

PRA STANDARDS INSTRUMENT: THE TECHNICAL STANDARDS (DEFINITION OF CAPITAL) INSTRUMENT 2021

DRAFT INSTRUMENT

Powers exercised

- A. The PRA makes this instrument in the exercise of powers under section 138P (Technical Standards) of the Act.
- B. For the purposes of section 138P of the Act, the power to make technical standards which the PRA relies on is conferred on the PRA by Article 36(4) of Regulation (EU) 575/2013.
- C. Pursuant to section 138P(2)(b) of the Act, the power to make technical standards includes the power to modify, amend or revoke any EU tertiary legislation made by an EU entity under the original EU power which forms part of retained EU law. Commission Delegated Regulation (EU) 241/2014 constitutes EU tertiary legislation (as defined in section 20 of the EUWA) for these purposes.
- D. Pursuant to the Capital Requirements (No. 3) Instrument, Commission Delegated Regulation (EU) 241/2014 has been split into two parts, an FCA part and a PRA part. This instrument amends Part 2 (PRA) of Commission Delegated Regulation (EU) 241/2014.
- E. The powers referred to above are specified for the purpose of section 138Q(2) (Standards instruments) of the Act.

Pre-conditions to making¹

- F. The FCA has been consulted on the changes made by this instrument pursuant to section 138P(4) of the Act.
- G. In accordance with section 138J of the Act, the PRA published a draft of the proposed instrument and had regard to representations made.
- H. A draft of this instrument has been approved by the Treasury, as required by section 138R of the Act.

Interpretation

- I. In this instrument, any reference to any provision of direct EU legislation is a reference to it as it forms part of retained EU law.
- J. In this instrument:
 - “Capital Requirements (No. 3) Instrument” means the PRA’s Technical Standards (Capital Requirements) (EU Exit) (No. 3) Instrument 2019;
 - “EUWA” means the European Union (Withdrawal) Act 2018;

¹ These conditions will be completed prior to the making of any final instrument.

“PRA” means the Prudential Regulation Authority;

“retained EU law” has the meaning given it in section 6 of the EUWA; and

“the Act” means the Financial Services and Markets Act 2000.

Modifications

K. The PRA makes the modifications in the Annex to Part 2 (PRA) of Commission Delegated Regulation (EU) 241/2014.

Commencement

L. This instrument comes into force on [2021].²

Citation

M. This instrument may be cited as PRA Standards Instrument: The Technical Standards (Definition of Capital) Instrument 2021.

By order of the Prudential Regulation Committee

[Date]

² Commencement date to be confirmed in due course.

ANNEX

MODIFICATIONS TO PART 2 (PRA) OF COMMISSION DELEGATED REGULATION (EU) 241/2014

1. In this Annex, new text is underlined and deleted text is struck through.
 2. Part 2 (PRA) of Commission Delegated Regulation (EU) 241/2014 of 7 January 2014 supplementing Regulation (EU) No 575/2013 of the European Parliament and of the Council with regard to regulatory technical standards for Own Funds requirements for institutions, as it forms part of retained EU law, is modified as follows:
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Article 1

Subject matter

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- (f) the application of the deductions from Common Equity Tier 1 items and other deductions for Common Equity Tier 1, Additional Tier 1 and Tier 2 items in accordance with paragraphs (2) and (4) of Article 36(2) of Regulation (EU) No 575/2013;

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Article 13a

~~Deduction of software assets that are classified as intangible assets for accounting purposes for the purposes of Article 36(1), point (b), of Regulation (EU) No 575/2013~~

~~1. Software assets that are intangible assets as defined in Article 4(1), point (115), of Regulation (EU) No 575/2013 shall be deducted from Common Equity Tier 1 items in accordance with paragraphs 5 to 8 of this Article. The amount to be deducted shall be determined on the basis of the prudential accumulated amortisation calculated in accordance with paragraphs 2, 3 and 4 of this Article.~~

~~2. Institutions shall calculate the amount of the prudential accumulated amortisation of the software assets referred to in paragraph 1 by multiplying the amount obtained from the calculation referred in point (a) by the number of days referred to in point (b):~~

~~(a) the amount at which the software asset has been initially recognised on the balance sheet of the institution under the applicable accounting framework, divided by the lower of:~~

~~(i) the number of days of useful life of the software asset, as estimated for accounting purposes;~~

~~(ii) three years, expressed in days, starting from the date referred to in paragraph 3;~~

~~(b) the number of days elapsed since the date referred to in paragraph 3, provided that this does not exceed the period referred in point (a) of this paragraph.~~

~~3. The prudential accumulated amortisation referred to in paragraph 1 shall be calculated starting from the date on which the software asset is available for use and begins to be amortised for accounting purposes.~~

~~4. By way of derogation from paragraph 3, where a software asset has been acquired from any undertaking, including a non-financial sector entity, that is part of the same group as the institution, the prudential accumulated amortisation referred to in paragraph 1 shall be calculated from the date on which that software asset began to be amortised under the applicable accounting framework on that undertaking's balance sheet.~~

~~5. Institutions shall deduct from Common Equity Tier 1 items the amount resulting from the difference, if positive, between the amount in point (a) and the amount in point (b):~~

~~(a) the prudential accumulated amortisation of a software asset calculated in accordance with paragraphs 2, 3 and 4;~~

~~(b) the sum of the accumulated amortisation and any accumulated impairment losses of that software asset recognised on that institution's balance sheet under the applicable accounting framework.~~

~~6. By way of derogation from paragraph 5, until the date on which the software asset is available for use and begins to be amortised for accounting purposes, institutions shall deduct from Common Equity Tier 1 items the full amount at which the software asset is recognised on that institution's balance sheet under the applicable accounting framework.~~

~~7. The prudential amortisations and deductions set out in this Article shall be made separately for each software asset.~~

~~8. Institutions' investments in maintaining, enhancing or upgrading existing software assets shall be treated as assets other than the related software assets, provided that those investments are recognised as an intangible asset on that institution's balance sheet under the applicable accounting framework.~~

~~Without prejudice to paragraph 6, the prudential accumulated amortisation of those investments in maintaining, enhancing or upgrading existing software assets shall be calculated from the date on which they begin to be amortised under the applicable accounting framework.~~

~~The prudential accumulated amortisation of related existing software assets shall continue to be calculated from the date of their own initial amortisation for accounting purposes and until the end of the period of the prudential amortisation determined in accordance with point (a) of paragraph 2.~~

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