
STATUTORY INSTRUMENTS

2020 No. 1406

The Financial Holding Companies (Approval etc.) and Capital Requirements (Capital Buffers and Macro-prudential Measures) (Amendment) (EU Exit) Regulations 2020

PART 4 **U.K.**

Capital Buffers and Macro-prudential Measures

Amendment of the Capital Requirements Regulations 2013 **U.K.**

7. In regulation 34 of the Capital Requirements Regulations 2013(1)—
- (a) in paragraph (3)—
 - (i) at the end of sub-paragraph (b), insert “and”;
 - (ii) at the end of sub-paragraph (c), omit “and”;
 - (iii) omit sub-paragraph (d);
 - (b) after paragraph (3), insert—

“(3A) In making the assessment required by paragraph (3), the FCA must also take into account their assessment of systemic risk.”

Commencement Information

- II** Reg. 7 in force at 29.11.2020, see [reg. 1\(4\)](#)

Amendment of the Bank of England Act 1998 (Macro-prudential Measures) (No 2) Order 2015 **U.K.**

8.—(1) The Bank of England Act 1998 (Macro-prudential Measures) (No 2) Order 2015(2) is amended as follows.

- (2) In article 2(1)—
- (a) after the definition of “PRA-authorised person”, insert—

““relevant O-SII has the meaning given in regulation 34 of the Capital Requirements (Capital Buffers and Macro-prudential Measures) Regulations 2014(3);”;
 - (b) omit the definition of “SRB institution”;
 - (c) omit the definition of “SRB institution additional leverage ratio”;
 - (d) in the appropriate place, insert—

(1) [S.I. 2013/3115](#), amended by [S.I. 2018/1401](#).

(2) [S.I. 2015/905](#). There are other amending instruments, but none is relevant.

(3) [S.I. 2014/894](#), as amended pursuant to these Regulations.

Changes to legislation: The Financial Holding Companies (Approval etc.) and Capital Requirements (Capital Buffers and Macro-prudential Measures) (Amendment) (EU Exit) Regulations 2020, PART 4 is up to date with all changes known to be in force on or before 20 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

““O-SII additional leverage ratio” means a leverage ratio calculated by reference to the rate of the O-SII buffers which the PRA requires a relevant O-SII to maintain pursuant to Part 5ZA of the Capital Requirements (Capital Buffers and Macro-prudential Measures) Regulations 2014;”;

(e) omit the definition of “systemic risk buffer”;

(f) in the appropriate place, insert—

““O-SII buffer” has the meaning given by regulation 34 of the Capital Requirements (Capital Buffers and Macro-prudential Measure) Regulations 2014;”.

(3) In article 4(1)(b)—

(a) for “SRB institutions” substitute “relevant O-SIIs”;

(b) for “SRB institution” substitute “O-SII”.

Commencement Information

I2 Reg. 8 in force at 29.11.2020, see [reg. 1\(4\)](#)

Amendment of the Capital Requirements (Amendment) (EU Exit) Regulations 2018 **U.K.**

9. The Capital Requirements (Amendment) (EU Exit) Regulations 2018(4) are amended in accordance with regulations 10 to 20.

Commencement Information

I3 Reg. 9 in force at 27.11.2020, see [reg. 1\(2\)](#)

Commencement **U.K.**

10. In regulation 1, after paragraph (2), insert—

“(2A) Regulations 35(2)(c), (f) and (2A), 50, 51(za), (a), (b)(i), and (c), 52A, 53(b)(i), 53A, 56, 57(a), (b)(i), (iii) and (iv), 58A, 59 and 60 come into force on 29th December 2020.”.

Commencement Information

I4 Reg. 10 in force at 27.11.2020, see [reg. 1\(2\)](#)

Supervisory review and evaluation process **U.K.**

11. In regulation 21, in new regulation 34A(1), for sub-paragraphs (a) to (c), substitute—

“(a) in the case of the PRA—

(i) risks to which that institution is or might be exposed, and

(ii) risks revealed by stress testing, taking account of the nature, scale and complexity of that institution’s activities;

(b) in the case of the FCA—

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- (i) the risks referred to in paragraph (a), and
- (ii) the risks that institution poses to the UK financial system.”

Commencement Information

I5 Reg. 11 in force at 27.11.2020, see [reg. 1\(2\)](#)

Application of supervisory measures to institutions with similar risk profiles **U.K.**

- 12.** In regulation 23, in new regulation 35A, for “competent authority” substitute “FCA”.

Commencement Information

I6 Reg. 12 in force at 27.11.2020, see [reg. 1\(2\)](#)

Interpretation **U.K.**

- 13.** In regulation 35—

- (a) in paragraph (2)—

- (i) before sub-paragraph (a), insert—

“(za) for the definition of “appropriate regulator”, substitute—

““appropriate regulator” means—

- (a) the PRA, in relation to PRA-authorized persons and financial holding companies and mixed financial holding companies approved or designated by the PRA under—

- (i) Part 12B of FSMA, or

- (ii) regulation 5 of the Financial Holding Companies (Approval etc.) and Capital Requirements (Capital Buffers and Macro-prudential Measures) (Amendment) (EU Exit) Regulations 2020;

- (b) the FCA in relation to any other person;”

- (ii) in sub-paragraph (a), in the new definition of “capital conservation buffer”, after paragraph (a), insert—

“(aa) in relation to a parent financial holding company and a parent mixed financial holding company, a capital conservation buffer the holding company is required to calculate under rules made by the PRA under section 192V of FSMA;”;

- (iii) in sub-paragraph (c), in the new definition of “combined buffer requirement”, after paragraph (b), insert—

“(ba) an O-SII buffer;”;

- (iv) in sub-paragraph (e), in the new definition of “institution-specific countercyclical capital buffer”, after paragraph (a), insert—

“(aa) in relation to a parent financial holding company or a parent mixed financial holding company, a countercyclical capital buffer which the holding company is required to calculate under rules made by the PRA under section 192V of FSMA;”;

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- (v) after sub-paragraph (e), insert—
 - “(ea) before the definition of “systemic risk buffer”, insert—
 - ““parent financial holding company” and “parent mixed financial holding company” have the meanings given in section 192O(2) of FSMA;”;
- (vi) in sub-paragraph (f), in the new definition of “systemic risk buffer”, for “34A(1)” substitute “34C(1)”;
- (vii) in sub-paragraph (g), omit ““O-SII buffer””;
- (b) after paragraph (2), insert—
 - “(2A) For the definition of “O-SII buffer” substitute—
 - ““O-SII buffer” has the meaning given in regulation 34ZA.””

Commencement Information

I7 Reg. 13 in force at 27.11.2020, see [reg. 1\(2\)](#)

Overview **U.K.**

- 14.** In regulation 38, in paragraph (1) of new regulation 7—
- (a) in the opening words, omit “for how the Bank”;
 - (b) after the opening words, insert—
 - “(a) for how the Bank—”;
 - (c) renumber sub-paragraphs (a) and (b) as paragraphs (i) and (ii) of the sub-paragraph (a) so inserted;
 - (d) after the new sub-paragraph (a), insert—
 - “(b) for how the PRA is to apply institution-specific countercyclical capital buffers to parent financial holding companies and parent mixed financial holding companies.”.

Commencement Information

I8 Reg. 14 in force at 27.11.2020, see [reg. 1\(2\)](#)

Countercyclical capital buffer **U.K.**

- 15.** After regulation 47, insert—
- “Regulation 19A (institution-specific countercyclical capital buffer and holding companies)**
- 47A.—(1)** After regulation 19, insert—

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“Application of the institution-specific countercyclical capital buffer to holding companies

19A. Where the PRA makes rules under section 192V of FSMA requiring a parent financial holding company or a parent mixed financial holding company (a “holding company”) to calculate an institution-specific countercyclical capital buffer—

- (a) the buffer rate set by the FPC under regulation 10, or recognised or set under regulation 15, is to apply to the holding company as it applies to a UK institution;
- (b) the date set by the FPC for the application—
 - (i) of a change in the buffer rate under regulation 11, or
 - (ii) of a buffer rate recognised or set under regulation 15,is to apply to the holding company as it applies to a UK institution.”

Commencement Information

I9 Reg. 15 in force at 27.11.2020, see [reg. 1\(2\)](#)

G-SIIs **U.K.**

- 16.**—(1) In regulation 50, in the new paragraph (2), for sub-paragraphs (a) to (d), substitute—
- “(a) a group, the parent undertaking of which is—
 - (i) a UK parent institution,
 - (ii) a UK parent financial holding company, or
 - (iii) a UK parent mixed financial holding company, or
 - (b) an institution authorised in the United Kingdom which is not a subsidiary of a body mentioned in sub-paragraph (a)(i) to (iii).”
- (2) In regulation 51—
- (a) after the opening words, insert—
 - “(za) in paragraph (1)—
 - (i) for “particular body”, substitute “particular group or body”,
 - (ii) for “relevant body”, both times it occurs, substitute “relevant institution”;
 - (b) in paragraph (a), in the new paragraph (2), for “Where the relevant body” substitute “Where the parent undertaking of the relevant institution”;
 - (c) for paragraph (b), substitute—
 - “(b) in paragraph (3)—
 - (i) in sub-paragraph (a), for “to which the relevant body belongs” substitute “concerned”,
 - (ii) in sub-paragraph (e) omit the words from “, including” to the end.”;
 - (d) after paragraph (b), insert—
 - “(c) in paragraph (5), for “relevant body”, each time it occurs, substitute “relevant institution”.”.
- (3) After regulation 52, insert—

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“Regulation 25 (re-allocation in exercise of sound supervisory judgment)

52A. In regulation 25(a)—

- (a) after “determine that”, insert “a group or”;
- (b) after “fact that” insert “the group or”.

(4) In regulation 53, for paragraph (b), substitute—

“(b) in paragraph (5)—

- (i) for the “bodies concerned” substitute “to the UK parent institution, UK parent financial holding company, UK parent mixed financial holding company or institution concerned”,
- (ii) omit “, the Commission, the ESRB and EBA”.

(5) After regulation 53, insert—

“Regulation 27 (Appeals)

53A. In regulation 27—

(a) in paragraph (1)—

- (i) in sub-paragraph (a), after “the person”, insert “or a group for which the person is UK parent institution, UK parent financial holding company, UK parent mixed financial holding company (a “relevant group”);”,
- (ii) in sub-paragraph (b), after “person”, insert “or the relevant group”;

(b) in paragraph (2), at the end, insert “or the relevant group”.

Commencement Information

I10 Reg. 16 in force at 27.11.2020, see [reg. 1\(2\)](#)

O-SIIs **U.K.**

17.—(1) In regulation 56—

- (a) in the opening words, for “(a) to (c)” substitute “(a) to (d)”;
- (b) for the new sub-paragraphs (a) to (c), substitute—

- “(a) a group, the parent undertaking of which is—
 - (i) a UK parent institution,
 - (ii) a UK parent financial holding company, or
 - (iii) a UK parent mixed financial holding company, or
- (b) an institution.”.

(2) In regulation 57, for the words from “in paragraph (2)(b)” to the end, substitute—

“—

(a) in paragraph (1)—

- (i) for “particular body”, substitute “particular group or body”,
- (ii) for “relevant body”, both times it occurs, substitute “relevant institution”;

(b) in paragraph (2)—

- (i) for “relevant body”, each time it occurs, substitute “relevant institution”,

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- (ii) in sub-paragraph (b), omit “or the European Union”,
 - (iii) in sub-paragraph (c), for “relevant body’s” substitute “relevant institution’s”,
 - (iv) in sub-paragraph (d), after “or” insert “, in the case of an institution,”.
- (3) In regulation 58, for paragraph (c), substitute—
- “(c) in paragraph (3)—
 - (i) for the “bodies concerned” substitute “to the UK parent institution, UK parent financial holding company, UK parent mixed financial holding company or institution concerned”,
 - (ii) omit “, the Commission, the ESRB and EBA”.
- (4) After regulation 58, insert—

“Regulation 33 (Appeals)

58A. In regulation 33, after “the person”, insert “or a group for which the person is UK parent institution, UK parent financial holding company, or UK parent mixed financial holding company (a relevant group)”.

Commencement Information

111 Reg. 17 in force at 27.11.2020, see [reg. 1\(2\)](#)

O-SII Buffers **U.K.**

- 18.** In regulation 59, for the new regulation 34, substitute—

“PART 5ZA **U.K.**

O-SII Buffers

CHAPTER 1 **U.K.**

Interpretation and power to impose O-SII buffer

Interpretation

34.—(1) For the purposes of this Part, a relevant O-SII is an O-SII, or part of an O-SII, which is—

- (a) a ring-fenced body within the meaning of section 142A of FSMA⁽⁵⁾;
- (b) a large building society; or
- (c) a financial holding company or a mixed financial holding company which—
 - (i) has a ring-fenced body or a large building society as a subsidiary; and
 - (ii) is required, whether by the PRA by a direction under section 192C of FSMA or otherwise, to comply with the requirements of the capital requirements regulation and [Directive 2013/36/EU](#) UK law on a sub-consolidated basis.

(2) In paragraph (1)(b) “large building society” means a building society where the sum total of the following two values exceeds £25 billion—

(5) Section 142A was inserted by section 4(1) of the Financial Services (Banking Reform) Act 2013 (c. 33).

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- (a) the value of shares issued by the building society that are not deferred shares; and
 - (b) the value of deposits held in accounts with the building society where one or more of the account holders is a small business.
- (3) In paragraph (1)(c), “[Directive 2013/36/EU](#) UK law”, “financial holding company” and “mixed financial holding company” have the meanings given in section 192O of FSMA.
- (4) In paragraph (2)—
- (a) “building society”, “deferred shares”, “deposit” and “share” have the meaning given by section 119 (interpretation) of the Building Societies Act 1986(6);
 - (b) a person is a small business only if the person is a small business for the purposes of section 7(10) (the funding limit)(7) of the Building Societies Act 1986.
- (5) For the purposes of this Part—
- “buffer rate” has the meaning given in regulation 34ZA(2);
 - “FPC framework” has the meaning given in regulation 34ZB(1);
 - “O-SII buffer” has the meaning given in regulation 34ZA(1).

Power for the PRA to require an O-SII buffer to be maintained

34ZA.—(1) The PRA may require a relevant O-SII to maintain Common Equity Tier 1 capital, to be known as an “O-SII buffer”.

(2) The amount of capital which the PRA may require a relevant O-SII to hold (“the buffer rate”) must be expressed as a percentage of the relevant O-SII’s total risk exposure amount calculated in accordance with Article 92(3) of the capital requirements regulation.

CHAPTER 2 U.K.

United Kingdom buffer rates for O-SIIs

O-SII buffer rates: The FPC framework

34ZB.—(1) The FPC must have a framework for O-SII buffer rates in the United Kingdom established in accordance with this regulation (“the FPC framework”).

- (2) The FPC framework must contain the following elements—
- (a) a set of criteria for assessing the extent to which the failure or distress of a relevant O-SII might pose a risk to the financial system;
 - (b) a methodology for measuring the criteria and giving a relevant O-SII a single score in relation to the criteria; and
 - (c) in relation to each score that an O-SII may receive, a buffer rate that corresponds to the score.
- (3) In paragraph (2)(a), a relevant O-SII is in distress only if it experiences a significant deterioration in its financial situation.
- (4) In paragraph (2)(a) the criteria to be specified must each be—
- (a) measurable; and
 - (b) capable of being applied to a relevant O-SII on an individual basis, a sub-consolidated basis and a consolidated basis.

(6) [1986 c. 53](#). The definition of “deferred shares” was amended by [S.I. 2001/2617](#). The definition of “deposit” and “share” were substituted by paragraph 53(1) of Schedule 7 to the Building Societies Act 1997 (c. 32).

(7) Subsection (10) was inserted by paragraph 2 of Schedule 9 to the Financial Services (Banking Reform) Act 2013.

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(5) In paragraph (2)(c) the only buffer rates that the FPC may specify are 0%, 1%, 1.5%, 2%, 2.5% and 3%.

(6) The way in which buffer rates correspond to scores in the FPC framework—

- (a) must be clear, precise and unambiguous;
- (b) must ensure that a score corresponds to one buffer rate only;
- (c) may not be expressed in terms of a discretion conferred on a person or body (including the FPC); and

may be expressed by way of a formula, an algorithm, a graph or a table.

(7) The Bank must publish each element of the FPC framework, together with the FPC’s justification for each element.

Determination by PRA of buffer rates for individual relevant O-SIIs

34ZC.—(1) The PRA may, in relation to each relevant O-SII, determine—

- (a) whether or not to set a buffer rate for the O-SII; and
- (b) where it does set a buffer rate, subject to paragraph (3), the level of the rate;

by applying the steps set out in paragraph (2).

(2) The steps set out in this paragraph are—

Step 1—determining level of consolidation

The PRA must choose one of the following bases on which to apply the criteria specified in the FPC framework to the relevant O-SII—

- (a) an individual basis;
- (b) a sub-consolidated basis; or
- (c) a consolidated basis.

Step 2—deriving a framework buffer rate from the FPC framework

The PRA must derive a buffer rate from the FPC framework for the relevant O-SII (“a framework buffer rate”) by—

- (a) applying the methodology of the FPC framework to obtain a score for the relevant O-SII; and
- (b) ascertaining to what buffer rate the score corresponds under the FPC framework.

Step 3—setting a buffer rate for a relevant O-SII based on supervisory judgment

The PRA may, if it makes a sound supervisory judgment that it is appropriate to do so—

- (a) set a buffer rate for a relevant O-SII, even if it has derived a framework buffer rate for the institution of 0% under Step 2;
- (b) set a buffer rate for a relevant O-SII which is different to the framework buffer rate derived for the institution under Step 2; or
- (c) set no buffer rate for a relevant O-SII, even if it has derived a framework buffer rate for the institution of other than 0% under Step 2.

Where the PRA sets a buffer rate under sub-paragraph (a) or (b) of this Step the rate must be 1%, 1.5%, 2%, 2.5% or 3%.

Step 4—setting a buffer rate for relevant O-SIIs based on framework buffer rate

Unless the PRA exercises the discretion in Step 3—

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- (a) where the PRA derives a framework buffer rate under Step 2 of 0% for the relevant O-SII, the PRA may not set a buffer rate for the institution; and
 - (b) where the PRA derives a framework buffer rate under Step 2 other than 0% for the relevant O-SII, the PRA must set the rate so derived as the buffer rate for the institution.
- (3) Where paragraph (4) applies, the PRA may not apply an O-SII buffer rate to a relevant O-SII which exceeds the lower of—
- (a) the sum of—
 - (i) the higher of the G-SII or the O-SII buffer rate applicable to the group at consolidated level, and
 - (ii) 1% of the total risk exposure amount calculated in accordance with Article 92(3) of the capital requirements regulation; and
 - (b) 3% of the total risk exposure amount calculated in accordance with Article 92(3) of the capital requirements regulation.
- (4) This paragraph applies where the relevant O-SII is a subsidiary of—
- (a) a G-SII; or
 - (b) an O-SII, which is subject to an O-SII buffer on a consolidated basis.
- (5) Where a group is subject on a consolidated basis to both a G-SII buffer and an O-SII buffer, only the higher buffer is to apply.

CHAPTER 3 **U.K.**

Date of application and calculation of O-SII buffer

Date of application

34ZD.—(1) Where the PRA sets a buffer rate for a relevant O-SII under regulation 34ZC, the PRA must decide the date from which the O-SII must apply that rate in the calculation of its O-SII buffer.

(2) Where the PRA has set a buffer rate for a relevant O-SII under regulation 34ZC and determines that a buffer rate is no longer to be set for the O-SII under that regulation, the PRA must decide the date from which this takes effect.

Calculation of buffer

34ZE.—(1) The PRA must require a relevant O-SII to calculate its O-SII buffer by applying the buffer rate set for it under regulation 34ZC to all its exposures.

(2) The PRA must require the relevant O-SII, for the purposes of the calculation required under paragraph (1), to—

- (a) determine the value of its exposures by applying the level of consolidation selected by the PRA under Step 1 of regulation 34ZC(2); and
- (b) apply the buffer rate equally to all exposures, regardless of where they are located.

CHAPTER 4 **U.K.**

Publication, Review and Appeals

Publication: United Kingdom buffer rates

34ZF.—(1) Where the PRA sets a buffer rate for a relevant O-SII under regulation 34ZC, the PRA must publish the following information—

- (a) the relevant O-SII to which the buffer rate applies;
- (b) the buffer rate;
- (c) the justification for setting the buffer rate;
- (d) the date from which the relevant O-SII must apply the buffer rate;
- (e) the level of consolidation to be used in the calculation of the O-SII buffer (as determined under Step 1 of regulation 34ZC(2)); and
- (f) the fact that the O-SII buffer applies to exposures located anywhere in the world.

(2) Where the PRA determines that a buffer rate is no longer to be set for a relevant O-SII under regulation 34ZC, the PRA must publish the following information—

- (a) the fact that the buffer rate is no longer set;
- (b) the fact that the relevant O-SII is no longer required to maintain an O-SII buffer;
- (c) the justification for ceasing to set the buffer rate; and
- (d) the date from which the relevant O-SII may cease to apply the buffer rate.

(3) A reference to the PRA's justification in paragraphs (1)(c) and (2)(c) includes the PRA's justification for doing anything under Step 3 of regulation 34ZC(2).

(4) The PRA must not publish information under paragraph (1)(c) or (2)(c) if publication might jeopardise the stability of the financial system.

Review

34ZG.—(1) The FPC must review the elements of the FPC framework at least every second year.

(2) The PRA must review the following matters at least once every year—

- (a) a buffer rate set under regulation 34ZC;
- (b) a decision not to set a buffer rate under regulation 34ZC.

Appeals

34ZH.—(1) A person who is aggrieved by a decision of the PRA under regulation 34ZC may refer the matter to the Tribunal.

(2) The scope of such an appeal is limited to—

- (a) the application of Step 2 of regulation 34ZC(2); and
- (b) the exercise of the PRA's discretion in Step 3 of regulation 34ZC(2)."

Commencement Information

I12 Reg. 18 in force at 27.11.2020, see [reg. 1\(2\)](#)

Changes to legislation: The Financial Holding Companies (Approval etc.) and Capital Requirements (Capital Buffers and Macro-prudential Measures) (Amendment) (EU Exit) Regulations 2020, PART 4 is up to date with all changes known to be in force on or before 20 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

Systemic risk buffer: amendments **U.K.**

19.—(1) In regulation 60, for the new Part 5A, substitute—

“PART 5A **U.K.**
Systemic Risk Buffer

Interpretation

34A. In this Part—

“institution” means—

- (a) a credit institution, or
- (b) an investment firm which is for the time being designated by the PRA under article 3 of the Financial Services and Markets Act 2000 (PRA-regulated Activities) Order 2013⁽⁸⁾;

“recognition decision” means a decision by the PRA to recognise a third country buffer rate;

“relevant entity” has the meaning given in regulation 34C(1);

“systemic risk buffer” has the meaning given in regulation 34C(1);

“third country buffer rate” has the meaning given in regulation 34B.

Third country buffer rates: recognition

34B.—(1) In this Part, a “third country buffer rate” means—

- (a) in relation to an EEA state, a buffer rate set in accordance with Article 133 of the capital requirements directive as it has effect in EU law as amended from time to time, or if revoked, by its successor; or
- (b) in relation to a country other than the United Kingdom which is not an EEA state, a buffer rate set by the relevant authority of that country, that the PRA considers serves a similar purpose to the buffer rates that may be set in accordance with Article 133 of the capital requirements directive as it has effect in EU law as amended from time to time, or if revoked, by its successor.

(2) The PRA may decide to recognise a third country buffer rate (“a recognition decision”).

(3) A recognition decision may relate to all institutions or institutions of a specified description.

(4) The PRA may revoke a recognition decision.

Requirement to maintain a systemic risk buffer

34C.—(1) The PRA may require an institution, a UK parent financial holding company, or a UK parent mixed financial holding company (a “relevant entity”) to hold additional Common Equity Tier 1 capital (“a systemic risk buffer”) in relation to some or all of the exposures referred to in regulation 34G, in order to prevent or mitigate macro-prudential or systemic risks which are not covered—

- (a) under the capital requirements regulation; or

⁽⁸⁾ S.I. 2013/556. Article 3 was amended by S.I. 2013/3115; 2017/701 and 2019/632.

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- (b) by the countercyclical capital buffer, the G-SII buffer or the O-SII buffer provided for in these Regulations.
- (2) If the PRA imposes a requirement on a relevant entity under paragraph (1), the PRA must specify—
 - (a) the exposures or subset of exposures to which that requirement relates;
 - (b) the buffer rate to be applied to those exposures.
- (3) The only buffer rates that the PRA may specify for the purposes of paragraph (2) are 0.5%, 1%, 1.5%, 2%, 2.5%, 3%, 3.5%, 4%, 4.5% and 5%.
- (4) For the purposes of this regulation, a risk is a “macro-prudential or systemic risk” if it is a risk of disruption in the financial system with the potential to have serious negative consequences to the financial system and the real economy in the United Kingdom.
- (5) The PRA may impose a requirement under paragraph (1) on all relevant entities, or on relevant entities of a specified description, and may impose different requirements in relation to different relevant entities or classes of exposures.

Third country rates: application to relevant entities

- 34D.**—(1) The PRA may require a relevant entity which has exposures located in a third country, in relation to which a recognition decision is in effect, to apply the third country buffer rate, in relation to its total exposures in that country.
- (2) The powers in paragraph (1), in relation to a recognition decision which is limited to relevant entities of a specified description (in accordance with regulation 34B(3)), apply only to relevant entities falling within the description.
- (3) Where a relevant entity is required to apply a third country buffer rate under paragraph (1), the PRA must specify, to the relevant entity concerned, the basis to be applied in valuing exposures from one of the following bases—
- (a) an individual basis;
 - (b) a sub-consolidated basis; or
 - (c) a consolidated basis.
- (4) Where the PRA require a relevant entity to apply a third country buffer rate under paragraph (1)—
- (a) if the third country buffer rate addresses different risks to the systemic risk buffer rate applied under regulation 34C (the “regulation 34C rate”), the third country buffer rate may be applied cumulatively with the systemic risk buffer rate;
 - (b) if the third country buffer rate addresses the same risks as the regulation 34C rate, only the higher buffer rate is to be applied.
- (5) The PRA may revoke a requirement imposed under paragraph (1).
- (6) Where the PRA decides that a relevant entity must apply a third country buffer rate, the regulator must decide the date from which the relevant entity must apply the third country buffer rate.
- (7) Where the PRA revokes a requirement that a relevant entity maintain a third country buffer, the regulator must decide the date from which the relevant entity must cease to apply the third country buffer rate.

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Calculation of the systemic risk buffer

34E.—(1) Relevant entities must calculate the amount of the systemic risk buffer in accordance with the following formula—

$$SRB = (R_T \times E_T) + \left(\sum_I R_I \times E_I \right)$$

where—

“SRB” is the systemic risk buffer;

“R_T” is the buffer rate applicable to the amount of the total risk exposure of a relevant entity;

“E_T” is the amount of the total risk exposure of the relevant entity calculated in accordance with Article 92(3) of the capital requirements regulation;

“I” is the index denoting the subset of exposures specified by the PRA under regulation 34C(2);

“R_I” is the buffer rate applicable to the amount of the risk exposure of I;

“E_I” is the risk exposure amount of a relevant entity for I calculated in accordance with Article 92(3) of the capital requirements regulation.

(2) The PRA may require a relevant entity to maintain a systemic risk buffer on—

- (a) an individual basis;
- (b) a sub-consolidated basis; or
- (c) a consolidated basis.

Cumulative buffers

34F.—(1) Where a relevant entity is subject to a systemic risk buffer, applied in accordance with this Part, subject to paragraph (2), that buffer is to be cumulative with the O-SII buffer applied under Part 5ZA or the G-SII buffer set under Part 4.

(2) The sum of the systemic risk buffer rate and the O-SII buffer rate or G-SII buffer rate may not exceed 5%.

Systemic risk buffer exposures

34G. A systemic risk buffer may apply to the following exposures—

- (a) all exposures located in the United Kingdom;
- (b) the following sectoral exposures located in the United Kingdom—
 - (i) all retail exposures to natural persons which are secured by residential property,
 - (ii) all exposures to legal persons which are secured by mortgages on commercial immoveable property,
 - (iii) all exposures to natural persons other than those specified in sub-paragraph (i),
 - (iv) all exposures to legal persons other than those specified in sub-paragraph (ii);
- (c) all exposures located in a third country;
- (d) sectoral exposures referred to in paragraph (b) which are located in a third country;
- (e) a specified subset of the exposures referred to in paragraphs (a) to (d).

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Notifications

34H.—(1) Where the PRA gives or revokes a recognition decision under regulation 34B, it must notify—

- (a) the FCA;
- (b) the authorities of the third country which are responsible for supervision of undertakings; and
- (c) if different, the authorities of the third country responsible for setting the buffer rate.

(2) When the relevant entity to which one or more systemic risk buffers apply is a subsidiary undertaking of a parent undertaking which is incorporated under the law of a third country, the PRA must notify the competent authority of the third country concerned of any requirements imposed on the relevant entity under regulation 34C.

(3) Where a systemic risk buffer is applied to exposures in a third country, the PRA must notify the competent authority of the third country concerned.

Publication: systemic risk buffer

34I.—(1) Where the PRA requires a relevant entity to maintain a systemic risk buffer under regulation 34C, it must publish the following information on its website—

- (a) the systemic risk buffer rate;
- (b) the relevant entities to which the systemic risk buffer applies;
- (c) the exposures to which the systemic risk buffer rate applies;
- (d) the justification for setting or resetting the systemic risk buffer rate;
- (e) the date from which the relevant entities are to apply the setting or the resetting of the systemic risk buffer rate; and
- (f) the names of the countries where exposures located in those countries are recognised in the systemic risk buffer.

(2) The PRA must not publish information under paragraph (1)(d) if publication might jeopardise the stability of the financial system.

(3) Where the PRA revokes a requirement that a relevant entity maintain a systemic risk buffer rate under regulation 34C, it must publish—

- (a) the fact that the requirement has been revoked;
- (b) the justification for its decision to revoke the requirement; and
- (c) the date from which the relevant entity may cease to apply the systemic risk buffer rate.

Publication: third country buffer rates

34J.—(1) Where the PRA recognises a third country buffer rate under regulation 34B, it must publish—

- (a) the buffer rate; and
- (b) the justification for recognising the buffer rate.

(2) Where the PRA requires a relevant entity to apply a third country buffer rate under regulation 34D, it must publish—

- (a) the date from which the relevant entity must apply the third country buffer rate;
- (b) the location of the exposures to which the third country buffer rate relates;

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- (c) the level of consolidation which applies in the calculation of the third country buffer; and
 - (d) the justification for its decision under regulation 34D(1).
- (3) The PRA must not publish information under paragraph (1)(b) or (2)(d) if publication might jeopardise the stability of the financial system.
- (4) Where the PRA revokes a requirement that a relevant entity apply a third country buffer rate under regulation 34D, it must publish—
- (a) the fact that the requirement has been revoked;
 - (b) the justification for its decision to revoke the requirement; and
 - (c) the date from which the relevant entity may cease to apply the third country buffer rate.

Review

- 34K.** The PRA must review the following matters at least once every second year—
- (a) the decision to require a relevant entity or class of relevant entities to maintain a systemic risk buffer under regulation 34C(1);
 - (b) a buffer rate set under regulation 34C(2);
 - (c) the exposures, or subset of exposures, to which that buffer rate is applied;
 - (d) a decision that a relevant entity must maintain a third country buffer under regulation 34D;
 - (e) a decision as to the level of consolidation to apply in relation to the application of a third country buffer rate under regulation 34D(3).

Appeals

- 34L.**—(1) A person who is aggrieved by a decision of the PRA under regulation 34C may refer the matter to the Tribunal.
- (2) The scope of such an appeal is limited to the buffer rate set under regulation 34C(2).”

Commencement Information

I13 Reg. 19 in force at 27.11.2020, see [reg. 1\(2\)](#)

Combined buffer requirement **U.K.**

20. After regulation 60, insert—

“Combined buffer requirement

60A. In regulation 35, after “institutions” insert “, parent financial holding companies and parent mixed financial holding companies”.”

Commencement Information

I14 Reg. 20 in force at 27.11.2020, see [reg. 1\(2\)](#)

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Changes and effects yet to be applied to :

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