
STATUTORY INSTRUMENTS

2014 No. 2080

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

PART 2

EXCLUDED ACTIVITIES AND EXCEPTIONS

Derivatives: general conditions

12.—(1) The conditions in this article are that—

- (a) the position risk requirement attributable—
 - (i) to all transactions entered into which meet the conditions in articles 9 to 11, and
 - (ii) to any investments traded by the ring-fenced body under article 6(1) for the purpose of hedging risks arising in relation to the transactions referred to in paragraph (i) (provided that those investments are hedged separately from any other investments entered into by the ring-fenced body under article 6(1)),is at all times less than 0.5% of the ring-fenced body's own funds;
- (b) the sum of the position risk requirements attributable to each individual transaction with an account holder under articles 9 to 11 is at all times less than 25% of the credit risk capital requirement of the ring-fenced body; and in calculating the sum of the position risk requirements, no position risk requirement may be set off against any other position risk requirement;
- (c) the sum of the position risk requirements attributable to the transactions entered into by the ring-fenced body under article 11 is at all times less than 20% of the sum of the position risk requirements attributable to the transactions entered into by the ring-fenced body under articles 9 to 11;
- (d) there is evidence available at the date on which the transaction is entered into to assess the fair value of the investment concerned in accordance with international financial reporting standard 13 ("IFRS 13") on fair value measurement issued by the International Accounting Standards Board, as that reporting standard is amended from time to time, and that evidence would be considered to constitute a level 1 input within the meaning of paragraph 76 of IFRS 13, or a level 2 input within the meaning of paragraphs 81 and 82 of IFRS 13(1);
- (e) at the time the transaction is entered into, the investments traded under article 10 or 11 fall within a class of derivatives that are traded on—
 - (i) a trading venue in the EEA, or
 - (ii) a third country trading venue which satisfies paragraph 1(d) of Article 28 of the Regulation (EU) No 600/2014 of the European Parliament and of the Council of

(1) A copy of this IFRS can be obtained from the International Accounting Standards Board, 30 Cannon Street, London, EC4M 6XH.

15 May 2014 on markets in financial instruments and amending Regulation No 648/2012(2); and for these purposes, “third country trading venue” has the same meaning as in that Article.

- (2) For the purposes of this article—
- (a) the position risk requirement shall be calculated in accordance with Chapter 2 of Title IV of Part Three of the prudential requirements regulation as if the positions associated with those investments are all held in the trading book of the ring-fenced body,
 - (b) “credit risk capital requirement” means the own funds requirements set out in Article 92.3(a) of the prudential requirements regulation, excluding the risk-weighted exposure amounts determined in accordance with Title II of Part Three of that regulation for counterparty risk arising from positions which are not included in the trading book;
 - (c) “trading venue” has the meaning given in Article 4.1(24) of the Directive 2014/65/EU of 15 May 2014 of the European Parliament and of the Council on markets in financial instruments repealing [Directive 2004/39/EC](#) of the European Parliament and of the Council (recast)(3);
 - (d) “position risk requirement” means the capital requirements for position risk calculated in accordance with Chapter 2 of Title IV of Part Three of the prudential requirements regulation; and
 - (e) “trading book” has the meaning given in Article 4.1(86) of the prudential requirements regulation.

(2) OJ L 173, 12.6.2014, p84.
(3) OJ L 173, 12.6.2014, p349.