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## STATUTORY INSTRUMENTS

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# 2021 No. 1376

## The Financial Services Act 2021 (Prudential Regulation of Credit Institutions and Investment Firms) (Consequential Amendments and Miscellaneous Provisions) Regulations 2021

### PART 3

#### Amendments to Secondary Legislation

##### **Financial Services and Markets Act 2000 (Gibraltar) Order 2001**

**11.** For article 2A(4) of the Financial Services and Markets Act 2000 (Gibraltar) Order 2001(1) (the passport rights regulations: Gibraltar-based firms) substitute—

“(4) Regulation 2A(2) is to be read as if the words from “to which” to “applies” were omitted.”.

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##### **Commencement Information**

**11** Reg. 11 in force at 1.1.2022, see [reg. 1\(3\)](#)

##### **Financial Conglomerates and Other Financial Groups Regulations 2004**

**12.** In regulation 1(2) (interpretation) of the Financial Conglomerates and Other Financial Groups Regulations 2004(2)—

- (a) omit the definition of “the capital requirements directive”;
- (b) omit the definition of “the capital requirements regulation”.

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##### **Commencement Information**

**12** Reg. 12 in force at 1.1.2022, see [reg. 1\(3\)](#)

##### **Electronic Money Regulations 2011**

**13.** In regulation 2(1) (interpretation) of the Electronic Money Regulations 2011(3), for the definition of “the capital requirements regulation” substitute—

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(1) [S.I. 2001/3084](#), as amended by [S.I. 2018/589](#). These Regulations are prospectively revoked by paragraph 19 of Schedule 8 to the Financial Services Act 2021.

(2) [S.I. 2004/1862](#), as amended by [S.I. 2013/3115](#); there are other amending instruments but none are relevant.

(3) [S.I. 2011/99](#) as amended by [S.I. 2013/3115](#); there are other amending instruments but none are relevant.

**Changes to legislation:** The Financial Services Act 2021 (Prudential Regulation of Credit Institutions and Investment Firms) (Consequential Amendments and Miscellaneous Provisions) Regulations 2021, PART 3 is up to date with all changes known to be in force on or before 23 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

““the capital requirements regulation” means [Regulation \(EU\) No. 575/2013](#) of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms;”.

#### Commencement Information

**I3** Reg. 13 in force at 1.1.2022, see [reg. 1\(3\)](#)

### Bank of England Act 1998 (Macro-prudential Measures) Order 2013

**14.** In article 1(2) (interpretation) of the Bank of England Act 1998 (Macro-prudential Measures) Order 2013(4), in the definition of “financial sector entity”, for paragraph (e) substitute—

“(e) a financial institution within the meaning of Article 4(1)(26) of the capital requirements regulation,”.

#### Commencement Information

**I4** Reg. 14 in force at 1.1.2022, see [reg. 1\(3\)](#)

### Financial Services and Markets Act 2000 (PRA-regulated Activities) Order 2013

**15.—**(1) The Financial Services and Markets Act 2000 (PRA-regulated Activities) Order 2013(5) is amended as follows.

(2) In article 1(3) (interpretation)—

(a) after the definition of “the Act” insert—

““controlled function” has the meaning given by section 59(3) of the Financial Services and Markets Act 2000;”;

(b) after the definition of “dealing in investments as principal” insert—

““FCA controlled function” means a controlled function specified in rules made by the FCA;

“PRA controlled function” means a controlled function specified in rules made by the PRA;”.

(3) In article 3 (dealing in investments as principal: designation by the PRA)—

(a) at the end of paragraph (1)(a) insert “and”;

(b) omit paragraph (1)(b) and the “and” following it;

(c) omit paragraph (3);

(d) in paragraph (4)(b)(i), for “conditions in paragraphs (2) and (3)” substitute “condition in paragraph (2)”.

(4) In article 9 (statement of policy: procedure)—

(a) omit paragraph (1)(b);

(b) in paragraph (5)(a), omit “and Bank of England”;

(c) in paragraph (7)(b), for “to” substitute “and”.

(4) [S.I. 2013/644](#), as amended by [S.I. 2018.1297](#); there are other amending instruments but none are relevant.

(5) [S.I. 2013/556](#), amended by [S.I. 2019/632](#); there is another amending instrument but it is not relevant.

**Changes to legislation:** The Financial Services Act 2021 (Prudential Regulation of Credit Institutions and Investment Firms) (Consequential Amendments and Miscellaneous Provisions) Regulations 2021, PART 3 is up to date with all changes known to be in force on or before 23 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

(5) In article 10 (transitional provisions where an authorised person becomes a PRA-authorised person), for paragraph (6) substitute—

“(6) Where—

- (a) approval is given to a person by the FCA under section 59 of the Act(6) in relation to PRA AP for the performance of an FCA controlled function, and
- (b) that approval is given before the effective date,

that approval is to be treated from the effective date as approval given by the PRA for the performance by that person of a PRA controlled function.”.

(6) In article 11 (transitional provisions where a person ceases to be a PRA-authorised person), for paragraph (6) substitute—

“(6) Where—

- (a) approval is given to a person by the PRA under section 59 of the Act in relation to AP for the performance of a PRA controlled function, and
- (b) that approval is given before the effective date,

that approval is to be treated from the effective date as approval given by the FCA for the performance by that person of an FCA controlled function.”.

#### Commencement Information

**I5** Reg. 15 in force at 1.1.2022, see [reg. 1\(3\)](#)

### Capital Requirements Regulations 2013

**16.**—(1) The Capital Requirements Regulations 2013(7) are amended as follows.

(2) In regulation 2(1) (interpretation)—

- (a) omit the definition of “appropriate regulator”;
- (b) omit the definition of “capital requirements directive”;
- (c) after the definition of “capital requirements regulation” insert—

““on a consolidated basis” means on the basis of the consolidated situation;

“consolidated situation” means the situation that results from an entity being treated, for the purposes of the capital requirements regulation or CRR rules (as appropriate), as if that entity and one or more other entities formed a single entity;

“CRR rules” has the meaning given in section 144A of FSMA;”.

(3) In regulation 2A(1) (interpretation: regulators’ rules)(8)—

- (a) in paragraph (a), for “IP completion day” substitute “1 January 2022”;
- (b) omit paragraph (b);
- (c) in paragraph (c)(i), for “IP completion day” substitute “1 January 2022”.

(4) In regulation 4 (main provisions of the capital requirements regulation and [Directive 2013/36/EU](#) UK law) omit paragraph (b).

(6) Section 59 of the Financial Services and Markets Act 2000 was amended by section 18 of, and paragraph 1 of Schedule 3 to, the Financial Services (Banking Reform) Act 2013 (c. 33), paragraph 2 of Schedule 4 to the Bank of England and Financial Services Act 2016 (c. 14), section 14 of the Financial Services Act 2012 (c. 21) and S.I. 2013/1773.

(7) S.I. 2013/3115, amended by paragraphs 22 and 23 of Schedule 3 to the Financial Services Act 2021 (c. 22); relevant amending instruments are S.I. 2018/1401, S.I. 2019/264 and S.I. 2020/1406.

(8) Regulation 2A was inserted by S.I. 2018/1401.

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(5) In regulation 21 (assessment of equivalence of consolidated supervision by supervisory authorities in third countries)—

(a) in paragraph (1)—

- (i) in sub-paragraph (a), omit “or FCA”;
- (ii) in sub-paragraph (c), omit “FCA or”;
- (iii) in sub-paragraphs (d) and (e)(ii), omit “or FCA”;

(b) for paragraph (2) substitute—

“(2) The PRA must assess whether a relevant institution is subject to supervision on a consolidated basis by a supervisory authority of a country outside the United Kingdom which is equivalent to the standard of supervision on a consolidated basis applied by the PRA in accordance with [Directive 2013/36/EU](#) UK law, the capital requirements regulation and CRR rules.”;

(c) in paragraph (4)—

- (i) in the opening words, for “appropriate regulator”, in both places it occurs, substitute “PRA”;
- (ii) in sub-paragraph (a), for “and capital requirements regulation” substitute “, the capital requirements regulation and CRR rules”.

(6) In the heading of Part 7 (exercise of supervision by the PRA and FCA), omit “and FCA”.

(7) In regulation 34 (supervisory powers: own funds)—

(a) in paragraph (1)—

- (i) in the opening words, omit “and FCA”;
- (ii) for sub-paragraph (b) substitute—

“(b) the requirements of the capital requirements regulation and CRR rules relating to risks or elements of risks not covered by Article 1 of the capital requirements regulation or CRR rules.”;

(b) in paragraph (2)—

- (i) in sub-paragraph (b), for “or in the capital requirements regulation” substitute “, the capital requirements regulation or CRR rules”;
- (ii) in sub-paragraph (e), for “or the capital requirements regulation” substitute “, the capital requirements regulation or CRR rules”;

(c) in paragraph (3), in the opening words, omit “and FCA”;

(d) omit paragraph (3A).

(8) In regulation 34A(1) (supervisory review and evaluation process)<sup>(9)</sup>—

(a) in the opening words, for “and the capital requirements regulation” substitute “, the capital requirements regulation and CRR rules”;

(b) omit sub-paragraph (b).

(9) In regulation 34B(1) (ongoing review of the permission to use internal approaches), after “the capital requirements regulation” insert “and CRR rules”.

(10) In regulation 35 (specific liquidity requirements), in the opening words, for “appropriate regulator” substitute “PRA”.

(11) Omit regulation 35A (application of supervisory measures to institutions with similar risk profiles).

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<sup>(9)</sup> Regulation 34A and 34B were inserted by [S.I. 2018/1401](#).

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- (12) In regulation 35B (supervisory powers), in the opening words—
- (a) after “Capital Requirements Regulation” insert “, CRR rules”;
  - (b) for “competent authorities” substitute “competent authority”.
- (13) In regulation 35C(1)(a) (specific publication requirements), for “Part 8 of the capital requirements regulation” substitute “the Disclosure (CRR) Part of the PRA Rulebook”.
- (14) In regulation 36 (employee remuneration)—
- (a) in paragraph (1), in the opening words, for “appropriate regulator” substitute “PRA”;
  - (b) in paragraph (2), from “means” to the end substitute “means rule 15.10 of the Remuneration Part of the PRA Rulebook”.
- (15) In regulation 37 (diversity practices), in the opening words before paragraph (a), for “appropriate regulator” substitute “PRA”.
- (16) In regulation 39 (meaning of “permission” and “protected item” in this Part)(10)—
- (a) in paragraph (1), in the definition of “permission”—
    - (i) for “an appropriate regulator” substitute “the PRA”;
    - (ii) for “the appropriate regulator” substitute “the PRA”;
    - (iii) in sub-paragraph (c), omit “or FCA”;
  - (b) omit paragraph (2).
- (17) In regulation 40 (applications for permissions: process, information and documents), for “appropriate regulator”, in each place it occurs, substitute “PRA”.
- (18) In regulation 41 (decisions: written notices), for “appropriate regulator”, in each place it occurs, substitute “PRA”.
- (19) In regulation 43 (publication of written notices)—
- (a) in paragraph (1), for “appropriate regulator” substitute “PRA”;
  - (b) in paragraph (4)(a), for “a regulator” substitute “the PRA”;
  - (c) for “the regulator”, in each place it occurs, substitute “the PRA”.

#### Commencement Information

**16** Reg. 16 in force at 1.1.2022, see [reg. 1\(3\)](#)

### Capital Requirements (Capital Buffers and Macro-prudential Measures) Regulations 2014

**17.—**(1) The Capital Requirements (Capital Buffers and Macro-prudential Measures) Regulations 2014(11) are amended as follows.

- (2) In regulation 2(1) (interpretation)—
- (a) omit the definition of “appropriate regulator”;
  - (b) in the definition of “capital conservation buffer”—
    - (i) in paragraph (aa), from “is required to calculate” to the end substitute “must calculate in accordance with Chapter 2 of the Capital Buffers Part of the PRA Rulebook”;
    - (ii) omit paragraph (b);
  - (c) in the definition of “institution-specific countercyclical capital buffer”—

(10) Regulation 39 is amended by paragraph 22 of Schedule 3 to the Financial Services Act 2021.

(11) S.I. 2014/894, as amended by S.I. 2018/1401.

**Changes to legislation:** The Financial Services Act 2021 (Prudential Regulation of Credit Institutions and Investment Firms) (Consequential Amendments and Miscellaneous Provisions) Regulations 2021, PART 3 is up to date with all changes known to be in force on or before 23 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (i) in paragraph (aa), from “is required to calculate” to the end substitute “must calculate in accordance with Chapter 3 of the Capital Buffers Part of the PRA Rulebook;”;
- (ii) omit paragraph (b).
- (3) In regulation 2—
  - (a) paragraph (2A), as inserted by regulation 35(3) of the Capital Requirements (Amendment) (EU Exit) Regulations 2018(12), is renumbered as paragraph (3A);
  - (b) in paragraph (3A), as renumbered pursuant to sub-paragraph (a) above, omit sub-paragraph (b).
- (4) Omit regulation 6 (exemption for small and medium-sized investment firms).
- (5) In regulation 12A(1) (buffer rate rules)(13), omit “or paragraph 8 of Part 1 of Schedule 1ZA to FSMA” and “or the FCA”.
- (6) Omit regulation 20 (exemption for small and medium-sized investment firms).
- (7) In regulation 34 (interpretation)—
  - (a) in paragraph (1)(c)(ii), after “capital requirements regulation” insert “, CRR rules”;
  - (b) in paragraph (3), at the end insert “and “CRR rules” has the meaning given in section 144A of that Act”.
- (8) In regulation 35 (combined buffer requirement), for “appropriate regulator” substitute “PRA”.

#### Commencement Information

**I7** Reg. 17 in force at 1.1.2022, see [reg. 1\(3\)](#)

#### Financial Services and Markets Act 2000 (Excluded Activities and Prohibitions) Order 2014

**18.**—(1) Article 1 (citation, commencement and interpretation) of the Financial Services and Markets Act 2000 (Excluded Activities and Prohibitions) Order 2014(14) is amended as follows.

- (2) In paragraph (4), for the definition of “liquid assets”(15) substitute—
 

““liquid assets” means assets which qualify towards the liquidity coverage requirement provided for in Article 412 of Chapter 4 (Liquidity (Part Six CRR)) of the Liquidity (CRR) Part of the PRA Rulebook as further specified in Chapter 2 (Rules on standards for the liquidity coverage requirement for credit institutions) of the Liquidity Coverage Ratio (CRR) Part of the PRA Rulebook;”.
- (3) After paragraph (4) insert—
 

“(5) For the purposes of the definition of “liquid assets” in paragraph (4), “PRA Rulebook” means the rulebook published by the PRA containing rules made by that Authority under the Act as that rulebook has effect on 1 January 2022. ”.

#### Commencement Information

**I8** Reg. 18 in force at 1.1.2022, see [reg. 1\(3\)](#)

(12) [S.I. 2018/1401](#).

(13) Regulation 12A was inserted by [S.I. 2018/1401](#).

(14) [S.I. 2014/2080](#).

(15) The definition of “liquid assets” was amended by [S.I. 2019/632](#).

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**Changes to legislation:** The Financial Services Act 2021 (Prudential Regulation of Credit Institutions and Investment Firms) (Consequential Amendments and Miscellaneous Provisions) Regulations 2021, PART 3 is up to date with all changes known to be in force on or before 23 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

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## Bank Recovery and Resolution (No. 2) Order 2014

- 19.—(1) The Bank Recovery and Resolution (No. 2) Order 2014(16) is amended as follows.
- (2) In article 2(1)(17) (interpretation)—
- (a) in paragraph (a) of the definition of “appropriate regulator”, for “Part 6 of the Capital Requirements Regulations 2013” substitute “the capital requirements regulation and CRR rules”;
- (b) for the definition of “the capital requirements regulation” substitute—
- ““the capital requirements regulation” means [Regulation \(EU\) No. 575/2013](#) of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms;”;
- (c) in the definition of “conditions for early intervention”, at the end of subparagraph (i) insert “or CRR rules”;
- (d) for the definition of “the consolidating supervisor” substitute—
- ““consolidating supervisor” has the meaning given in section 6A(9) of the Banking Act 2009”;
- (e) after the definition of “critical functions” insert—
- ““CRR rules” has the meaning given in section 144A of FSMA;”;
- (f) for the definition of “investment firm” substitute—
- ““investment firm” has the meaning given in section 258A of the Banking Act 2009(18);”.
- (3) In article 11(1)(a)(19) (application and interpretation of Chapter 1), for “Part 6 of the Capital Requirements Regulations 2013” substitute “the capital requirements regulation and CRR rules”.
- (4) In article 33(6)(a) (review of recovery plan), for “Part 6 of the Capital Requirements Regulations 2013” substitute “the capital requirements regulation and CRR rules”.
- (5) In article 36 (interpretation of Chapter 1), for “Part 6 of the Capital Requirements Regulations 2013” substitute “the capital requirements regulation and CRR rules”.
- (6) In article 53(4)(a) (review of resolution plan), for “Part 6 of the Capital Requirements Regulations 2013” substitute “the capital requirements regulation and CRR rules”.
- (7) In article 107 (interpretation of Chapter 1), in the definition of “relevant institution”, for “Part 6 of the Capital Requirements Regulations 2013” substitute “the capital requirements regulation and CRR rules”.
- (8) In article 121(1) (interpretation of Chapter 1), in the definition of “relevant institution”, for “Part 6 of the Capital Requirements Regulations 2013” substitute “the capital requirements regulation and CRR rules”.
- (9) In article 147(3)(b) (waiver of application of Chapter 4), for “Part 6 of the Capital Requirements Regulations 2013” substitute “the capital requirements regulation and CRR rules”.
- (10) In article 154 (interpretation), in the definition of “UK entity”, in paragraph (a), for “Part 6 of the Capital Requirements Regulations 2013” substitute “the capital requirements regulation and CRR rules”.

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(16) [S.I. 2014/3348](#).

(17) [S.I. 2014/3348](#); the definitions of “appropriate regulator”, “conditions for early intervention” and “consolidating supervisor” were amended by, and “investment firm” was inserted by, [S.I. 2018/1394](#).

(18) [2009 c. 1](#); section 258A was inserted by section 21 of the Financial Services Act [2012 \(c. 21\)](#) and amended by [S.I. 2013/3115](#) and [S.I. 2018/1394](#).

(19) Articles 11(1)(a), 33(6)(a), 36, 53(4)(a), 107, 121(1), 147(3)(b), 154, 159(1)(a), 181 and paragraph 4 of Schedule 2 were amended by [S.I. 2018/1394](#).

**Changes to legislation:** The Financial Services Act 2021 (Prudential Regulation of Credit Institutions and Investment Firms) (Consequential Amendments and Miscellaneous Provisions) Regulations 2021, PART 3 is up to date with all changes known to be in force on or before 23 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

(11) In article 159(1)(a) (application and interpretation of Chapter 1), for “Part 6 of the Capital Requirements Regulations 2013” substitute “the capital requirements regulation and CRR rules”.

(12) In article 181 (interpretation), in the definition of “undertaking”, in paragraph (a), for “Part 6 of the Capital Requirements Regulations 2013” substitute “the capital requirements regulation and CRR rules”.

(13) In article 216(1) (interpretation of Part 17), in the definition of “the use of resolution tools, powers and mechanisms”, in paragraph (c), after “capital requirements regulation” insert “and CRR rules”.

(14) In paragraph 4 of Schedule 2 (information to be contained in a group resolution plan), in the definition of “group resolution”, in paragraph (a), for “Part 6 of the Capital Requirements Regulations 2013” substitute “the capital requirements regulation and CRR rules”.

#### Commencement Information

**I9** Reg. 19 in force at 1.1.2022, see [reg. 1\(3\)](#)

### Solvency 2 Regulations 2015

**20.** In regulation 11 (equivalent provisions) of the Solvency 2 Regulations 2015(**20**), omit paragraph (5).

#### Commencement Information

**I10** Reg. 20 in force at 1.1.2022, see [reg. 1\(3\)](#)

### Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017

**21.**—(1) The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017(**21**) are amended as follows.

(2) In regulation 3(1) (general interpretation), for the definition of “the capital requirements regulation” substitute—

““the capital requirements regulation” means [Regulation \(EU\) No. 575/2013](#) of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms;”.

(3) In regulation 25(1) (supervisory action), for “or a qualifying parent undertaking (as defined by section 192B of FSMA)” substitute “, a qualifying parent undertaking (as defined by section 192B of FSMA) or a non-authorised parent undertaking (as defined by section 143B of FSMA)”.

#### Commencement Information

**I11** Reg. 21 in force at 1.1.2022, see [reg. 1\(3\)](#)

(20) [S.I. 2015/575](#); regulation 11 was amended by [S.I. 2019/407](#).

(21) [S.I. 2017/692](#).



**Changes to legislation:** The Financial Services Act 2021 (Prudential Regulation of Credit Institutions and Investment Firms) (Consequential Amendments and Miscellaneous Provisions) Regulations 2021, PART 3 is up to date with all changes known to be in force on or before 23 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

## Financial Services and Markets Act 2000 (Markets in Financial Instruments) Regulations 2017

**22.** In regulation 6(6) (requirements applying to exempt investment firms) of the Financial Services and Markets Act 2000 (Markets in Financial Instruments) Regulations 2017(**22**), for the definition of “the capital requirements regulation” substitute—

““the capital requirements regulation” means [Regulation \(EU\) No. 575/2013](#) of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms;”.

### Commencement Information

**I12** Reg. 22 in force at 1.1.2022, see [reg. 1\(3\)](#)

## Payment Services Regulations 2017

**23.**—(1) The Payment Services Regulations 2017(**23**) are amended as follows.

(2) In regulation 2(1) (interpretation)—

(a) for the definition of “the capital requirements regulation” substitute—

““the capital requirements regulation” means [Regulation \(EU\) No. 575/2013](#) of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms;”.

(b) in the definition of “group”, in paragraph (b), omit “or (7)”.

(3) In regulation 22(2)(b)(i) (capital requirements), for “under Part 6 of the Capital Requirements Regulations 2013” substitute “in accordance with the capital requirements regulation and CRR rules (as defined in section 144A of the 2000 Act)”.

### Commencement Information

**I13** Reg. 23 in force at 1.1.2022, see [reg. 1\(3\)](#)

(22) [S.I. 2017/701](#); the definition of “the capital requirements regulation” was inserted by [S.I. 2017/1255](#).

(23) [S.I. 2017/752](#), as amended by [S.I. 2018/1201](#); there are other amending instruments but none are relevant.

**Changes to legislation:**

The Financial Services Act 2021 (Prudential Regulation of Credit Institutions and Investment Firms) (Consequential Amendments and Miscellaneous Provisions) Regulations 2021, PART 3 is up to date with all changes known to be in force on or before 23 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

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**Changes and effects yet to be applied to :**

- Regulations revoked by [2023 c. 29 Sch. 1 Pt. 2](#)