

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 and amending Regulation (EU) No 648/2012 (Text with EEA relevance)

[<sup>X1</sup>PART ONE

**GENERAL PROVISIONS**

[<sup>X1</sup>TITLE II

**LEVEL OF APPLICATION OF REQUIREMENTS**

CHAPTER 1

**Application of requirements on an individual basis**

*Article 6*

**General principles**

1 Institutions shall comply with the obligations laid down in Parts Two to Five and Eight on an individual basis.

[<sup>F1</sup>1a By way of derogation from paragraph 1 of this Article, only institutions identified as resolution entities that are also G-SIIs or that are part of a G-SII, and that do not have subsidiaries shall comply with the requirement laid down in Article 92a on an individual basis.

Material subsidiaries of a [<sup>F2</sup>non-UK] G-SII shall comply with Article 92b on an individual basis, where they meet all the following conditions:

- a they are not resolution entities;
- b they do not have subsidiaries;
- c they are not the subsidiaries of [<sup>F3</sup>a UK parent institution].]

2 No institution which is either a subsidiary [<sup>F4</sup>authorised and supervised in the United Kingdom], or a parent undertaking, and no institution included in the consolidation pursuant to Article 18, shall be required to comply with the obligations laid down in Articles 89, 90 and 91 on an individual basis.

3 No institution which is either a parent undertaking or a subsidiary, and no institution included in the consolidation pursuant to Article 18, shall be required to comply with the obligations laid down in Part Eight on an individual basis.

4 Credit institutions and investment firms that are authorised to provide the investment services and activities listed in [<sup>F5</sup>paragraphs 3 and 6 of Part 3 of Schedule 2 to the Regulated Activities Order] shall comply with the obligations laid down in Part Six on an individual basis. [<sup>F6</sup>The competent authority] may exempt investment firms from compliance with the obligations laid down in Part Six taking into account the nature, scale and complexity of the investment firms' activities.

*Status: Point in time view as at 31/12/2020.*

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5 Institutions, except for investment firms referred to in Article 95(1) and Article 96(1) and institutions for which competent authorities have exercised the derogation specified in Article 7(1) or (3), shall comply with the obligations laid down in Part Seven on an individual basis.

#### Textual Amendments

- F1** Inserted by Regulation (EU) 2019/876 of the European Parliament and of the Council of 20 May 2019 amending Regulation (EU) No 575/2013 as regards the leverage ratio, the net stable funding ratio, requirements for own funds and eligible liabilities, counterparty credit risk, market risk, exposures to central counterparties, exposures to collective investment undertakings, large exposures, reporting and disclosure requirements, and Regulation (EU) No 648/2012 (Text with EEA relevance).
- F2** Word in Art. 6(1a) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **13(2)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F3** Words in Art. 6(1a)(c) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **13(2)(b)**; 2020 c. 1, Sch. 5 para. 1(1)
- F4** Words in Art. 6(2) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **67(2)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F5** Words in Art. 6(4) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **67(3)(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F6** Words in Art. 6(4) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), **67(3)(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

### Article 7

#### Derogation from the application of prudential requirements on an individual basis

1 Competent authorities may waive the application of Article 6(1) to any subsidiary of an institution, where both the subsidiary and the institution are subject to authorisation and supervision [<sup>F7</sup>in the United Kingdom], and the subsidiary is included in the supervision on a consolidated basis of the institution which is the parent undertaking, and all of the following conditions are satisfied, in order to ensure that own funds are distributed adequately between the parent undertaking and the subsidiary:

- a there is no current or foreseen material practical or legal impediment to the prompt transfer of own funds or repayment of liabilities by its parent undertaking;
- b either the parent undertaking satisfies the competent authority regarding the prudent management of the subsidiary and has declared, with the permission of the competent authority, that it guarantees the commitments entered into by the subsidiary, or the risks in the subsidiary are of negligible interest;
- c the risk evaluation, measurement and control procedures of the parent undertaking cover the subsidiary;
- d the parent undertaking holds more than 50 % of the voting rights attached to shares in the capital of the subsidiary or has the right to appoint or remove a majority of the members of the management body of the subsidiary.

2 Competent authorities may exercise the option provided for in paragraph 1 [<sup>F8</sup>where the parent undertaking of the subsidiary is a UK financial holding company or a UK mixed

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financial holding company], provided that it is subject to the same supervision as that exercised over institutions, and in particular to the standards laid down in Article 11(1).

3 Competent authorities may waive the application of Article 6(1) to a [<sup>F9</sup>UK parent institution, where] it is included in the supervision on a consolidated basis, and all the following conditions are satisfied, in order to ensure that own funds are distributed adequately among the parent undertaking and the subsidiaries:

- a there is no current or foreseen material practical or legal impediment to the prompt transfer of own funds or repayment of liabilities to the parent institution in a Member State;
- b the risk evaluation, measurement and control procedures relevant for consolidated supervision cover the parent institution in a Member State.

F10 ...

#### Textual Amendments

- F7 Words in Art. 7(1) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), 68(a) (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F8 Words in Art. 7(2) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), 68(b) (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F9 Words in Art. 7(3) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), 68(c)(i) (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F10 Words in Art. 7(3) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1401), regs. 1(3), 68(c)(ii) (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

### Article 8

#### Derogation from the application of liquidity requirements on an individual basis

1 The competent authorities may waive in full or in part the application of Part Six to an institution and to all or some of its subsidiaries in the [<sup>F11</sup>United Kingdom] and supervise them as a single liquidity sub-group so long as they fulfil all of the following conditions:

- a the parent institution on a consolidated basis or a subsidiary institution on a sub-consolidated basis complies with the obligations laid down in Part Six;
- b the parent institution on a consolidated basis or the subsidiary institution on a sub-consolidated basis monitors and has oversight at all times over the liquidity positions of all institutions within the group or sub-group, that are subject to the waiver and ensures a sufficient level of liquidity for all of these institutions;
- c the institutions have entered into contracts that, to the satisfaction of the competent authorities, provide for the free movement of funds between them to enable them to meet their individual and joint obligations as they become due;
- d there is no current or foreseen material practical or legal impediment to the fulfilment of the contracts referred to in (c).

F12 ...

F13 2 .....

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F13 3 .....

F13 4 .....

5 Where a waiver has been granted under paragraph 1<sup>F14</sup> ..., the competent authorities may also apply [<sup>F15</sup>the relevant regulatory rules] at the level of the single liquidity sub-group and waive the application of [<sup>F15</sup>the relevant regulatory rules] on an individual basis. [<sup>F16</sup>In this paragraph, “relevant regulatory rules” means—

- a where the competent authority is the FCA, rules 12.3.4, 12.3.5, 12.3.7A, 12.3.8, 12.3.22A, 12.3.22B, 12.3.27, 12.4.-2, 12.4.-1, 12.4.5A, 12.4.10, 12.4.11 and 12.4.11A of the FCA's Prudential sourcebook for Banks, Building Societies and Investment Firms;
- b where the competent authority is the PRA, rules 3.1, 3.2, 3.3, 4.1(3), 7.2, 8.1(1), 9.2, 11.1, 11.1, 11.4, 12.1, 12.3 and 12.4 of the Internal Liquidity Adequacy Assessment Part of the PRA rulebook.]

#### Textual Amendments

- F11** Words in Art. 8(1) substituted (31.12.2020) by [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1401\)](#), regs. 1(3), **69(a)(i)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F12** Words in Art. 8(1) omitted (31.12.2020) by virtue of [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1401\)](#), regs. 1(3), **69(a)(ii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F13** Art. 8(2)(3)(4) omitted (31.12.2020) by virtue of [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1401\)](#), regs. 1(3), **69(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F14** Words in Art. 8(5) omitted (31.12.2020) by virtue of [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1401\)](#), regs. 1(3), **69(c)(i)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F15** Words in Art. 8(5) substituted (31.12.2020) by [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1401\)](#), regs. 1(3), **69(c)(ii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F16** Words in Art. 8(5) inserted (31.12.2020) by [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1401\)](#), regs. 1(3), **69(c)(iii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

### *Article 9*

#### **Individual consolidation method**

1 Subject to [<sup>F17</sup>paragraph 2] of this Article<sup>F18</sup> ..., the competent authorities may permit on a case-by-case basis parent institutions to incorporate in the calculation of their requirement under Article 6(1), subsidiaries which meet the conditions laid down in points (c) and (d) of Article 7(1) and whose material exposures or material liabilities are to that parent institution.

2 The treatment set out in paragraph 1 shall be permitted only where the parent institution demonstrates fully to the competent authorities the circumstances and arrangements, including legal arrangements, by virtue of which there is no current or foreseen material practical or legal impediment to the prompt transfer of own funds, or repayment of liabilities when due by the subsidiary to its parent undertaking.

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F19 3 .....

#### Textual Amendments

- F17** Words in Art. 9(1) substituted (31.12.2020) by [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1401\)](#), regs. 1(3), **70(a)(i)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F18** Words in Art. 9(1) omitted (31.12.2020) by virtue of [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1401\)](#), regs. 1(3), **70(a)(ii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F19** Art. 9(3) omitted (31.12.2020) by virtue of [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1401\)](#), regs. 1(3), **70(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F20 *Article 10*

### Waiver for credit institutions permanently affiliated to a central body

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#### Textual Amendments

- F20** Art. 10 omitted (31.12.2020) by virtue of [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1401\)](#), regs. 1(3), **71** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

## CHAPTER 2

### Prudential consolidation

#### Section 1

### Application of requirements on a consolidated basis

*Article 11*

#### General treatment

[<sup>F21</sup> [<sup>F22</sup>UK parent institutions] shall comply, to the extent and in the manner set out in Article 18, with the obligations laid down in Parts Two, Three, Four, Seven and Seven A on the basis of their consolidated situation, with the exception of point (d) of Article 430(1). The parent undertakings and their subsidiaries that are subject to this Regulation shall set up a proper organisational structure and appropriate internal control mechanisms in order to ensure that the data required for consolidation are duly processed and forwarded. In particular, they shall ensure that subsidiaries not subject to this Regulation implement arrangements, processes and mechanisms to ensure proper consolidation.

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2 For the purpose of ensuring that the requirements of this Regulation are applied on a consolidated basis, the terms ‘ institution ’, [<sup>F23</sup>‘UK parent institution’] and ‘ parent undertaking ’, as the case may be, shall also refer to:

- a a financial holding company or mixed financial holding company approved in accordance with Article 21a of Directive 2013/36/EU [<sup>F24</sup>UK law];
- b a designated institution controlled by a parent financial holding company or parent mixed financial holding company where such a parent is not subject to approval in accordance with Article 21a(4) of Directive 2013/36/EU [<sup>F24</sup>UK law];
- c a financial holding company, mixed financial holding company or institution designated in accordance with point (d) of Article 21a(6) of Directive 2013/36/EU [<sup>F24</sup>UK law].

The consolidated situation of an undertaking referred to in point (b) of the first subparagraph of this paragraph shall be the consolidated situation of the parent financial holding company or the parent mixed financial holding company that is not subject to approval in accordance with Article 21a(4) of Directive 2013/36/EU [<sup>F24</sup>UK law]. The consolidated situation of an undertaking referred to in point (c) of the first subparagraph of this paragraph shall be the consolidated situation of its parent financial holding company or parent mixed financial holding company.]

<sup>F25</sup>3 .....

[<sup>F13a</sup> By way of derogation from paragraph 1 of this Article, only parent institutions identified as resolution entities that are G-SIIs, part of a G-SII or part of a [<sup>F26</sup>non-UK G-SII] shall comply with Article 92a of this Regulation on a consolidated basis, to the extent and in the manner set out in Article 18 of this Regulation.

Only [<sup>F27</sup>UK parent undertakings] that are a material subsidiary of a [<sup>F26</sup>non-UK G-SII] and are not resolution entities shall comply with Article 92b of this Regulation on a consolidated basis to the extent and in the manner set out in Article 18 of this Regulation. <sup>F28</sup>...]

[<sup>F214</sup> [<sup>F29</sup>UK parent institutions] shall comply with Part Six and point (d) of Article 430(1) of this Regulation on the basis of their consolidated situation where the group comprises one or more credit institutions or investment firms that are authorised to provide the investment services and activities listed in [<sup>F30</sup>paragraphs 3 and 6 of Part 3 of Schedule 2 to the Regulated Activities Order]. [<sup>F31</sup>Where the group comprises only investment firms, the competent authority] may exempt the [<sup>F29</sup>UK parent institutions] from compliance with Part Six and point (d) of Article 430(1) of this Regulation on a consolidated basis, taking into account the nature, scale and complexity of the investment firm's activities.

Where a waiver has been granted under Article 8(1) to (5), the institutions and, where applicable, the financial holding companies or mixed financial holding companies that are part of a liquidity sub-group shall comply with Part Six and point (d) of Article 430(1) on a consolidated basis or on the sub-consolidated basis of the liquidity sub-group.

<sup>F32</sup>5 .....

6 [<sup>F33</sup>In addition to the requirements of paragraphs 1 to 3, the competent authority may require an institution to comply with the obligations mentioned in the third sub-paragraph on a sub-consolidated basis when—

- a it is justified for supervisory purposes by the specificities of the risk or the capital structure of the institution, or
- b the institution is a ring-fenced body within the meaning of section 142A(1) of FSMA.]

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The application of the approach set out in the first subparagraph shall be without prejudice to effective supervision on a consolidated basis.<sup>F34</sup> ... [<sup>F35</sup>The obligations mentioned in this sub-paragraph are those provided for in—

- a Parts 2, 3, 4, 6, 7, 7A and 8 of this Regulation;
- b [Directive 2013/36/EU](#) UK law which implemented Title 7, Chapter 4 of [Directive 2013/36/EU](#).]]

### Textual Amendments

- F1** Inserted by [Regulation \(EU\) 2019/876](#) of the European Parliament and of the Council of 20 May 2019 amending [Regulation \(EU\) No 575/2013](#) as regards the leverage ratio, the net stable funding ratio, requirements for own funds and eligible liabilities, counterparty credit risk, market risk, exposures to central counterparties, exposures to collective investment undertakings, large exposures, reporting and disclosure requirements, and [Regulation \(EU\) No 648/2012](#) (Text with EEA relevance).
- F21** Substituted by [Regulation \(EU\) 2019/876](#) of the European Parliament and of the Council of 20 May 2019 amending [Regulation \(EU\) No 575/2013](#) as regards the leverage ratio, the net stable funding ratio, requirements for own funds and eligible liabilities, counterparty credit risk, market risk, exposures to central counterparties, exposures to collective investment undertakings, large exposures, reporting and disclosure requirements, and [Regulation \(EU\) No 648/2012](#) (Text with EEA relevance).
- F22** Words in Art. 11(1) substituted (31.12.2020) by [The Securities Financing Transactions, Securitisation and Miscellaneous Amendments \(EU Exit\) Regulations 2020](#) (S.I. 2020/1385), regs. 1(3), [74\(2\)\(a\)](#)
- F23** Words in Art. 11(2) substituted (31.12.2020) by [The Securities Financing Transactions, Securitisation and Miscellaneous Amendments \(EU Exit\) Regulations 2020](#) (S.I. 2020/1385), regs. 1(3), [74\(2\)\(b\)\(i\)](#)
- F24** Words in Art. 11(2) inserted (31.12.2020) by [The Securities Financing Transactions, Securitisation and Miscellaneous Amendments \(EU Exit\) Regulations 2020](#) (S.I. 2020/1385), regs. 1(3), [74\(2\)\(b\)\(ii\)](#)
- F25** Deleted by [Regulation \(EU\) 2019/876](#) of the European Parliament and of the Council of 20 May 2019 amending [Regulation \(EU\) No 575/2013](#) as regards the leverage ratio, the net stable funding ratio, requirements for own funds and eligible liabilities, counterparty credit risk, market risk, exposures to central counterparties, exposures to collective investment undertakings, large exposures, reporting and disclosure requirements, and [Regulation \(EU\) No 648/2012](#) (Text with EEA relevance).
- F26** Words in Art. 11(3a) substituted (31.12.2020) by [The Securities Financing Transactions, Securitisation and Miscellaneous Amendments \(EU Exit\) Regulations 2020](#) (S.I. 2020/1385), regs. 1(3), [74\(2\)\(c\)\(i\)](#)
- F27** Words in Art. 11(3a) substituted (31.12.2020) by [The Securities Financing Transactions, Securitisation and Miscellaneous Amendments \(EU Exit\) Regulations 2020](#) (S.I. 2020/1385), regs. 1(3), [74\(2\)\(c\)\(ii\)](#)
- F28** Words in Art. 11(3a) omitted (31.12.2020) by virtue of [The Securities Financing Transactions, Securitisation and Miscellaneous Amendments \(EU Exit\) Regulations 2020](#) (S.I. 2020/1385), regs. 1(3), [74\(2\)\(c\)\(iii\)](#)
- F29** Words in Art. 11(4) substituted (31.12.2020) by [The Securities Financing Transactions, Securitisation and Miscellaneous Amendments \(EU Exit\) Regulations 2020](#) (S.I. 2020/1385), regs. 1(3), [74\(2\)\(d\)\(i\)](#)
- F30** Words in Art. 11(4) substituted (31.12.2020) by [The Securities Financing Transactions, Securitisation and Miscellaneous Amendments \(EU Exit\) Regulations 2020](#) (S.I. 2020/1385), regs. 1(3), [74\(2\)\(d\)\(ii\)](#)
- F31** Words in Art. 11(4) substituted (31.12.2020) by [The Securities Financing Transactions, Securitisation and Miscellaneous Amendments \(EU Exit\) Regulations 2020](#) (S.I. 2020/1385), regs. 1(3), [74\(2\)\(d\)\(iii\)](#)
- F32** Art. 11(5) omitted (31.12.2020) by virtue of [The Securities Financing Transactions, Securitisation and Miscellaneous Amendments \(EU Exit\) Regulations 2020](#) (S.I. 2020/1385), regs. 1(3), [74\(2\)\(e\)](#)
- F33** Words in Art. 11(6) substituted (31.12.2020) by [The Securities Financing Transactions, Securitisation and Miscellaneous Amendments \(EU Exit\) Regulations 2020](#) (S.I. 2020/1385), regs. 1(3), [74\(2\)\(f\)\(i\)](#)
- F34** Words in Art. 11(6) omitted (31.12.2020) by virtue of [The Securities Financing Transactions, Securitisation and Miscellaneous Amendments \(EU Exit\) Regulations 2020](#) (S.I. 2020/1385), regs. 1(3), [74\(2\)\(f\)\(ii\)](#)
- F35** Words in Art. 11(6) inserted (31.12.2020) by [The Securities Financing Transactions, Securitisation and Miscellaneous Amendments \(EU Exit\) Regulations 2020](#) (S.I. 2020/1385), regs. 1(3), [74\(2\)\(f\)\(iii\)](#)

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<sup>F25</sup> Article 12

**[<sup>F25</sup> Financial holding company or mixed financial holding company with both a subsidiary credit institution and a subsidiary investment firm]**

**Textual Amendments**

- F25** Deleted by Regulation (EU) 2019/876 of the European Parliament and of the Council of 20 May 2019 amending Regulation (EU) No 575/2013 as regards the leverage ratio, the net stable funding ratio, requirements for own funds and eligible liabilities, counterparty credit risk, market risk, exposures to central counterparties, exposures to collective investment undertakings, large exposures, reporting and disclosure requirements, and Regulation (EU) No 648/2012 (Text with EEA relevance).

<sup>F1</sup> Article 12a

**Consolidated calculation for G-SIIs with multiple resolution entities**

Where at least two G-SII entities belonging to the same G-SII are resolution entities, the [<sup>F36</sup>UK parent institution] of that G-SII shall calculate the amount of own funds and eligible liabilities referred to in point (a) of Article 92a(1) of this Regulation. That calculation shall be undertaken on the basis of the consolidated situation of the [<sup>F36</sup>UK parent institution] as if it were the only resolution entity of the G-SII.

<sup>F37</sup> ...]

**Textual Amendments**

- F1** Inserted by Regulation (EU) 2019/876 of the European Parliament and of the Council of 20 May 2019 amending Regulation (EU) No 575/2013 as regards the leverage ratio, the net stable funding ratio, requirements for own funds and eligible liabilities, counterparty credit risk, market risk, exposures to central counterparties, exposures to collective investment undertakings, large exposures, reporting and disclosure requirements, and Regulation (EU) No 648/2012 (Text with EEA relevance).
- F36** Words in Art. 12a substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **15(2)**; 2020 c. 1, Sch. 5 para. 1(1)
- F37** Words in Art. 12a omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **15(3)**; 2020 c. 1, **Sch. 5 para. 1(1)**

<sup>F21</sup> Article 13

**Application of disclosure requirements on a consolidated basis**

1 [<sup>F38</sup>UK parent institutions] shall comply with Part Eight on the basis of their consolidated situation.

Large subsidiaries of [<sup>F38</sup>UK parent institutions] shall disclose the information specified in Articles 437, 438, 440, 442, 450, 451, 451a and 453 on an individual basis or, where



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applicable in accordance with this Regulation and [<sup>F39</sup>Directive 2013/36/EU UK law], on a sub-consolidated basis.

2 Institutions identified as resolution entities that are G-SIIs or that are part of a G-SII shall comply with Article 437a and point (h) of Article 447 on the basis of the consolidated situation of their resolution group.

3 The first subparagraph of paragraph 1 shall not apply to [<sup>F38</sup>UK parent institutions], [<sup>F40</sup>UK parent financial holding companies], [<sup>F41</sup>UK parent mixed financial holding companies] or resolution entities where they are included in equivalent disclosures on a consolidated basis provided by a parent undertaking established in a third country.

The second subparagraph of paragraph 1 shall apply to subsidiaries of parent undertakings established in a third country where those subsidiaries qualify as large subsidiaries.

<sup>F42</sup> 4 .....

#### Textual Amendments

- F21** Substituted by Regulation (EU) 2019/876 of the European Parliament and of the Council of 20 May 2019 amending Regulation (EU) No 575/2013 as regards the leverage ratio, the net stable funding ratio, requirements for own funds and eligible liabilities, counterparty credit risk, market risk, exposures to central counterparties, exposures to collective investment undertakings, large exposures, reporting and disclosure requirements, and Regulation (EU) No 648/2012 (Text with EEA relevance).
- F38** Words in Art. 13 substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **16(2)**; 2020 c. 1, Sch. 5 para. 1(1)
- F39** Words in Art. 13(1) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **16(3)**; 2020 c. 1, Sch. 5 para. 1(1)
- F40** Words in Art. 13(3) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **16(4)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F41** Words in Art. 13(3) substituted (31.12.2020) by The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **16(4)(b)**; 2020 c. 1, Sch. 5 para. 1(1)
- F42** Art. 13(4) omitted (31.12.2020) by virtue of The Capital Requirements (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1232), regs. 1(3), **16(5)**; 2020 c. 1, Sch. 5 para. 1(1)

### Article 14

#### Application of requirements of Article 5 of Regulation (EU) 2017/2402 on a consolidated basis

1 Parent undertakings and their subsidiaries that are subject to this Regulation shall be required to meet the obligations laid down in Article 5 of Regulation (EU) 2017/2402 on a consolidated or sub-consolidated basis, to ensure that their arrangements, processes and mechanisms required by those provisions are consistent and well-integrated and that any data and information relevant to the purpose of supervision can be produced. In particular, they shall ensure that subsidiaries that are not subject to this Regulation implement arrangements, processes and mechanisms to ensure compliance with those provisions.

2 Institutions shall apply an additional risk weight in accordance with Article 270a of this Regulation when applying Article 92 of this Regulation on a consolidated or sub-consolidated basis if the requirements laid down in Article 5 of Regulation (EU) 2017/2402 are breached at the level of an entity established in a third country included in the consolidation in

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accordance with Article 18 of this Regulation if the breach is material in relation to the overall risk profile of the group.]

#### **Textual Amendments**

- F21** Substituted by Regulation (EU) 2019/876 of the European Parliament and of the Council of 20 May 2019 amending Regulation (EU) No 575/2013 as regards the leverage ratio, the net stable funding ratio, requirements for own funds and eligible liabilities, counterparty credit risk, market risk, exposures to central counterparties, exposures to collective investment undertakings, large exposures, reporting and disclosure requirements, and Regulation (EU) No 648/2012 (Text with EEA relevance).

### *Article 15*

#### **Derogation from the application of own funds requirements on a consolidated basis for groups of investment firms**

1 The consolidating supervisor may waive, on a case-by-case basis, the application of Part Three of this Regulation and [<sup>F43</sup>Directive 2013/36/EU UK law which implemented] Title VII, Chapter 4 of Directive 2013/36/EU on a consolidated basis provided that the following conditions exist:

- a each [<sup>F44</sup>investment firm authorised in the United Kingdom] in the group uses the alternative calculation of total risk exposure amount referred to in Article 95(2) or 96(2);
- b all investment firms in the group fall within the categories in Article 95(1) or 96(1);
- c each [<sup>F44</sup>investment firm authorised in the United Kingdom] in the group meets the requirements imposed in Article 95 or 96 on an individual basis and at the same time deducts from its Common Equity Tier 1 items any contingent liability in favour of investment firms, financial institutions, asset management companies and ancillary services undertakings, which would otherwise be consolidated;
- d any financial holding company which is the [<sup>F45</sup>UK parent financial holding company] of any investment firm in the group holds at least enough capital, defined here as the sum of the items referred to in Articles 26(1), 51(1) and 62(1), to cover the sum of the following:
  - (i) the sum of the full book value of any holdings, subordinated claims and instruments referred to in Article 36(1)(h) and (i), Article 56(1)(c) and (d), and Article 66(1)(c) and (d) in investment firms, financial institutions, asset management companies and ancillary services undertakings which would otherwise be consolidated; and
  - (ii) the total amount of any contingent liability in favour of investment firms, financial institutions, asset management companies and ancillary services undertakings which would otherwise be consolidated;
- e the group does not include credit institutions.

Where the criteria in the first subparagraph are met, each [<sup>F44</sup>investment firm authorised in the United Kingdom] shall have in place systems to monitor and control the sources of capital and funding of all financial holding companies, investment firms, financial institutions, asset management companies and ancillary services undertakings within the group.

2 The competent authorities may also apply the waiver if the financial holding companies holds a lower amount of own funds than the amount calculated under paragraph

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1(d), but no lower than the sum of the own funds requirements imposed on an individual basis to investment firms, financial institutions, asset management companies and ancillary services undertakings which would otherwise be consolidated and the total amount of any contingent liability in favour of investment firms, financial institutions, asset management companies and ancillary services undertakings which would otherwise be consolidated. For the purposes of this paragraph, the own funds requirement for investment undertakings of third countries, financial institutions, asset management companies and ancillary services undertakings is a notional own funds requirement.

#### Textual Amendments

- F43** Words in Art. 15(1) inserted (31.12.2020) by [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1401\)](#), regs. 1(3), **75(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F44** Words in Art. 15(1) substituted (31.12.2020) by [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1401\)](#), regs. 1(3), **75(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F45** Words in Art. 15(1)(d) substituted (31.12.2020) by [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1401\)](#), regs. 1(3), **75(c)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

#### Article 16

##### **Derogation from the application of the leverage ratio requirements on a consolidated basis for groups of investment firms**

Where all entities in a group of investment firms, including the parent entity, are investment firms that are exempt from the application of the requirements laid down in Part Seven on an individual basis in accordance with Article 6(5), the parent investment firm may choose not to apply the requirements laid down in Part Seven on a consolidated basis.

#### Article 17

##### **Supervision of investment firms waived from the application of own funds requirements on a consolidated basis**

1 Investment firms in a group which has been granted the waiver provided for in Article 15 shall notify the competent authorities of the risks which could undermine their financial positions, including those associated with the composition and sources of their own funds, internal capital and funding.

2 Where [<sup>F46</sup>the competent authority waives] the obligation of supervision on a consolidated basis as provided for in Article 15, they shall take other appropriate measures to monitor the risks, in particular large exposures, of the whole group, including any undertakings not located in [<sup>F47</sup>the United Kingdom].

3 Where [<sup>F48</sup>the competent authority waives] the application of own funds requirements on a consolidated basis as provided for in Article 15, the requirements of Part Eight shall apply on an individual basis.

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### Textual Amendments

- F46** Words in Art. 17(2) substituted (31.12.2020) by [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1401\)](#), regs. 1(3), **76(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F47** Words in Art. 17(2) substituted (31.12.2020) by [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1401\)](#), regs. 1(3), **76(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F48** Words in Art. 17(3) substituted (31.12.2020) by [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1401\)](#), regs. 1(3), **76(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

## Section 2

### Methods for prudential consolidation

[<sup>F21</sup> Article 18]

### Methods of prudential consolidation

[<sup>F21</sup>1 Institutions, financial holding companies and mixed financial holding companies that are required to comply with the requirements referred to in Section 1 of this Chapter on the basis of their consolidated situation shall carry out a full consolidation of all institutions and financial institutions that are their subsidiaries. Paragraphs 3 to 6 and paragraph 9 of this Article shall not apply where Part Six and point (d) of Article 430(1) apply on the basis of the consolidated situation of an institution, financial holding company or mixed financial holding company or on the sub-consolidated situation of a liquidity sub-group as set out in Articles 8 and 10.]

[<sup>F1</sup>For the purposes of Article 11(3a), institutions that are required to comply with the requirements referred to in Article 92a or 92b on a consolidated basis shall carry out a full consolidation of all institutions and financial institutions that are their subsidiaries in the relevant resolution groups.]

[<sup>F21</sup>2 Ancillary services undertakings shall be included in consolidation in the cases, and in accordance with the methods, laid down in this Article.

3 Where undertakings are related [<sup>F49</sup>by a common management relationship], competent authorities shall determine how consolidation is to be carried out.

4 The consolidating supervisor shall require the proportional consolidation according to the share of capital held of participations in institutions and financial institutions managed by an undertaking included in the consolidation together with one or more undertakings not included in the consolidation, where the liability of those undertakings is limited to the share of the capital they hold.

5 In the case of participations or capital ties other than those referred to in paragraphs 1 and 4, competent authorities shall determine whether and how consolidation is to be carried out. In particular, they may permit or require the use of the equity method. That method shall not, however, constitute inclusion of the undertakings concerned in supervision on a consolidated basis.

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6 Competent authorities shall determine whether and how consolidation is to be carried out in the following cases:

- a where, in the opinion of the competent authorities, an institution exercises a significant influence over one or more institutions or financial institutions, but without holding a participation or other capital ties in those institutions; and
- b where two or more institutions or financial institutions are placed under single management other than pursuant to a contract, clauses of their memoranda or articles of association.

In particular, competent authorities may permit or require the use of the method provided for in Article 22(7), (8) and (9) of Directive 2013/34/EU <sup>[F50]</sup>, as it had effect immediately before IP completion day]. That method shall not, however, constitute inclusion of the undertakings concerned in consolidated supervision.

7 Where an institution has a subsidiary which is an undertaking other than an institution, a financial institution or an ancillary services undertaking or holds a participation in such an undertaking, it shall apply to that subsidiary or participation the equity method. That method shall not, however, constitute inclusion of the undertakings concerned in supervision on a consolidated basis.

By way of derogation from the first subparagraph, competent authorities may allow or require institutions to apply a different method to such subsidiaries or participations, including the method required by the applicable accounting framework, provided that:

- a the institution does not already apply the equity method on 28 December 2020 ;
- b it would be unduly burdensome to apply the equity method or the equity method does not adequately reflect the risks that the undertaking referred to in the first subparagraph poses to the institution; and
- c the method applied does not result in full or proportional consolidation of that undertaking.

<sup>[F51]</sup> 8 Where consolidated supervision is required under this regulation, ancillary services undertakings and asset management companies as defined in Article 4(1)(19) of this regulation must be included in consolidations in the cases, and in accordance with the methods, laid down in this Article.]]

<sup>[F19]</sup> <sup>[F52]</sup>The FCA and PRA may each make] technical standards to specify conditions in accordance with which consolidation shall be carried out in the cases referred to in paragraphs 3 to 6 and paragraph 8.

<sup>F53</sup> ...]

#### Textual Amendments

- F1** Inserted by Regulation (EU) 2019/876 of the European Parliament and of the Council of 20 May 2019 amending Regulation (EU) No 575/2013 as regards the leverage ratio, the net stable funding ratio, requirements for own funds and eligible liabilities, counterparty credit risk, market risk, exposures to central counterparties, exposures to collective investment undertakings, large exposures, reporting and disclosure requirements, and Regulation (EU) No 648/2012 (Text with EEA relevance).
- F21** Substituted by Regulation (EU) 2019/876 of the European Parliament and of the Council of 20 May 2019 amending Regulation (EU) No 575/2013 as regards the leverage ratio, the net stable funding ratio, requirements for own funds and eligible liabilities, counterparty credit risk, market risk, exposures to central counterparties, exposures to collective investment undertakings, large exposures, reporting and disclosure requirements, and Regulation (EU) No 648/2012 (Text with EEA relevance).

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- F49** Words in Art. 18(3) inserted (31.12.2020) by The Securities Financing Transactions, Securitisation and Miscellaneous Amendments (EU Exit) Regulations 2020 (S.I. 2020/1385), regs. 1(3), **74(3)(a)**
- F50** Words in Art. 18(6) inserted (31.12.2020) by The Securities Financing Transactions, Securitisation and Miscellaneous Amendments (EU Exit) Regulations 2020 (S.I. 2020/1385), regs. 1(3), **74(3)(b)**
- F51** Art. 18(8) substituted (31.12.2020) by The Financial Conglomerates and Other Financial Groups (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/264), regs. 1, **5(3)** (with reg. 6) (as amended by S.I. 2020/1301, reg. 3, **Sch. para. 15** and with savings in S.I. 2019/680, **reg. 11**); 2020 c. 1, **Sch. 5 para. 1(1)**
- F52** Words in Art. 18(9) substituted (31.12.2020) by The Securities Financing Transactions, Securitisation and Miscellaneous Amendments (EU Exit) Regulations 2020 (S.I. 2020/1385), regs. 1(3), **74(3)(d)(i)**
- F53** Words in Art. 18(9) omitted (31.12.2020) by virtue of The Securities Financing Transactions, Securitisation and Miscellaneous Amendments (EU Exit) Regulations 2020 (S.I. 2020/1385), regs. 1(3), **74(3)(d)(ii)**

### Section 3

#### Scope of prudential consolidation

##### Article 19

#### Entities excluded from the scope of prudential consolidation

1 An institution, a financial institution or an ancillary services undertaking which is a subsidiary or an undertaking in which a participation is held, need not be included in the consolidation where the total amount of assets and off-balance sheet items of the undertaking concerned is less than the smaller of the following two amounts:

- a EUR 10 million;
- b 1 % of the total amount of assets and off-balance sheet items of the parent undertaking or the undertaking that holds the participation.

2 <sup>[F54]</sup>The consolidating supervisor] may on a case-by-case basis decide in the following cases that an institution, financial institution or ancillary services undertaking which is a subsidiary or in which a participation is held need not be included in the consolidation:

- a where the undertaking concerned is situated in a third country where there are legal impediments to the transfer of the necessary information;
- b where the undertaking concerned is of negligible interest only with respect to the objectives of monitoring institutions;

<sup>[X2]</sup>c where, in the opinion of <sup>[F55]</sup>the consolidating supervisor], the consolidation of the financial situation of the undertaking concerned would be inappropriate or misleading as far as the objectives of the supervision of institutions are concerned.]

3 Where, in the cases referred to in paragraph 1 and point (b) of paragraph 2, several undertakings meet the criteria set out therein, they shall nevertheless be included in the consolidation where collectively they are of non-negligible interest with respect to the specified objectives.

#### Editorial Information

- X2** Substituted by Corrigendum to 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 and

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amending Regulation (EU) No 648/2012 (Official Journal of the European Union L 176 of 27 June 2013) (Corrected version in Official Journal of the European Union L 321 of 30 November 2013).

#### Textual Amendments

- F54** Words in Art. 19(2) substituted (31.12.2020) by [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1401\)](#), regs. 1(3), **78(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F55** Words in Art. 19(2)(c) substituted (31.12.2020) by [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1401\)](#), regs. 1(3), **78(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

### Article 20

#### Joint decisions on prudential requirements

- F56 1 .....
- F56 2 .....
- F56 3 .....
- F56 4 .....
- F56 5 .....

6 Where [<sup>F57</sup>a UK parent institution and its subsidiaries, the subsidiaries of a UK parent financial holding company or a UK parent mixed financial holding company] use an Advanced Measurement Approach referred to in Article 312(2) or an IRB Approach referred to in Article 143 on a unified basis, the competent authorities shall allow the qualifying criteria set out in Articles 321 and 322 or in Part Three, Title II, Chapter 3, Section 6 respectively to be met by the parent and its subsidiaries considered together, in a way that is consistent with the structure of the group and its risk management systems, processes and methodologies.

- F58 7 .....
- F58 8 .....

#### Textual Amendments

- F56** Art. 20(1)-(5) omitted (31.12.2020) by virtue of [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1401\)](#), regs. 1(3), **79(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F57** Words in Art. 20(6) substituted (31.12.2020) by [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1401\)](#), regs. 1(3), **79(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F58** Art. 20(7)(8) omitted (31.12.2020) by virtue of [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1401\)](#), regs. 1(3), **79(c)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

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*Changes to legislation: Regulation (EU) No 575/2013 of the European Parliament and of the Council, TITLE II is up to date with all changes known to be in force on or before 24 June 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)*

*F59 Article 21*

**Joint decisions on the level of application of liquidity requirements**

**Textual Amendments**

**F59** Art. 21 omitted (31.12.2020) by virtue of [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1401\)](#), regs. 1(3), **80** (with savings in [S.I. 2019/680](#), reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

*Article 22*

**Sub-consolidation in cases of entities in third countries**

Subsidiary institutions shall apply the requirements laid down in Articles 89 to 91 and Parts Three and Four on the basis of their sub-consolidated situation if those institutions, or the parent undertaking where it is a financial holding company or mixed financial holding company, have an institution or a financial institution as a subsidiary in a third country, or hold a participation in such an undertaking.

*Article 23*

**Undertakings in third countries**

For the purposes of applying supervision on a consolidated basis in accordance with this Chapter, the terms ‘ investment firm ’, ‘ credit institution ’, ‘ financial institution ’, and ‘ institution ’ shall also apply to undertakings established in third countries, which, were they established in the [<sup>F60</sup>United Kingdom], would fulfil the definitions of those terms in Article 4.

**Textual Amendments**

**F60** Words in Art. 23 substituted (31.12.2020) by [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1401\)](#), regs. 1(3), **81** (with savings in [S.I. 2019/680](#), reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

*Article 24*

**Valuation of assets and off-balance sheet items**

1 The valuation of assets and off-balance sheet items shall be effected in accordance with the applicable accounting framework.

2 By way of derogation from paragraph 1, competent authorities may require that institutions effect the valuation of assets and off-balance sheet items and the determination of own funds in accordance with the [<sup>F61</sup>UK-adopted international accounting standards].]



**Status:** Point in time view as at 31/12/2020.

**Changes to legislation:** Regulation (EU) No 575/2013 of the European Parliament and of the Council, TITLE II is up to date with all changes known to be in force on or before 24 June 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)

#### Textual Amendments

- F61** Words in [Art. 24\(2\)](#) substituted (31.12.2020) by [The Financial Services \(Miscellaneous\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/710\)](#), regs. 1(3), **27(3)**; 2020 c. 1, Sch. 5 para. 1(1)

#### Editorial Information

- X1** Substituted by [Corrigendum to 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 and amending Regulation \(EU\) No 648/2012 \(OJ L 176, 27.6.2013, p. 1\)](#).

**Status:**

Point in time view as at 31/12/2020.

**Changes to legislation:**

Regulation (EU) No 575/2013 of the European Parliament and of the Council, TITLE II is up to date with all changes known to be in force on or before 24 June 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.