised

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

Pre-conditions to making

- B. The PRA is the appropriate regulator for the Solvency II EU Regulations specified in Part 2 of the Schedule to the Regulations.
- C. The PRA has consulted the Bank of England and FCA in accordance with regulation 5 of the Regulations.
- D. A draft of this instrument has been approved by the Treasury, the Minister considering that it makes appropriate provision to prevent, remedy or mitigate any failure of retained EU law to operate effectively, or any other deficiency in retained EU law, arising from the withdrawal of the United Kingdom from the European Union.

Interpretation

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

Modifications

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

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

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

Deletions

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

Commencement

I. This instrument comes into force on exit day.

Citation

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

By order of the Prudential Regulation Committee

[DATE]

Annex A**GENERAL MODIFICATIONS**

1 INTERPRETATIVE PROVISIONS

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

2 LANGUAGE OF APPLICATIONS FOR APPROVAL

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

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

Annex B**APPROVALS OF INTERNAL MODELS****3 MODIFICATIONS TO 2015/460/EU**

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

*Article 1***Subject matter**

This Regulation specifies:

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

*Article 2***Application to calculate the Solvency Capital Requirement using an internal model**

....

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

...

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

...

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

...

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

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

...

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

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

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

- (m) a description of the independent validation process of the internal model and a report of the results of the last validation in accordance with rule 14.1 of the Solvency Capital Requirement – Internal Models Part of the PRA Rulebook Article 124 of Directive 2009/138/EC, including what recommendations were made and how they were acted upon;
 - (n) the inventory of the documents that form part of the documentation of the internal model set out in rule 15.1 to 15.2 of the Solvency Capital Requirement – Internal Models Part of the PRA Rulebook Article 125 of Directive 2009/138/EC;
 - (o) where an insurance or reinsurance undertaking uses a model or data obtained from a third party as referred to in rule 16.1 of the Solvency Capital Requirement – Internal Models Part of the PRA Rulebook Article 126 of Directive 2009/138/EC, a demonstration that the use of such external model or data does not impair the ability of the insurance or reinsurance undertaking to meet the requirements set out in rules 3.2 to 3.5 of the Solvency Capital Requirement – General Provisions Part of the PRA Rulebook and Chapters 10 to 15 of the Solvency Capital Requirement – Internal Models Part of the PRA Rulebook 101 and 120 to 125 of that Directive and in the case of a partial internal model pursuant to rules 4.2 and Chapter 5 of the Solvency Capital Requirement – Internal Models Part of the PRA Rulebook Article 113 of that Directive, the suitability for the use of that model or data within the internal model and an explanation of the preference of external models or data to internal models or data;
- ...
- (r) in the case of partial internal models, an explanation of how the integration technique proposed fulfils the requirements set out in rule 4.2 of the Solvency Capital Requirement – Internal Models Part of the PRA Rulebook Article 113(1) of Directive 2009/138/EC, and, in case of a technique different from the default one referred to in Article 239(1) of the Commission Delegated Regulation (EU) 2015/35, a justification of the integration technique proposed;

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

Article 3

Assessment of the application

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

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

...

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

...

Article 5

Decision on the application

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

...

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

...

*Article 6***Transitional plan to extend the scope of the model**

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

*Article 7***Changes to the internal model**

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

*Article 8***Changes to the policy for changing the internal model**

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

Annex C**APPROVALS TO ESTABLISH SPECIAL PURPOSE VEHICLES**

4 MODIFICATIONS TO 2015/462/EU

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

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

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

*Article 3***Supervisory approval to establish special purpose vehicles**

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

*Article 4***Decision of the supervisory authority**

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

...

Annex D**APPROVALS TO USE UNDERTAKING-SPECIFIC PARAMETERS****5 MODIFICATIONS TO 2015/498/EU**

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

*Article 1***Application for approval of the use of undertaking-specific parameters**

...

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

...

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

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

...

*Article 6***Revocation of approval by the supervisory authority**

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

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

...

Annex E**APPROVALS TO USE ANCILLARY OWN FUNDS ITEMS****6 MODIFICATIONS TO 2015/499/EU**

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

*Article 2***Cover letter**

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

...

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

...

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

*Article 3***Supporting evidence regarding the amount or method**

....

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

...

Article 4

Supporting evidence regarding the criteria for approval

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

...

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

...

Annex F**APPROVALS TO APPLY A MATCHING ADJUSTMENT****7 MODIFICATIONS TO 2015/500/EU**

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

...

*Article 2***Content of the application relating to the assigned portfolio of assets**

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

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

*Article 3***Content of the application relating to the portfolio of insurance or reinsurance obligations**

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

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

....

*Article 4***Content of the written application relating to cash-flow matching and portfolio management**

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

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

....

*Article 5***Additional content of the written application**

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

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

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

...

Article 7

Decision on the application

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

...

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

...

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

Article 8

Revocation of approval by the supervisory authority

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

Annex G

STANDARD FORMULA: LIST OF REGIONAL GOVERNMENTS

8 MODIFICATIONS TO 2015/2011/EU

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

*Article 1***Lists of regional governments and local authorities**

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

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

Annex H

CAPITAL ADD-ONS

9 MODIFICATIONS TO 2015/2012/EU

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

*Article 5***Progress report**

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

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

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

...

Annex I**PROCEDURES FOR ASSESSING EXTERNAL CREDIT ASSESSMENTS**

10 MODIFICATIONS TO 2015/2015/EU

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

*Article 1***Policy on risk management**

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

...

*Article 4***Review of additional assessments**

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

...

Annex J

ADJUSTMENT OF THE STANDARD EQUITY CAPITAL CHARGE

11 MODIFICATIONS TO 2015/2016/EU

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

Article 2

Calculation of the equity index

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

Annex K

REPORTING TO SUPERVISORY AUTHORITIES

12 MODIFICATIONS TO 2015/2450/EU

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

*Article 1***Subject matter**

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

...

*Article 7***Simplifications allowed on quarterly reporting for individual undertakings**

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

*Article 9***Annual quantitative templates for individual undertakings — Balance sheet and other general information**

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

...

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

...

*Article 24***Simplifications allowed on quarterly reporting for groups**

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

...

Article 36

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

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

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

Annex L

SOLVENCY & FINANCIAL CONDITION REPORT

13 MODIFICATIONS TO 2015/2452/EU

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

*Article 1***Subject matter**

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

...

*Article 4***Templates for the solvency and financial condition report of individual undertakings**

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

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

....

*Article 5***Templates for the solvency and financial condition report of groups**

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

...

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

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

...

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

Annex M**TRANSITIONAL MEASURE FOR THE EQUITY RISK SUB-MODULE****14 MODIFICATIONS TO 2016/1630/EU**

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

Article 1

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

Annex N

DELETIONS

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

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

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

Powers exercised

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

Pre-conditions to making

- B. The PRA and the FCA are the appropriate regulators for the FiCOD EU Regulations.
- C. The PRA proposes to exercise the power in regulation 3 of the Regulations to modify the FiCOD EU Regulations and considers that (a) Condition A is satisfied and (b) the modifications to the FiCOD EU Regulations can most appropriately be made by using the procedure set out in regulation 4 of the Regulations.
- D. The PRA has consulted the FCA on a division of responsibility and on the modifications contained in Annexes A to B to this instrument in accordance with regulations 3 and 5 of the Regulations.
- E. [A draft of] this instrument has been approved by the Treasury, the Minister considering that it makes appropriate provision to prevent, remedy or mitigate any failure of retained EU law to operate effectively, or any other deficiency in retained EU law, arising from the withdrawal of the United Kingdom from the European Union.

Interpretation

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

Division

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

“Article A1

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

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

“Article A1

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

Modifications to Part 2 (PRA)

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

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

Commencement

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

Citation

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

By order of the Prudential Regulation Committee

[DATE]

Annex A

Calculation Methods for Capital Adequacy

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

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

...

Article 1

Subject matter

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

Article 2

Definitions

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

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

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

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

...

Article 4

Transferability and availability of own funds

...

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

...

Article 5

Sector specific own funds

...

2. ...

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

...

Article 6

Deficit of own funds at the financial conglomerate level

...

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

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

...

*Article 8***Consolidation**

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

*Article 9***Solvency requirement**

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

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

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

...

Article 10

The financial conglomerate's own funds and solvency requirements

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

...

Article 14

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

1. The own funds of a financial conglomerate shall be calculated on the basis of the consolidated accounts according to the relevant accounting framework applied to the scope of supplementary supervision under the laws of the United Kingdom that implemented Directive 2002/87/EC and shall take paragraph 5 into account where applicable.
 2. With regard to ~~banking led or investment led financial~~ banking and investment services conglomerates the following treatments shall be applied to unconsolidated investments when calculating the own funds of the financial conglomerate:
- ...
5. Where ~~an entity within the scope of Directive 2009/138/EC~~ an insurance undertaking or reinsurance undertaking within the meaning of section 417 of the Financial Services and Markets Act 2000 forms part of a financial conglomerate, the calculation of the supplementary capital adequacy requirements at the level of the financial conglomerate shall be based on the valuation of assets and liabilities calculated in

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

...

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

...

Article 15

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

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

...

Article 16

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

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

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

...

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

...

Article 17

Entry into force

...

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

...

ANNEX

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

Deduction and aggregation method

...

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

...

Annex B

Risk Concentration and Intra-Group Transactions

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

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

...

*Article 1***Subject matter**

This Regulation lays down rules regarding:

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

*Article 2***Significant intra-group transactions**

...

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

...

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

...

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

*Article 3***Significant risk concentration**

...

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

...

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

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

...

Article 4

Supervisory measures

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

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

...

Article 5

...

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

...