



Financial Services Act 2021

CHAPTER 22

FINANCIAL SERVICES ACT 2021

Prudential regulation of credit institutions and investment firms

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- 2 Prudential regulation of certain investment firms by FCA rules
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- 35 Debt respite scheme

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SCHEDULES

SCHEDULE 1 — Exclusion of certain investment firms from the Capital Requirements Regulation: consequential amendments

PART 1 — AMENDMENTS OF THE CAPITAL REQUIREMENTS REGULATION

- 1 The Capital Requirements Regulation is amended as follows.
- 2 (1) Article 4(1) (definitions) is amended as follows.
- 3 (1) Article 4A (definitions: regulators' rules) is amended as follows....
- 4 For Article 4B substitute— Article 4B The consolidating supervisor
The...
- 5 Before Article 11 (and the Section and Chapter headings before...
- 6 Omit Article 15 (derogation from the application of own funds...
- 7 Omit Article 16 (derogation from the application of the leverage...
- 8 Omit Article 17 (supervision of investment firms waived from the...
- 9 In Article 47c(5) (deduction for non-performing exposures), omit “and
the...
- 10 In Article 49(6) (requirement for deduction where consolidation,
supplementary supervision...
- 11 (1) Article 81(1)(a) (minority interests that qualify for inclusion in...
- 12 (1) Article 82(a) (Qualifying Additional Tier 1, Tier 1, Tier...
- 13 (1) Article 84 (minority interests included in consolidated Common
Equity...
- 14 (1) Article 85 (qualifying Tier 1 instruments included in consolidated...
- 15 (1) Article 87 (qualifying own funds included in consolidated own...
- 16 In Article 93 (initial capital requirement on going concern)—
- 17 Omit Article 95 (own funds requirements for investment firms with...
- 18 Omit Article 96 (own funds requirements for IFPRU 730k firms)....
- 19 Omit Article 97 (own funds based on fixed overheads).
- 20 Omit Article 98 (own funds for investment firms on a...
- 21 In Article 100 (additional reporting requirements), in the second
subparagraph,...
- 22 In Article 115(2) (exposures to regional governments or local
authorities),...
- 23 In Article 119 (exposures to institutions), after paragraph 5 insert—...
- 24 (1) Article 136 (mapping of ECAI's credit assessments) is amended...
- 25 In Article 162(3) (maturity), in the second subparagraph, in point...
- 26 (1) Article 197 (eligibility of collateral under all approaches and...
- 27 In Article 199(8) (additional eligibility for collateral under the IRB...
- 28 In Article 200 (other funded credit protection), for point (c)...
- 29 In Article 202 (eligibility of protection providers under the IRB...
- 30 In Article 224(6) (supervisory volatility adjustment under Financial
Collateral Comprehensive...
- 31 In Article 227(3) (conditions for applying 0% volatility adjustment
under...
- 32 In Article 243(1) (criteria for STS securitisations qualifying for
differentiated...
- 33 (1) Article 270e (securitisation mapping) is amended as follows.
- 34 In Article 290(3) (stress testing), for the words from “the...
- 35 (1) Article 304(5) (treatment of clearing members' exposure to clients)...
- 36 (1) Article 325u(5) (own funds requirements for residual risks) is...
- 37 (1) Article 325az (alternative internal model approach and permission
to...

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- 38 (1) Article 325bk(3) (calculation of stress scenario risk measure) is...
- 39 In Article 382(4) (scope of own funds requirements for CVA...
- 40 (1) Article 441(2) (indicators of global systemic importance) is amended...
- 41 In Article 450(1)(d) (remuneration policy) omit “19A.3.44R to 44DR and”....
- 42 In Article 456(1) (regulations modifying this Regulation) omit points (f)...
- 43 (1) Article 464B (power to make technical standards) is amended...
- 44 In Article 522(1)(b) (savings provisions: pre-exit decisions)—
- 45 In Annex 1 (classification of off-balance sheet items), in point...
- 46 (1) Annex 3 (items subject to supplementary reporting of liquid...
- 47 In the following provisions, for “FCA and PRA may each”...
- PART 2 — AMENDMENTS OF THE CAPITAL REQUIREMENTS (COUNTRY-BY-COUNTRY REPORTING) REGULATIONS 2013
- 48 The Capital Requirements (Country-by-Country Reporting) Regulations 2013 (S.I. 2013/3118) are...
- 49 (1) Regulation 1(2) (interpretation) is amended as follows.
- 50 In regulation 1, after paragraph (2) insert—
- 51 In regulation 1(3) (interpretation of references to EU legislation), for...
- 52 (1) Regulation 2 (ongoing reporting obligation) is amended as follows....
- 53 In regulation 3(1) (interim reporting obligation), after “Institutions” insert “... ”
- 54 (1) Regulation 4 (group disclosure) is amended as follows.
- 55 (1) Regulation 5 (prior disclosure: prevention of duplication) is amended...
- 56 In regulation 6(2) (enforcement)— (a) in sub-paragraph (a) omit “which...”

SCHEDULE 2 — Prudential regulation of FCA investment firms

PART 1 — NEW PART 9C OF THE FINANCIAL SERVICES AND MARKETS ACT 2000

- 1 In the Financial Services and Markets Act 2000, after Part...
- PART 2 — MINOR AND CONSEQUENTIAL AMENDMENTS
- 2 The Financial Services and Markets Act 2000 is amended as...
- 3 In section 133(7A) (proceedings before the Tribunal: meaning of “disciplinary...”
- 4 In section 137A (the FCA's general rules), at the end...
- 5 In section 165(7) (regulators' power to require information), after paragraph...
- 6 (1) Section 166 (regulators' power to require reports by skilled...
- 7 (1) Section 167 (regulators' power to appoint investigators) is amended...
- 8 (1) In section 168(4), after paragraph (i) insert—
- 9 (1) Section 176 (entry of premises under warrant) is amended...
- 10 After section 177 insert— Interpretation Interpretation of Part 11 In this Part— “FCA investment firm” has the meaning given...
- 11 In section 347(1)(g) (record of authorised persons etc), after “order”...
- 12 In section 391(1ZB) (publication of warning notices), after paragraph (ia)...
- 13 In section 392 (application of third party rights to notices)—...
- 14 In section 395(13) (meaning of supervisory notice), after paragraph (bba)...

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- 15 (1) Section 417(1) (definitions) is amended as follows.
16 In section 424A(1) (investment firm), after “this Act” insert “...
17 (1) Section 429 (parliamentary control of statutory instruments) is amended...
18 In paragraph 20(4) of Schedule 1ZA (enforcement costs), after paragraph...

PART 3 — TRANSITIONAL PROVISION

Rules made before Part 1 of this Schedule comes into force

- 19 (1) The Financial Conduct Authority may identify general rules made...

Pre-commencement consultation etc

- 20 (1) In relation to Part 9C rules, the requirements of...

Relevant equivalence decisions

- 21 For the purposes of section 143G of the Financial Services...

Carbon target

- 22 In relation to the making of Part 9C rules that...

Interpretation

- 23 In this Part of this Schedule, “Part 9C rules” has...

SCHEDULE 3 — Prudential regulation of credit institutions etc

PART 1 — NEW PART 9D OF THE FINANCIAL SERVICES AND MARKETS ACT 2000

- 1 In the Financial Services and Markets Act 2000, after Part...

PART 2 — PRA'S POWERS IN RELATION TO CERTAIN HOLDING COMPANIES

- 2 Part 12B of the Financial Services and Markets Act 2000...

- 3 Before section 192O insert— “ Interpretation ”.

- 4 (1) Section 192O(1) (interpretation) is amended as follows.

- 5 Before section 192P insert— “ Approval ”.

- 6 Omit section 192V (rules imposing consolidated or sub-consolidated requirements).

- 7 After section 192X insert— Rules Rules applying to holding companies...

- 8 In section 192Y(1) (power to impose penalty or issue censure),...

PART 3 — MINOR AND CONSEQUENTIAL AMENDMENTS

Bank of England Act 1998 (c. 11)

- 9 (1) Section 9H of the Bank of England Act 1998...

Financial Services and Markets Act 2000 (c. 8)

- 10 The Financial Services and Markets Act 2000 is amended as...

- 11 In section 137G (the PRA's general rules), at the end...

- 12 In section 138J(10) (consultation by the PRA), for “section 138L”...

- 13 In section 138K (consultation: mutual societies), at the end insert—...

- 14 (1) Section 192O (interpretation of Part 12B) is amended as...

- 15 In section 192R(3) (grant of approval)— (a) in paragraph (a)...

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- 16 (1) Section 192T (measures) is amended as follows.
 17 In section 192Y(1) (power to impose penalty or issue censure)—...
 18 In section 417(1) (definitions), at the appropriate place, insert— “CRR...
 19 In section 429(2) (parliamentary control of statutory instruments: affirmative procedure),...

Capital Requirements Regulations 2013 (S.I. 2013/3115)

- 20 The Capital Requirements Regulations 2013 (meaning of “permission” etc) is...
 21 In regulation 2(1), in the definition of “appropriate regulator”, at...
 22 (1) Regulation 39 (meaning of “permission” etc) is amended as...
 PART 4 — TRANSITIONAL PROVISION

Pre-commencement consultation etc

- 23 (1) In relation to general rules that are CRR rules,...

Relevant equivalence decisions

- 24 For the purposes of section 144C of the Financial Services...

Carbon target

- 25 In relation to the making of CRR rules or section...

Section 192V rules

- 26 (1) Rules made by the Prudential Regulation Authority under section...

Interpretation

- 27 In this Part of this Schedule— “CRR rules” has the...

SCHEDULE 4 — Amendments of the Capital Requirements Regulation

- 1 The Capital Requirements Regulation is amended as follows.
 2 In Article 4A(1)(a) (definitions: references to PRA rulebook), for “as...
 3 In Article 92(3) (own funds requirements), for points (b) and...
 4 In Article 107(3) (approaches to credit risk), for “third-country investment...
 5 In Article 144(1)(g) (competent authorities' assessment of an application to...
 6 In Article 201(1) (eligibility of protection providers under all approaches),...
 7 (1) Article 223 (Financial Collateral Comprehensive Method) is amended as...
 8 In Article 283 (permission to use the Internal Model Method),...
 9 For Article 298 substitute— Article 298 Effects of recognition of...
 10 In Article 299(2) (items in the trading book), omit point...
 11 In Article 384(1) (standardised method), in the definition of “EAD_{total}”—...
 12 (1) Article 500d (temporary calculation of exposure value of regular-way...
 13 (1) Annex 2 (types of derivatives) is amended as follows....

SCHEDULE 5 — Benchmarks: minor and consequential amendments

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- 1 The Benchmarks Regulation is amended as follows.
- 2 (1) Article 3(1) (definitions) is amended as follows.
- 3 In Article 3, after paragraph 1 insert— References in this Regulation to the capability of a benchmark...
- 4 In Article 11 (input data), after paragraph 4 insert— In the case of a critical benchmark, paragraph 4 does...
- 5 In Article A20(5)(b) (review of critical benchmarks), for “determines” substitute...
- 6 (1) Article 20 (critical benchmarks: conditions and other matters) is...
- 7 In Article 21(3) (mandatory administration of a critical benchmark), in...
- 8 After Article 26 insert— CHAPTER 7 COMPLIANCE WITH REQUIREMENTS Article...
- 9 In Article 29 (use of a benchmark), after paragraph 1...
- 10 In Article 36(1) (register of administrators and benchmarks), after point...
- 11 After Article 48 insert— TITLE 6A PROVISION OF INFORMATION AND...

SCHEDULE 6 — Gibraltar-based persons carrying on activities in the UK
After Schedule 2 to the Financial Services and Markets Act...

SCHEDULE 7 — UK-based persons carrying on activities in Gibraltar
After Schedule 2A to the Financial Services and Markets Act...

SCHEDULE 8 — Gibraltar: minor and consequential amendments

Financial Services and Markets Act 2000 (c. 8)

- 1 The Financial Services and Markets Act 2000 is amended as...
- 2 In section 3A(3)(a) (expressions in which general definition of “regulator”...
- 3 In section 33(1)(a) (withdrawal of authorisation), after “permission” insert “...
- 4 In Part 5 (performance of regulated activities), after section 71I...
- 5 After section 137A insert— The FCA's general rules: Gibraltar (1) The FCA's general rules may not make provision prohibiting...
- 6 After section 137G insert— The PRA's general rules: Gibraltar (1) The PRA's general rules may not make provision prohibiting...
- 7 In section 213 (the compensation scheme), after subsection (9) insert —...
- 8 In section 214 (provisions of the compensation scheme: general), before...
- 9 In section 224 (scheme manager's power to inspect documents held...
- 10 After section 367 insert— Winding-up petitions: Gibraltar-based persons (1) A regulator may not present a petition to the...
- 11 (1) Section 392 (application of sections 393 and 394: warning...
- 12 (1) Section 395 (the FCA's and PRA's procedures) is amended...
- 13 Omit section 409 (Gibraltar).
- 14 In section 417(1) (definitions), at the appropriate places insert— “Gibraltar-based...
- 15 In section 418 (carrying on regulated activities in the United...
- 16 (1) Section 429 (parliamentary control of statutory instruments) is amended...

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- 17 In paragraph 24 of Schedule 1ZA (services for which the...
- 18 In paragraph 32 of Schedule 1ZB (services for which the...

Financial Services and Markets Act 2000 (Gibraltar) Order 2001 (S.I. 2001/3084)

- 19 The Financial Services and Markets Act 2000 (Gibraltar) Order 2001...

Subsidy Control Act 2022

- 20 (1) The Subsidy Control Act 2022 is amended as follows....

SCHEDULE 9 — Collective investment schemes authorised in approved countries
PART 1 — PROVISIONS TO BE INSERTED IN CHAPTER 5 OF PART 17 OF THE
FINANCIAL SERVICES AND MARKETS ACT 2000

- 1 In Chapter 5 of Part 17 of the Financial Services...
PART 2 — MINOR AND CONSEQUENTIAL AMENDMENTS

Financial Services and Markets Act 2000 (c. 8)

- 2 The Financial Services and Markets Act 2000 is amended as...
- 3 In section 138I (consultation by the FCA), after subsection (9)...
- 4 (1) Section 165 (regulators' powers to require information) is amended...
- 5 In section 237(2) (Part 17 definitions), in the definition of...
- 6 In section 392 (application of third party rights to notices)—...
- 7 In section 395(13) (meaning of supervisory notice), before paragraph (f)...
- 8 In section 429(2) (regulations subject to affirmative procedure), after “262,”...

The Alternative Investment Fund Managers Regulations 2013 (S.I. 2013/1773)

- 9 Part 6 of the Alternative Investment Fund Managers Regulations 2013...
- 10 In regulation 57 (marketing of third country AIFs by full-scope...
- 11 In regulation 58(1) (marketing of AIFs managed by small third...
- 12 In regulation 59 (marketing of AIFs managed by other third...

The Collective Investment Schemes (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/325)

- 13 Part 6 of the Collective Investment Schemes (Amendment etc.) (EU...
- 14 In regulation 62(3) (end of temporary recognition)—
- 15 In regulation 67 (power to extend the period for temporary...
- 16 After regulation 67 insert— Applications under section 271A of the...

SCHEDULE 10 — Amendments of the Markets in Financial Instruments Regulation

Introduction

- 1 The Markets in Financial Instruments Regulation is amended as follows....

Scope

- 2 In Article 1 (subject matter and scope), after paragraph 4...

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Definitions

- 3 In Article 2(1) (definitions), after point (61) insert—

Provision of services by third-country firms following equivalence determination

- 4 In the heading of Title 8, for “DECISION” substitute “...
5 (1) Article 46 (general provision about provision of services etc...

Equivalence determination

- 6 (1) Article 47 (equivalence determination) is amended as follows.

Requirements

- 7 After Article 48 insert— Article 48A Requirements The Treasury may
by regulations impose requirements on third-country firms...

Temporary prohibitions and restrictions and withdrawal of registration

- 8 (1) Article 49 (withdrawal of registration) is amended as follows....

Temporary prohibitions and restrictions and withdrawal of registration: procedure

- 9 After Article 49 insert— Article 49A Temporary prohibitions and
restrictions:...

FCA directions and rules

- 10 In the heading of Title 9, after “DIRECTIONS” insert “...
11 In the heading of Article 50B (FCA Directions), at the...
12 After that Article insert— Article 50C Other FCA directions A direction
by the FCA under Article 46(4) may make...
13 The requirements of section 138I of the Financial Services and...

Transitional provisions

- 14 Omit Article 54 (transitional provisions).

SCHEDULE 11 — Variation or cancellation of Part 4A permission on initiative of FCA: additional power

- 1 The Financial Services and Markets Act 2000 is amended as...
2 After section 55J insert— Variation or cancellation on initiative of...
3 After Schedule 6 insert— SCHEDULE 6A Variation or cancellation
of...
4 In section 133 (proceedings before Tribunal: general provision), after
subsection...
5 In section 392 (application of sections 393 and 394)—

SCHEDULE 12 — Forfeiture of money: electronic money institutions and payment institutions

Anti-terrorism, Crime and Security Act 2001 (c. 24)

- 1 Schedule 1 to the Anti-terrorism, Crime and Security Act 2001...
2 Part 4B (forfeiture of terrorist money held in bank and...
3 In the Part heading, for “bank and building society” substitute...

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- 4 (1) Paragraph 10Q (application for account freezing order) is amended...
- 5 In paragraph 10V(1) (restriction on proceedings and remedies), for “bank...
- 6 In paragraph 10W(6)(b) (account forfeiture notice), for “bank or building...
- 7 (1) Paragraph 10Y (lapse of account forfeiture notice) is amended...
- 8 In paragraph 10Z2(7)(a) (forfeiture order), for “bank or building society”...
- 9 In Part 6 (interpretation), in paragraph 19(1), at the appropriate...

Proceeds of Crime Act 2002 (c. 29)

- 10 Part 5 of the Proceeds of Crime Act 2002 (civil...
- 11 Chapter 3B (forfeiture of money held in bank and building...
- 12 In the Chapter heading, for “bank and building society” substitute...
- 13 In the italic heading before section 303Z1, for “bank and...
- 14 (1) Section 303Z1 (application for account freezing order) is amended...
- 15 In section 303Z2(3) (restrictions on making of application under section...
- 16 In section 303Z6(1), for “bank or building society” substitute “...
- 17 In section 303Z8(4), for “bank or building society” substitute “...
- 18 In section 303Z9(6)(b) (account forfeiture notice: England and Wales and...
- 19 (1) Section 303Z11 (lapse of account forfeiture notice) is amended...
- 20 In section 303Z14(7)(a) (forfeiture order), for “bank or building society”...
- 21 In section 316(1) (general interpretation of Part 5), at the...

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Changes and effects yet to be applied to :

- specified provision(s) amendment to earlier commencing S.I. 2021/671, reg. 5 by [S.I. 2021/1163 reg. 2](#)