

**TECHNICAL STANDARDS (FINANCIAL CONGLOMERATES DIRECTIVE)
(AMENDMENT) INSTRUMENT 2021**

Powers exercised

- A. The Financial Conduct Authority (“the FCA”) makes this instrument in the exercise of the powers and related provisions in or under:
- (1) regulations 7(1), (4) and (6) of the Financial Conglomerates and Other Financial Groups (Amendment etc.) (EU Exit) Regulations 2019; and
 - (2) the following sections of the Financial Services and Markets Act 2000 (“the Act”):
 - (a) section 138P (Technical Standards);
 - (b) section 138Q (Standards instruments);
 - (c) section 138S (Application of Chapters 1 and 2);
 - (d) section 137T (General supplementary powers);
 - (e) section 138F (Notification of rules); and
 - (f) section 138I (Consultation by the FCA).
- B. The rule-making powers listed above are specified for the purposes of section 138Q(2) (Standards instruments) of the Act.

Pre-conditions to making

- C. The FCA has consulted the Prudential Regulation Authority and the Bank of England as appropriate in accordance with section 138P of the Act.
- D. A draft of this instrument has been approved by the Treasury, in accordance with section 138R of the Act.

Interpretation

- E. 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.

Amendments

- F. The following technical standards are amended in accordance with Annexes A and B of this instrument.

(1)	(2)
Part 1 (FCA) of Regulation (EU) 342/2014 of 21 January 2014 supplementing Directive 2002/87/EC of the European Parliament and of the Council and Regulation (EU) No 575/2013 of the European Parliament and of the Council with regard to regulatory technical standards for the application of the calculation methods of capital adequacy requirements for financial conglomerates	Annex A

Part 1 (FCA) of Regulation (EU) 2015/2303 of 28 July 2015 supplementing Directive 2002/87/EC of the European Parliament and of the Council with regard to regulatory technical standards specifying the definitions and coordinating the supplementary supervision of risk concentration and intra-group transactions	Annex B

Commencement

G. This instrument comes into force on 1 January 2022.

Citation

H. This instrument may be cited as the Technical Standards (Financial Conglomerates Directive) (Amendment) Instrument 2021.

By order of the Board
25 November 2021

In this Annex, underlining indicates new text and striking through indicates deleted text.

Annex A

Amendments to Part 1 (FCA) of Regulation (EU) 342/2014 of 21 January 2014 supplementing Directive 2002/87/EC of the European Parliament and of the Council and Regulation (EU) No 575/2013 of the European Parliament and of the Council with regard to regulatory technical standards for the application of the calculation methods of capital adequacy requirements for financial conglomerates

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Article 2

Definitions

In this Regulation:

...

- (1A) “competent authority” means the PRA or the FCA;
- (1B) “institution” means a credit institution or an investment firm;
- (1C) “investment firm” means a person as defined in paragraph 1A of Article 2 of Regulation 600/2014/EU, as that Article has effect subject to the requirements imposed by the United Kingdom legislation that implemented Directive 2014/65/EU, other than a credit institution;
- (1D) “MIFIDPRU” means the Prudential sourcebook for MiFID Investment Firms module of the FCA Handbook;
- (1E) references to “Regulation (EU) No 575/2013” mean:
 - (a) (except in the circumstances in (b)) the UK version of Regulation of the European Parliament and the Council on prudential requirements for credit institutions and investment firms (Regulation (EU) No 575/2013) and amending Regulation (EU) No 648/2012, read together with CRR rules as defined in section 144A of the Financial Services and Markets Act 2000;
 - (b) (insofar as provisions are relevant to the assessment of own funds in accordance with MIFIDPRU) the Regulation in (a) as applied and modified by MIFIDPRU 3.

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Article 6

Deficit of own funds at the financial conglomerate level

- (1) Where there is a deficit of own funds at the financial conglomerate level, only own fund items that are eligible under the sectoral rules for both the banking and investment sector (taken together), and the insurance sector shall be used to meet that deficit.
 - (2) The own funds referred to in paragraph 1 are the following:
 - (a) ...
 - (b) basic own-fund items where those items may be included in Tier 1 own funds in accordance with Rule 3.1 of the Own Funds Part of the PRA Rulebook or MIFIDPRU 3 (as applicable), and the inclusion of those items is not limited by Article 82 of Regulation (EU) 2015/35;
...
 - (d) basic own-fund items where those items may be included in Tier 1 own funds in accordance Rule 3.1 of the Own Funds Part of the PRA Rulebook or MIFIDPRU 3 (as applicable), and the inclusion of those items is limited by Article 82 of Regulation (EU) 2015/35;
...
 - (f) basic own-fund items where those items may be included in Tier 2 in accordance with Rule 3.2 of the Own Funds Part of the PRA Rulebook or MIFIDPRU 3 (as applicable).
- ...

...

Article 9

Solvency requirement

- (1) ...
- (2) Where the rules for the banking or investment services sector are to be applied,
 - (a) own funds requirements as laid down in Chapter 1 of Title I of Part Three of Regulation (EU) No 575/2013 or MIFIDPRU 4 (as applicable), and
 - (b) requirements pursuant to that Regulation or to Directive 2013/36/EU UK law, or to MIFIDPRU (as applicable) to hold own funds in excess of those requirements, including
 - (i) a requirement arising from the internal capital adequacy assessment process in the Internal Capital Adequacy Assessment Part of the PRA Rulebook ~~and section 2.2 of the FCA Prudential sourcebook for Investment Firms~~, or from compliance with the requirements of MIFIDPRU 7 (as applicable),

...
...
...

Article 14

Specification of technical calculation under method 1 pursuant to Annex 2 (Table 1) of the Financial Conglomerates Part of the PRA Rulebook and Annex 1R (Table 1) of Chapter 3 of the FCA General Prudential sourcebook

- (1) ...
...
(8) For the purposes of calculating thresholds or limits, regulated entities in a financial conglomerate which fall within the scope of an institution's consolidated situation pursuant to Section 1 of Chapter 2 of Title II of Part One of Regulation (EU) No 575/2013, or to MIFIDPRU 2 (as applicable), shall be considered together.
...

...

In this Annex, underlining indicates new text and striking through indicates deleted text.

Annex B

Amendments to Part 1 (FCA) of Regulation (EU) 2015/2303 of 28 July 2015 supplementing Directive 2002/87/EC of the European Parliament and of the Council with regard to regulatory technical standards specifying the definitions and coordinating the supplementary supervision of risk concentration and intra-group transactions

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Article 3

Significant risk concentration

- (1) ...
- (2) Counterparty risk or credit risk (which are not relevant where the Prudential sourcebook for MiFID Investment Firms (MIFIDPRU) module of the FCA Handbook applies) shall be deemed to include, in particular, risks related to interconnected counterparties in groups, which do not form part of the financial conglomerate, including an accumulation of exposures towards those counterparties.

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