STATUTORY INSTRUMENTS.

S.I. No. 710 of 2020

EUROPEAN UNION (CAPITAL REQUIREMENTS) (AMENDMENT) REGULATIONS 2020

S.I. No. 710 of 2020

EUROPEAN UNION (CAPITAL REQUIREMENTS) (AMENDMENT) REGULATIONS 2020

I, PASCHAL DONOHOE, Minister for Finance, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972) and for the purpose of giving further effect to Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013[1], as amended by Directive 2019/878/EU of the European Parliament and of the Council of 20 May 2019[2], hereby make the following regulations:

Citation and Commencement

1. (1) These Regulations may be cited as the European Union (Capital Requirements) (Amendment) Regulations 2020.

(2) Subject to paragraphs (3) and (4), these Regulations come into operation on 29 December 2020.

(3) Regulation 18 and paragraphs (b), (c) and (d) of Regulation 26 come into operation on 28 June 2021.

(4) Regulations 53 (in so far as it relates to the insertion of Regulations 129B and 129C into the Principal Regulations) and 54 come into operation on 1 January 2022.

Definition

2. In these Regulations, "Principal Regulations" means the European Union (Capital Requirements) Regulations 2014 (S.I. No. 158 of 2014).

Amendment of Regulation 2 of Principal Regulations

3. Regulation 2 of the Principal Regulations is amended—

(*a*) in paragraph (5)—

(i) in subparagraph (a), by the substitution of "Directive 2014/65/EU" for "Directive 2004/39/EC",

(ii) in paragraph (d), by the substitution of "friendly societies;" for "friendly societies.", and

(iii) by the insertion of the following paragraph after paragraph (d):

"(e) the Strategic Banking Corporation of Ireland.", and

[1] OJ No. L. 176, 27.6.2013, p. 338.
[2] OJ No. L. 150, 7.6.2019, p. 253.

Notice of the making of this Statutory Instrument was published in "Iris Oifigiúil" of 5th *January,* 2021.

(*b*) in paragraph (6), by the substitution of "paragraph (5)(a), (c), (d) and (e)" for "paragraph (5)(a), (c) and (d)",

Amendment of Regulation 3 of Principal Regulations

4. Regulation 3 of the Principal Regulations is amended—

(*a*) in paragraph (1)—

(i) by the insertion of the following definitions:

" 'gender neutral remuneration policy' means a remuneration policy based on equal pay for male and female workers for equal work or work of equal value;

'group' has the meaning assigned to it in point (138) of Article 4(1) of the Capital Requirements Regulation;

'non-EU G-SII' has the meaning assigned to it in point (134) of Article 4(1) of the Capital Requirements Regulation;

'resolution authority' has the meaning assigned to it in the European Union (Bank Recovery and Resolution) Regulations 2015 (S.I. No. 289 of 2015);

'third-country group' means a group of which the parent undertaking is established in a third country;",

(ii) by the substitution of the following definition for the definition of "authorisation":

" 'authorisation', in relation to a credit institution in the State, means an authorisation or licence by the Bank or the ECB to carry on the business of a credit institution in accordance with the provisions of any financial services legislation, other than an authorisation granted under section 9A of the Act of 1971;",

(iii) by the substitution of the following definition for the definition of "Capital Requirements Directive":

"'Capital Requirements Directive' means Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013[3] on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC, as amended by—

(*a*) Directive 2014/17/EU of the European Parliament and of the Council of 4 February 2014[4] on credit agreements for consumers relating to residential immovable property and amending Directives

[3] OJ No. L. 176, 27.06.2013, p. 338.
[4] OJ No. L. 60, 28.2.2014, p. 34.

2008/48/EC and 2013/36/EU and Regulation (EU) No 1093/2010,

(b) Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014[5] establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No 1093/2010 and (EU) No 648/2012, of the European Parliament and of the Council,

(c) Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015[6] on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC,

(d) Directive (EU) 2018/843 of the European Parliament and of the Council of 30 May 2018[7] amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, and amending Directives 2009/138/EC and 2013/36/EU, and

(e) Directive (EU) 2019/878 of the European Parliament and of the Council of 20 May 2019[8] amending Directive 2013/36/EU as regards exempted entities, financial holding companies, mixed financial holding companies, remuneration, supervisory measures and powers and capital conservation measures;", and

(iv) by the substitution of the following definition for the definition of "G-SII":

" 'G-SII' has the meaning assigned to it in point (133) of Article 4(1) of the Capital Requirements Regulation;", and

(*b*) by the insertion of the following paragraph after paragraph (2):

"(3) A reference in these Regulations to 'institution', 'parent institution in a Member State', 'EU parent institution' or 'parent undertaking' shall include a reference to the following:

(*a*) financial holding companies and mixed financial holding companies that have been granted approval in accordance with Chapter 1A of Part 3 or the law of a Member State

[5] OJ No. L. 173, 12.6.2014, p. 190.
[6] OJ No. L. 337, 23.12.2015, p. 35.
[7] OJ No. L. 156, 19.6.2018, p. 43.
[8] OJ No. L. 150, 7.6.2019, p. 253.

other than the State giving effect to Article 21a of the Capital Requirements Directive;

(*b*) designated institutions controlled by an EU parent financial holding company, an EU parent mixed financial holding company, a parent financial holding company in a Member State or a parent mixed financial holding company in a Member State where the relevant parent is not subject to approval in accordance with Regulation 9D or the law of a Member State other than the State giving effect to Article 21a(4) of the Capital Requirements Directive;

(*c*) financial holding companies, mixed financial holding companies or institutions designated pursuant to Regulation 9F or the law of a Member State other than the State giving effect to point (d) of Article 21a(6) of the Capital Requirements Directive.".

Financial holding companies, mixed financial holding companies and intermediate EU parent undertakings

5. Part 3 of the Principal Regulations is amended by the insertion of the following Chapters after Chapter 1:

"Chapter 1A

Financial holding companies and mixed financial holding companies

Application for approval of financial holding companies and mixed financial holding companies

9A. (1) Subject to Regulation 9D, the following shall make an application for approval in accordance with this Chapter:

(*a*) a parent financial holding company established in the State;

(*b*) a parent mixed financial holding company established in the State;

(*c*) an EU parent financial holding company established in the State;

(*d*) an EU parent mixed financial holding company established in the State.

(2) Subject to Regulation 9D, where a financial holding company or mixed financial holding company established in the State that is not referred to in paragraph (1) is required to comply with these Regulations or the Capital Requirements Regulation on a sub-consolidated basis, it shall seek approval in accordance with this Chapter.

(3) A financial holding company or mixed financial holding company making an application for approval in accordance with this Chapter shall

provide the consolidating supervisor and, where different, the Bank with the following information when making the application:

(*a*) the structural organisation of the group of which the financial holding company or the mixed financial holding company, as the case may be, is part, with a clear indication of its subsidiaries and, where applicable, parent undertakings, and the location and type of activity undertaken by each of the entities within the group;

(*b*) information regarding—

(i) the nomination of at least two persons effectively directing the financial holding company or mixed financial holding company, as the case may be, and

(ii) compliance with the requirements under Regulation 109 in relation to the qualification of directors;

(*c*) information regarding compliance with the criteria specified in Regulation 9C(3), where the financial holding company or mixed financial holding company has a credit institution as its subsidiary;

(*d*) the internal organisation and distribution of tasks within the group;

(*e*) any other information that may be necessary to carry out the assessments referred to in Regulations 9C and 9D.

Concurrent assessment of acquisition

9B. (1) Where—

(*a*) the approval of a financial holding company or mixed financial holding company takes place concurrently with an assessment by the Bank under Regulation 15 of an acquisition by that financial holding company or mixed financial holding company, as the case may be, and

(*b*) the Bank is neither—

(i) the consolidating supervisor in respect of the financial holding company or the mixed financial holding company, as the case may be, nor

(ii) the competent authority in the Member State in which the financial holding company or the mixed financial holding company, as the case may be, is established,

the Bank shall coordinate, as appropriate, with the consolidating supervisor and, where different, the competent authority in the Member State where the financial holding company or mixed financial holding company, as the case may be, is established.

(2) Where paragraph (1) applies, the assessment period referred to in Regulation 14(3) shall be suspended until the later of—

(*a*) the date that is 20 working days from the date on which paragraph (1) first applies, and

(*b*) the date on which the procedure for approval under this Chapter is complete.

Grant of approval

9C. (1) The Bank may grant approval to a financial holding company or mixed financial holding company only where all of the following conditions are satisfied:

(*a*) the internal arrangements and distribution of tasks within the group of which the financial holding company or mixed financial holding company, as the case may be, is part are adequate for the purpose of complying with the requirements under these Regulations and the Capital Requirements Regulation on a consolidated or sub-consolidated basis and, in particular, are effective to—

(i) coordinate all the subsidiaries of the financial holding company or mixed financial holding company, as the case may be, including, where necessary, through an adequate distribution of tasks among subsidiary institutions,

(ii) prevent or manage intra-group conflicts, and

(iii) enforce the group-wide policies set by the parent financial holding company or parent mixed financial holding company, as the case may be, throughout the group;

(*b*) the structural organisation of the group does not obstruct or otherwise prevent the effective supervision of the subsidiary institutions or parent institutions as concerns the individual, consolidated and, where appropriate, sub-consolidated obligations under these Regulations and the Capital Requirements Regulation to which they are subject;

(*c*) the Bank is satisfied, having regard to the criteria specified in paragraph (3), as to the suitability of the shareholders or members of the financial holding company or mixed financial holding company, as the case may be;

(*d*) the obligations under Regulation 109 are complied with.

(2) In assessing whether the condition specified in paragraph (1)(b) is satisfied, the Bank shall take into account, in particular—

(*a*) the position of the financial holding company or mixed financial holding company in a multi-layered group,

(*b*) the shareholding structure of the group, and

(*c*) the role of the financial holding company or mixed financial holding company, as the case may be, within the group.

(3) The criteria referred to in paragraph (1)(c) are as follows:

(*a*) the reputation of the shareholders or members of the financial holding company or mixed financial holding company, as the case may be;

(*b*) the reputation, knowledge, skills and experience, as specified in Regulation 79, of any member of the management body who will direct the business of the shareholders or members of the financial holding company or mixed financial holding company, as the case may be;

(*c*) the financial soundness of the financial holding company or mixed financial holding company, as the case may be, in particular in relation to the type of business pursued and envisaged in the financial holding company or mixed financial holding company, as the case may be;

(*d*) whether the financial holding company or mixed financial holding company, as the case may be, will be able to comply and continue to comply with the prudential requirements of these Regulations and the Capital Requirements Regulation, and where applicable, other European Union law, in particular Directive 2002/87/EC of the European Parliament and of the Council of 16 December 2002[9] and Directive 2009/110/EC of the European Parliament and of the Council of 16 September 2009[10], including, where applicable, whether the group of which it is a part has a structure that makes it possible to exercise effective supervision, effectively exchange information among the competent authorities of relevant Member States and determine the allocation of responsibilities among the competent authorities of relevant Member States;

(*e*) whether there are reasonable grounds to suspect that, in connection with the proposed authorisation, money laundering or terrorist financing, within the meaning of Article 1 of Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005[11] on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing, is being or has been committed or attempted, or that the proposed authorisation could increase the risk thereof.

(4) Where the Bank grants approval to a financial holding company or mixed financial holding company pursuant to this Regulation, that financial holding company or mixed financial holding company, as the case may be, shall comply with the conditions specified in paragraph (1) on an ongoing basis.

(5) Where approval of a financial holding company or mixed financial holding company pursuant to this Regulation is refused, and the Bank is the consolidating supervisor, the Bank shall notify the applicant of the decision and

[9] O.J. No. L 35, 11.2.2003, p. 1.
[10] O.J. No. L 267, 10.10.2009, p. 7.
[11] O.J. No. L 309, 25.11.2005, p. 15.

the reasons therefor within four months of receipt of the application, or where the application is incomplete, within four months of receipt of the complete information required for the decision.

(6) A decision under this Regulation to grant or refuse approval shall be taken within six months of receipt of the application for approval.

(7) Where an application for approval is refused, the Bank may impose a supervisory measure referred to in Regulation 9F.

Exemption

9D. (1) The Bank shall exempt a financial holding company or mixed financial holding company from the requirement to make an application for approval under this Chapter where all of the following conditions are satisfied:

(*a*) the financial holding company's principal activity is the acquisition of holdings in subsidiaries or, in the case of a mixed financial holding company, its principal activity with respect to institutions or financial institutions is to acquire holdings in subsidiaries;

(*b*) the financial holding company or mixed financial holding company, as the case may be, has not been designated as a resolution entity in any of the resolution groups of the group concerned in accordance with the resolution strategy determined by the relevant resolution authority in accordance with Directive 2014/59/EU;

(*c*) a subsidiary credit institution is designated as responsible for ensuring the group's compliance with prudential requirements on a consolidated basis and is given all the necessary means and legal authority to discharge those obligations in an effective manner;

(*d*) the financial holding company or mixed financial holding company, as the case may be, does not engage in taking management, operational or financial decisions affecting the group or its subsidiaries that are institutions or financial institutions;

(*e*) there is no impediment to the effective supervision of the group on a consolidated basis.

(2) Where the Bank exempts a financial holding company or mixed financial holding company from the requirement to make an application for approval under this Regulation, that financial holding company or mixed financial holding company, as the case may be, shall comply with the conditions specified in paragraph (1) on an ongoing basis.

(3) The exemption of a financial holding company or mixed financial holding company from the requirement to make an application for approval in

accordance with paragraph (1), shall not exclude it from consolidation in accordance with these Regulations and the Capital Requirements Regulation.

(4) Where the Bank is the consolidating supervisor in respect of a financial holding company or mixed financial holding company and has established that the conditions set out in paragraph (1) are no longer satisfied by that financial holding company or mixed financial holding company, as the case may be—

(*a*) the Bank shall notify the financial holding company or mixed financial holding company, as the case may be, that the Bank has so established, and

(*b*) the financial holding company or mixed financial holding company, as the case may be, shall seek approval in accordance with this Chapter.

Monitoring

9E. (1) Where the Bank is the consolidating supervisor in respect of a financial holding company or mixed financial holding company, it shall monitor compliance by that financial holding company or mixed financial holding company, as the case may be, with the conditions specified in Regulation 9C(1) or, where applicable, Regulation 9D(1) on an ongoing basis.

(2) Financial holding companies and mixed financial holding companies shall provide the consolidating supervisor with the information required to monitor on an ongoing basis the structural organisation of the group and compliance with the conditions specified in Regulation 9C(1) or, where applicable, Regulation 9D(1).

(3) Where the Bank is the consolidating supervisor in respect of a financial holding company or mixed financial holding company that is not established in the State, the Bank shall share information provided to it in accordance with the law of a Member State giving effect to Article 21a(5) of the Capital Requirements Directive with the competent authority in the Member State where the financial holding company or the mixed financial holding company is established.

Supervisory measures

9F. (1) Where the Bank is the consolidating supervisor in respect of a financial holding company or mixed financial holding company and has established that the conditions specified in Regulation 9C(1) are not satisfied or have ceased to be satisfied, the Bank may impose on the financial holding company or mixed financial holding company, as the case may be, supervisory measures, as specified in paragraph (3) for the purpose of this paragraph, appropriate to—

(*a*) ensure or restore, as the case may be, the continuity and integrity of consolidated supervision, and

(*b*) ensure compliance with the requirements under these Regulations and the Capital Requirements Regulation on a consolidated basis.

(2) In the case of a mixed financial holding company, the Bank, when determining the supervisory measures to impose under paragraph (3), shall, in particular, take into account the effects those measures would, if imposed, have on the financial conglomerate concerned.

(3) The following supervisory measures are specified for the purpose of paragraph (1):

(*a*) suspending the exercise of voting rights attached to the shares of the subsidiary institutions held by the financial holding company or mixed financial holding company;

(*b*) giving instructions or directions to the financial holding company or mixed financial holding company, as the case may be, to transfer to its shareholders the participations in its subsidiary institutions;

(*c*) designating on a temporary basis another financial holding company, mixed financial holding company, as the case may be, or institution within the group as responsible for ensuring compliance with the requirements under these Regulations and in the Capital Requirements Regulation on a consolidated basis;

(*d*) restricting or prohibiting distributions or interest payments to shareholders;

(*e*) requiring the financial holding company or mixed financial holding company, as the case may be, to divest from or reduce holdings in institutions or other financial sector entities;

(*f*) requiring the financial holding company or mixed financial holding company, as the case may be, to submit a plan on return, without delay, to compliance with the conditions specified in Regulation 9C(1).

Cooperation with other authorities: non-financial conglomerates

9G. (1) This paragraph applies where—

(*a*) the consolidating supervisor in respect of a financial holding company or a mixed financial holding company is different from the competent authority in the Member State where the financial holding company or the mixed financial holding company, as the case may be, is established,

(*b*) the Bank is that consolidating supervisor or competent authority, and

(*c*) a decision is required in respect of the financial holding company or a mixed financial holding company, as the case may

be, under Regulation 9C(1), Regulation 9D(1) or (4) or Regulation 9F(1).

(2) Where paragraph (1) applies, the Bank shall work together in full consultation with the other relevant authority, for the purpose of taking a decision under Regulation 9C(1), Regulation 9D(1) or (4) or Regulation 9F(1), as the case may be.

(3) Where paragraph (1) applies and the Bank is the consolidating supervisor, the Bank shall prepare an assessment on the matter referred to in Regulation 9C(1), Regulation 9D(1) or (4) or Regulation 9F(1), as the case may be, and shall send that assessment to the other relevant authority.

(4) Where paragraph (1) applies, the Bank and the other relevant authority shall do everything within their powers to reach a joint decision on the matter referred to in Regulation 9C(1), Regulation 9D(1) or (4) or Regulation 9F(1), as the case may be, within two months of receipt by the competent authority of the assessment referred to in paragraph (3), or where the Bank is the competent authority, receipt by it of an equivalent assessment prepared under the law of the Member State in which the consolidating supervisor is established giving effect to the second sentence of Article 8 of the Capital Requirements Directive.

(5) A joint decision referred to in paragraph (4) shall be duly documented and reasoned.

(6) Where paragraph (1) applies and the Bank is the consolidating supervisor, the Bank shall communicate the joint decision on the matter referred to in Regulation 9C(1), Regulation 9D(1) or (4) or Regulation 9F(1), as the case may be, to the financial holding company or mixed financial holding company, as the case may be.

(7) Where paragraph (1) applies and there is disagreement between the Bank and the other relevant authority on the matter referred to in Regulation 9C(1), Regulation 9D(1) or (4) or Regulation 9F(1), as the case may be, they shall refrain from taking a decision and shall refer the matter to EBA in accordance with Article 19 of Regulation (EU) No 1093/2010.

(8) The Bank and the other relevant authority shall adopt a joint decision in conformity with the decision of EBA.

(9) A disagreement shall not be referred to EBA under paragraph (7) after the end of the 2-month period referred to in point (b) of point (ii) of paragraph (1a) of Article 19 of Regulation (EU) No 1093/2010 or after a joint decision has been reached between the Bank and the other relevant authority.

(10) In this Regulation, "relevant authority" means the consolidating supervisor in respect of a financial holding company or a mixed financial holding company or the competent authority in the Member State where the financial holding company or the mixed financial holding company, as the case may be, is established.

Cooperation: financial conglomerates

9H. (1) This paragraph applies where—

(*a*) the consolidating supervisor in respect of a mixed financial holding company or the competent authority in the Member State where the mixed financial holding company is established is different from the coordinator determined in accordance with Article 10 of Directive 2002/87/EC (in this Regulation referred to as the "coordinator"), and

(*b*) the Bank is that consolidating supervisor, competent authority or coordinator.

(2) Where paragraph (1) applies, the agreement of the coordinator shall be required for the purposes of decisions or joint decisions referred to in Regulation 9C(1), Regulation 9D(1) or (4), Regulation 9F(1) and Regulation 9G(4).

(3) In the event of a disagreement in relation to a decision or joint decision referred to in Regulation 9C(1), Regulation 9D(1) or (4), Regulation 9F(1) or Regulation 9G(4) between the Bank and the consolidating supervisor, competent authority or coordinator, as the case may be, the matter shall be referred to the relevant European Supervisory Authority, namely, EBA or the European Supervisory Authority (European Insurance and Occupational Pensions Authority) (EIOPA), established by Regulation (EU) No 1094/2010 of the European Parliament and of the Council of 24 November 2010[12] establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/79/EC.

(4) Any decision taken in accordance with paragraph (2) shall be without prejudice to obligations under Directive 2002/87/EC or 2009/138/EC.

Chapter 1B

Intermediate EU parent undertakings

Intermediate EU parent undertakings

9I. (1) Subject to paragraphs (2) and (9), where—

(*a*) two or more institutions established in the European Union are part of the same third-country group, and

(*b*) one or more of those institutions is established in the State,

the institutions referred to in paragraph (a) shall have a single intermediate EU parent undertaking that is established in the European Union.

(2) Where the Bank, as competent authority for the institutions referred to in paragraph (1)(a) and the other competent authorities, if any, for such

[12] OJ No. L. 331, 15.12.2010, p. 48.

institutions, determine that the establishment of a single intermediate EU parent undertaking would—

(*a*) be incompatible with a mandatory requirement for the separation of activities imposed by the rules or supervisory authorities of the third country where the ultimate parent undertaking of the third-country group has its head office, or

(*b*) render resolvability less efficient than in the case of two intermediate EU parent undertakings according to an assessment carried out by the competent resolution authority of the intermediate EU parent undertaking,

those institutions may have two intermediate EU parent undertakings where so permitted by the Bank and those other competent authorities, if any.

(3) Subject to paragraph (4), an intermediate EU parent undertaking shall be—

(*a*) a credit institution authorised in accordance with section 9 of the Act of 1971, section 17 of the Act of 1989 or the law of a Member State other than the State giving effect to Article 8 of the Capital Requirements Directive,

(*b*) a financial holding company that has been granted approval in accordance with Chapter 1A or the law of a Member State other than the State giving effect to Article 21a of the Capital Requirements Directive, or

(*c*) a mixed financial holding company that has been granted approval in accordance with Chapter 1A or the law of a Member State other than the State giving effect to Article 21a of the Capital Requirements Directive.

(4) Where—

(*a*) the institutions referred to in paragraph (1) are not credit institutions, or

(*b*) a second intermediate EU parent undertaking must be set up in connection with investment activities to comply with a mandatory requirement referred to in paragraph (2),

the intermediate EU parent undertaking or the second intermediate EU parent undertaking, as the case may be, may be an investment firm authorised in accordance with Article 5(1) of Directive 2014/65/EU that is subject to the Bank Recovery and Resolution Directive.

(5) Paragraphs (1), (2), (3) and (4) shall not apply where the total value of assets in the European Union of the third-country group is less than €40,000,000,000.

(6) For the purposes of this Regulation, the total value of assets in the European Union of a third-country group shall be the sum of—

(*a*) the total value of assets of each institution in the European Union in the third-country group, as resulting from its

consolidated balance sheet or as resulting from their individual balance sheet, where an institution's balance sheet is not consolidated, and

(*b*) the total value of assets of each branch of the third-country group authorised in the European Union in accordance with the Capital Requirements Directive, Directive 2014/65/EU or Regulation (EU) No 600/2014.

(7) The Bank shall notify the following information in respect of each third-country group operating in the State to the EBA:

(*a*) the names and the total value of assets of supervised institutions belonging to the third-country group;

(*b*) the names of, and the total value of assets corresponding to, branches authorised in the State in accordance with section 9A of the Act of 1971, Regulation 50 of the European Union (Markets in Financial Instruments) Regulations 2017 (S.I. No. 375 of 2017) or Regulation (EU) No 600/2014, and the types of activities that they are authorised to carry out;

(*c*) the name and the type, as referred to in paragraph (3), of any intermediate EU parent undertaking established in the State and the name of the third-country group of which it is part.

(8) An institution established in the State which is part of a third-country group shall meet one of the following conditions:

(*a*) the institution has an intermediate EU parent undertaking;

(*b*) the institution is an intermediate EU parent undertaking;

(*c*) the institution is the only institution established in the European Union which is part of the third-country group;

(*d*) the third-country group has a total value of assets in the European Union of less than €40,000,000,000.

(9) Where a third-country group operating through more than one institution in the European Union has a total value of assets in the Union equal to or greater than €40,000,000,000 on 27 June 2019, the institutions in that group shall not be required to have—

(a) an intermediate EU parent undertaking, or

(b) in a case in which paragraph (2) applies, two intermediate EU parent undertakings,

until 30 December 2023.

(10) In this Regulation, "Regulation (EU) No 600/2014" means Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014[13] on markets in financial instruments and amending Regulation (EU) No 648/2012 as amended by—

[13] OJ No. L. 173, 12.6.2014, p. 84.

(*a*) Regulation (EU) 2016/1033 of the European Parliament and of the Council of 23 June 2016[14] amending Regulation (EU) No 600/2014 on markets in financial instruments, Regulation (EU) No 596/2014 on market abuse and Regulation (EU) No 909/2014 on improving securities settlement in the European Union and on central securities depositories, and

(*b*) Regulation (EU) 2019/2033 of the European Parliament and of the Council of 27 November 2019[15] on the prudential requirements of investment firms and amending Regulations (EU) No 1093/2010, (EU) No 575/2013, (EU) No 600/2014 and (EU) No 806/2014.".

Amendment of Regulation 15(2)(b) of Principal Regulations

6. Regulation 15(2)(b) of the Principal Regulations is amended by the substitution of the following clause for clause (ii):

"(ii) the reputation, knowledge, skills and experience, as set out in Regulation 79, of any member of the management body who will direct the business of the credit institution as a result of the proposed acquisition;".

Amendment of Regulation 24 of Principal Regulations

7. Regulation 24 of the Principal Regulations is amended by the deletion of paragraph (3).

Amendment of Regulation 33 of Principal Regulations

8. Regulation 33 of the Principal Regulations is amended by the deletion of paragraph (7).

Amendment of Regulation 40 of Principal Regulations

9. Regulation 40 of the Principal Regulations is amended by the deletion of paragraph (6).

Amendment of Regulation 42 of Principal Regulations

10. Regulation 42 of the Principal Regulations is amended by the deletion of paragraph (8).

Disclosure of information

11. The Principal Regulations are amended by the insertion of the following Regulations after Regulation 50:

[14] OJ No. L. 175, 30.6.2016, p. 1.
[15] OJ No. L. 314, 5.12.2019, p. 1.

"*Exchange of information with oversight bodies*

50A. (1) Notwithstanding section 33AK of the Act of 1942, the Bank and the authorities described in paragraph (2) may exchange information, subject to the conditions set out in paragraph (3).

(2) The authorities referred to in paragraph (1) are the authorities responsible in the State for the oversight of—

(*a*) persons involved in the liquidation, examinership, receivership or bankruptcy of institutions,

(*b*) contractual or institutional protection schemes, as referred to in Article 113(7) of the Capital Requirements Regulation, or

(*c*) auditors of institutions, insurance undertakings and financial institutions.

(3) The Bank and an authority described in paragraph (2) may only exchange information where the following conditions are satisfied:

(*a*) the information is exchanged for the purpose of an oversight function referred to in paragraph (2);

(*b*) the information received is subject to professional secrecy requirements at least equivalent to those referred to in Article 53(1) of the Capital Requirements Directive;

(*c*) where the information originates in another Member State, that it is not disclosed without the express agreement of the competent authorities which have disclosed it and, where appropriate, solely for the purposes for which those authorities gave their agreement.

(4) Notwithstanding section 33AK of the Act of 1942, the Bank, the Director of Corporate Enforcement and an officer of the Director may exchange information, subject to the conditions set out in paragraph (5).

(5) The Bank, the Director of Corporate Enforcement and an officer of the Director may only exchange information where the following conditions are satisfied:

(*a*) the information is exchanged for the purpose of detecting and investigating breaches of company law;

(*b*) the information received is subject to professional secrecy requirements at least equivalent to those referred to in Article 53(1) of the Capital Requirements Directive;

(*c*) where the information originates in another Member State, that it is not disclosed without the express agreement of the competent authorities which have disclosed it and, where appropriate, solely for the purposes for which those authorities gave their agreement.

(6) The Bank shall communicate to the European Banking Authority the names of the authorities and bodies which may receive information under this Regulation.

Transmission of information to international bodies

50B. (1) Notwithstanding section 33AK of the Act of 1942, the Bank may, subject to the conditions set out in paragraphs (2), (3) and (4), disclose information to—

(*a*) the International Monetary Fund and the World Bank, for the purposes of assessments for the Financial Sector Assessment Program,

(*b*) the Bank for International Settlements, for the purposes of quantitative impact studies, and

(*c*) the Financial Stability Board, for the purposes of its surveillance function.

(2) The Bank may only disclose confidential information following an explicit request by a body referred to in paragraph (1), where the following conditions are satisfied:

(*a*) the request is duly justified in light of the specific tasks performed by the requesting body in accordance with its statutory mandate;

(*b*) the request is sufficiently precise as to the nature, scope, and format of the required information, and the means of its disclosure;

(*c*) the requested information is strictly necessary for the performance of the specific tasks of the requesting body and does not go beyond the statutory tasks conferred on the requesting body;

(*d*) the information is disclosed exclusively to the persons directly involved in the performance of the specific task;

(*e*) the persons having access to the information are subject to professional secrecy requirements at least equivalent to those referred to in Article 53(1) of the Capital Requirements Directive.

(3) Where a request is made by a body referred to in paragraph (1), the Bank may only disclose information that is not aggregate or anonymised information at the premises of the Bank.

(4) To the extent that the disclosure of information involves processing of personal data, any processing of personal data by the requesting body shall comply with the requirements laid down in Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016[16] on the protection of

[16] OJ No. L. 119, 4.5.2016, p. 1.

natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC.".

Removal and replacement of auditor and reasoned decisions

12. The Principal Regulations are amended by the insertion of the following Regulations after Regulation 52:

"*Removal and replacement of auditor – removal notice*

52A. (1) Where the Bank has formed the view that an auditor of an institution, financial holding company or mixed financial holding company has failed to comply with paragraph (1) or (2) of Regulation 52, the Bank may issue a notice (in this Part referred to as a 'removal notice').

(2) A removal notice shall—

(*a*) be in writing,

(*b*) set out the grounds on which the Bank has formed the view that the auditor has failed to comply with paragraph (1) or (2) of Regulation 52,

(*c*) invite submissions from the auditor within 21 days of the date on which the notice is served on the auditor,

(*d*) include such additional matters (if any) as the Bank considers appropriate, and

(*e*) be served on the auditor and the institution, financial holding company or mixed financial holding company concerned.

(3) A removal notice may be served by the Bank on an auditor and on the institution, financial holding company or mixed financial holding company concerned—

(*a*) by delivering it to the auditor, institution, financial holding company or mixed financial holding company, as the case may be,

(*b*) by leaving it at the address at which the auditor ordinarily resides or, in a case in which an address for service has been furnished by the auditor, institution, financial holding company or mixed financial holding company, as the case may be, at that address,

(*c*) by sending it by post in a prepaid letter to the address at which the auditor ordinarily resides or, in a case in which an address for service has been furnished by the auditor, institution, financial holding company or mixed financial holding company, as the case may be, to that address, or

(*d*) electronically—

(i) by electronic mail to an email address, or

(ii) by facsimile to a facsimile number,

furnished by the auditor, institution, financial holding company or mixed financial holding company, as the case may be, to, or otherwise known to, the Bank.

(4) The Bank shall consider the submissions (if any) made to it on foot of the removal notice issued under paragraph (1), and any other relevant factual information, prior to determining whether to apply to the court for a removal order under Regulation 52B.

Removal and replacement of auditor – application to court

52B. (1) The Bank may apply to the court for an order (in this Regulation and Regulation 52C referred to as a 'removal order') requiring the institution, financial holding company or mixed financial holding company to—

(*a*) remove the auditor concerned, and

(*b*) appoint a replacement auditor.

(2) The application for a removal order referred to in paragraph (1) shall be made on notice to the auditor concerned and the institution, financial holding company or mixed financial holding company concerned.

(3) Where the court makes a removal order referred to in paragraph 1, the removal order—

(*a*) shall have effect without the need for any meeting being called, resolution being passed or consent being obtained, and

(*b*) may be expressed to take effect immediately and, if so expressed, has that effect.

Matters ancillary to removal notice and removal order

52C. Nothing in Regulation 52A or 52B deprives an auditor of any right to claim compensation or damages from the institution, financial holding company or mixed financial holding company concerned for the loss of the auditor's appointment.

Reasoned decisions

52D. Where the Bank exercises a power under—

(*a*) Regulation 9F,

(*b*) Regulation 90,

(*c*) Regulation 92,

(*d*) Regulation 93, or

(*e*) section 45(1) of the Act of 2013,

in relation to an institution, the Bank shall notify the institution concerned of the reasons for the exercise by the Bank of that power.".

Amendment of Regulation 54(2) of Principal Regulations

13. Regulation 54(2) of the Principal Regulations is amended—

(*a*) in paragraph (d), by the substitution of "without notifying in writing the Bank;" for "without notifying in writing the Bank.", and

(*b*) by the insertion of the following subparagraph after subparagraph (d):

"(e) failing to comply with the requirement to apply for approval under Regulation 9A(1) or otherwise failing to comply with a requirement under Chapter 1A of Part 3.".

Amendment of Regulation 55(3) of Principal Regulations

14. Regulation 55(3) of the Principal Regulations is amended—

(*a*) in paragraph (n), by the substitution of "Articles 28, 52 or 63" for "Articles 28, 51 or 63",

(*b*) in paragraph (p), by the substitution of "a member of the management body;" for "a member of the management body.", and

(*c*) by the insertion of the following subparagraph after subparagraph (p):

"(q) a parent institution, a parent financial holding company or a parent mixed financial holding company fails to take any action that may be required to ensure compliance with the prudential requirements set out in Part Three, Four, Six or Seven of the Capital Requirements Regulation or imposed under Regulation 92(2)(a) or Regulation 93 on a consolidated or sub-consolidated basis.".

Right of appeal

15. The Principal Regulations are amended by the insertion of the following Regulation after Regulation 59:

"*Right of appeal*

59A. A decision by the Bank under these Regulations is an appealable decision for the purposes of Part VIIA of the Act of 1942.".

Amendment of Regulation 61 of Principal Regulations

16. Regulation 61 of the Principal Regulations is amended by the insertion of the following paragraph after paragraph (1):

"(1A) The remuneration policies and practices referred to in paragraph (1)(c)(ii) shall be gender neutral.".

Amendment of Regulation 63 of Principal Regulations

17. Regulation 63 of the Principal Regulations is amended by the substitution of the following for paragraph (1):

"(1) The Bank shall collect the following information and use it to benchmark remuneration trends and practices:

(*a*) information disclosed in accordance with the criteria for disclosure established in subparagraphs (g), (h), (i) and (k) of Article 450(1) of the Capital Requirements Regulation;

(*b*) information provided by institutions on the gender pay gap.".

Amendment of Regulation 72 of Principal Regulations

18. The Principal Regulations are amended by the substitution of the following Regulation for Regulation 72:

"72. (1) Institutions shall—

(*a*) implement internal systems,

(*b*) use the standardised methodology, or

(*c*) use the simplified standardised methodology,

to identify, evaluate, manage and mitigate the risks arising from potential changes in interest rates that affect both the economic value of equity and the net interest income of an institution's non-trading book activities.

(2) Institutions shall implement systems to assess and monitor the risks arising from potential changes in credit spreads that affect both the economic value of equity and the net interest income of an institution's non-trading book activities.

(3) The Bank may require an institution to use the standardised methodology referred to in paragraph (1) where the internal systems implemented by that institution for the purpose of evaluating the risks referred to in that paragraph are not satisfactory.

(4) The Bank may require a small and non-complex institution, as defined in point (145) of Article 4(1) of the Capital Requirements Regulation, to use the standardised methodology where it considers that the simplified standardised methodology is not adequate to capture interest rate risk arising from non-trading book activities of that institution.".

Amendment of Regulation 73 of Principal Regulations

19. Regulation 73 of the Principal Regulations is amended by the substitution of the following paragraph for paragraph (1):

"(1) Institutions shall implement policies and processes to—

(*a*) evaluate and manage the exposures to operational risk, including model risk and risks resulting from outsourcing, and

(*b*) cover low-frequency high-severity events.".

Amendment of Regulation 76 of Principal Regulations

20. Regulation 76 of the Principal Regulations is amended by the insertion of the following paragraphs after paragraph (6):

"(7) Institutions shall maintain, and make available to the Bank upon request, a register of all loans to members of the management body and their related parties.

(8) The register referred to in paragraph (7) shall include data on loans to members of the management body and their related parties which is properly documented.

(9) In this Regulation, "related party" means—

(*a*) a spouse, a registered partner (in accordance with the law of a Member State), a child or a parent of the member of the management body of the institution concerned, and

(*b*) a commercial entity—

(i) in which—

(I) the member of the management body of the institution concerned, or

(II) a person having a relationship described in subparagraph (a) with that member,

has a qualifying holding of 10 per cent or more of capital or of voting rights,

(ii) over which—

(I) the member of the management body of the institution concerned,

(II) a person having a relationship described in subparagraph (a) with that member, or

(III) the member of the management body of the institution concerned together with a person having a relationship described in subparagraph (a) with that member,

can exercise significant influence,

(iii) of which—

(I) a member of the management body of the institution concerned, or

(II) a person having a relationship described in subparagraph (a) with that member,

is a member of the management body, or

(iv) in which—

(I) a member of the management body of the institution concerned, or

(II) a person having a relationship described in subparagraph (a) with that member,

holds a senior management position.".

Amendment of Regulation 79 of Principal Regulations

21. Regulation 79 of the Principal Regulations is amended—

(*a*) by the substitution of the following paragraph for paragraph (1):

"(1) Institutions, financial holding companies and mixed financial holding companies shall ensure that members of their management body are at all times of sufficiently good repute and possess sufficient knowledge, skills and experience to perform their duties.",

(*b*) in paragraph (2), by the substitution of "Institutions, financial holding companies and mixed financial holding companies shall ensure that the members of their management body" for "Institutions shall ensure that the members of its management body",

(*c*) by the substitution of the following paragraph for paragraph (3):

"(3) Institutions, financial holding companies and mixed financial holding companies shall ensure that all members of their management bodies shall commit sufficient time to perform their functions in the institution, financial holding company or mixed financial holding company, as the case may be.",

(*d*) by the substitution of the following paragraph for paragraph (4):

"(4) Subject to paragraph (7), institutions, financial holding companies and mixed financial holding companies shall ensure that the number of directorships which may be held by a member of the management body in that institution, financial holding company or mixed financial holding company, as the case may be, at the same time shall take into account individual circumstances and the nature, scale and complexity of the activities of the institution, financial holding company or mixed financial holding company, as the case may be.",

(*e*) by the substitution of the following paragraph for paragraph (5):

"(5) Institutions, financial holding companies and mixed financial holding companies shall ensure that the members of their management body shall possess adequate collective knowledge, skills and experience to be able to understand the activities of the institution, financial holding company or mixed financial holding company, as the case may be, including the main risks.",

(*f*) by the insertion of the following paragraph after paragraph (5):

"(5A) Institutions, financial holding companies and mixed financial holding companies shall ensure that the overall composition of their management body shall reflect a sufficiently broad range of experience.",

(*g*) in paragraph (6), by the substitution of "Institutions, financial holding companies and mixed financial holding companies shall ensure that each member of their management body" for "Institutions shall ensure that each member of its management body",

(*h*) by the insertion of the following paragraph after paragraph (6):

"(6A) For the purposes of paragraph (6), membership of an affiliated company or an affiliated entity shall not, in itself, constitute an obstacle to a member of a management body acting with independence of mind.",

(*i*) in paragraph (12), by the substitution of "Institutions, financial holding companies and mixed financial holding companies" for "Institutions",

(*j*) in paragraph (13), by the substitution of "Institutions, financial holding companies and mixed financial holding companies" for "Institutions",

(*k*) in paragraph (15), by the substitution of "institutions, financial holding companies and mixed financial holding companies" for "institutions",

(*l*) in paragraph (17), by the substitution of "institutions, financial holding companies and mixed financial holding companies" for "institutions", and

(*m*) by the insertion of the following paragraph after paragraph (17):

"(18) Where the Bank has reasonable grounds to suspect that money laundering or terrorist financing is being or has been committed or attempted, or there is increased risk thereof in connection with an institution, financial holding company or mixed financial holding company, the Bank shall verify whether the requirements specified in paragraphs (1) to (7) are still fulfilled by the institution, financial holding company or mixed financial holding company, as the case may be.".

Removal of member of management body

22. The Principal Regulations are amended by the insertion of the following Regulations after Regulation 79:

"*Removal of member of management body*

79A. (1) Where a member of a management body of an institution, financial holding company or mixed financial holding company fails to fulfil the requirements set out in paragraphs (1) to (7) of Regulation 79, the Bank

may remove the member from the management body concerned in accordance with this Regulation and Regulations 79B to 79F.

(2) Subject to paragraph (3), nothing in paragraph (1) deprives a person of any right to claim compensation or damages from the institution, financial holding company or mixed financial holding company concerned for the loss of the person's office or appointment.

(3) A court, tribunal or rights commissioner may not—

(*a*) grant any remedy that would have the effect of preventing or restraining the Bank from exercising its functions under this Regulation and Regulations 79B to 79F, or

(*b*) make an order under the Unfair Dismissals Acts 1977 to 2007 for the reinstatement or re-engagement of a person removed in accordance with this Regulation and Regulations 79B to 79F.

Removal notice

79B. (1) Where the Bank proposes to remove a person from the management body of an institution, financial holding company or mixed financial holding company, the Bank shall issue a notice (in this Regulation and Regulations 79C to 79F referred to as a 'removal notice') in relation to the person.

(2) A removal notice shall—

(*a*) be in writing,

(*b*) set out the grounds on which the Bank has formed the view that the person to whom the notice relates fails to fulfil one or more of the requirements set out in Regulation 79(1) to (7),

(*c*) require the person concerned to show cause, in writing, not later than 5 days after the service of the removal notice on them, why the period of effect of the notice should not be extended in accordance with Regulation 79D,

(*d*) include such additional matters (if any) as the Bank considers appropriate, and

(*e*) be signed and dated by a person duly authorised by the Bank to do so.

(3) The Bank shall serve a removal notice on—

(*a*) the person to whom the notice relates, and

(*b*) the institution, financial holding company or mixed financial holding company from the management body of which the person is being removed as a member.

(4) A removal notice may be served on a person, institution, financial holding company or mixed financial holding company, referred to in paragraph (3)—

(*a*) by delivering it to the person, institution, financial holding company or mixed financial holding company, as the case may be,

(*b*) by leaving it at the address at which the person ordinarily resides or, in a case in which an address for service has been furnished by the person, institution, financial holding company or mixed financial holding company, as the case may be, at that address,

(*c*) by sending it by post in a prepaid letter to the address at which the person ordinarily resides or, in a case in which an address for service has been furnished by the person, institution, financial holding company or mixed financial holding company, as the case may be, to that address, or

(*d*) electronically—

(i) by electronic mail to an email address, or

(ii) by facsimile to a facsimile number,

furnished by the person, institution, financial holding company or mixed financial holding company, as the case may be, to, or otherwise known to, the Bank.

(5) An institution, financial holding company or mixed financial holding company referred to in paragraph (3)(b) on which a removal notice is served shall without delay—

(*a*) give a copy of the notice to the person to whom the removal notice relates (unless it is impracticable to do so), and

(*b*) after it has given a copy of the notice in accordance with subparagraph (a), certify in writing to the Bank that it has done so.

(6) A person to whom a removal notice relates may, within the period mentioned in paragraph (2)(c), make a written submission to the Bank in relation to the reasons why the period of effect of the notice should not be extended in accordance with Regulation 79D.

Effect of removal notice

79C. (1) A person to whom a removal notice relates shall stand removed from the management body of the institution, financial holding company or mixed financial holding company concerned for so long as the removal notice has effect.

(2) A removal notice—

(*a*) takes effect on its service on the institution, financial holding company or mixed financial holding company from the management body of which the person to whom the notice relates is being removed as a member, and

(*b*) ceases to have effect, subject to Regulations 79D and 79F, at the end of the period of 10 days from the date of that service.

Confirmation of removal notice

79D. (1) Where, having considered the submissions (if any) made to it under Regulation 79B(2)(c), the Bank is satisfied that the person to whom a removal notice relates fails to fulfil the requirements set out in paragraph (1) to (7) of Regulation 79, the Bank may, within the period referred to in Regulation 79C(2)(b), confirm the validity of the removal notice.

(2) The Bank may confirm the validity of a removal notice under paragraph (1) whether or not the person concerned has made a submission under Regulation 79B(2)(c).

(3) Where a person to whom a removal notice relates makes a submission in relation to a removal notice after the end of the period mentioned in Regulation 79B(2)(c) and the Bank is satisfied that there was good reason why the submission could not have been made within that period, or that it is necessary to do so in the interests of justice, the Bank shall—

(*a*) consider the submission, and

(*b*) where, after doing so, the Bank is satisfied that the person meets the requirements set out in paragraphs (1) to (7) of Regulation 79, revoke the removal notice.

(4) Subject to paragraph (5) and Regulation 79F, where the validity of a removal notice has been confirmed under paragraph (1), the notice shall cease to have effect at the end of the period of 3 months from the date that is 10 days from the date of service of the notice.

(5) Where a removal notice is revoked in accordance with paragraph (3), it shall cease to have effect on revocation.

(6) Where the validity of a removal notice has been confirmed in accordance with paragraph (1) or revoked in accordance with paragraph (3), the Bank shall so notify the person to whom the removal notice relates and the institution, financial holding company or mixed financial holding company, as the case may be, on whom the removal notice was served.

Enforcement of removal notice

79E. Where—

(*a*) a removal notice has effect and—

(*b*) either—

(i) the person to whom the notice relates performs any function as a member of the management body in contravention of the removal notice, or

(ii) an institution, financial holding company or mixed financial holding company on which the removal notice was served permits the person to whom the removal notice relates to perform any function as a member of the management body in contravention of a removal notice,

the Bank may apply *ex parte* to the court for an order directing the person or institution, financial holding company or mixed financial holding company, as the case may be, to comply with the notice.

Court's power to extend validity of removal notices

79F. (1) Where the validity of a removal notice has been confirmed by the Bank under paragraph (1) of Regulation 79D, the Bank may apply to the court during the period of 3 months referred to in paragraph (4) of that Regulation, on notice to the person to whom the removal notice relates and the institution, financial holding company or mixed financial holding company, as the case may be, on which the removal notice was served, for an order extending the period for which the removal notice has effect.

(2) Where the court is satisfied, having regard to the reasons for the issue and confirmation of the notice stated by the Bank, that there are sufficient grounds to extend the period for which the removal notice has effect, the court may extend the effect of the notice for such further period as the court orders.

(3) An order under paragraph (2) may be expressed to extend the effect of the notice concerned—

(*a*) for a particular period that the court thinks appropriate,

(*b*) indefinitely, or

(*c*) until further order of the court.

Compliance with removal notice

79G. An institution, financial holding company or mixed financial holding company on which a removal notice is served shall not permit the person to whom the removal notice relates to perform any function as a member of their management body for so long as the removal notice has effect.".

Amendment of Regulation 80 of Principal Regulations

23. Regulation 80 of the Principal Regulations is amended—

(*a*) by the deletion of paragraph (1),

(*b*) by the substitution of the following paragraph for paragraph (2):

"(2) Institutions shall comply with the requirements specified in paragraph (3) in a manner that is appropriate to their size, internal organisation and the nature, scope and complexity of their activities, when establishing and applying the total remuneration policies, inclusive of salaries and discretionary pension benefits, for categories of staff whose professional activities have a material impact on the risk profile of that institution.",

(*c*) in paragraph (3)—

(i) by the substitution of "requirements specified in paragraph (2)" for "principles referred to in paragraph (2)", and

(ii) by the insertion of the following subparagraph after subparagraph (a):

"(aa) the institution's remuneration policy is a gender neutral remuneration policy;", and

(*d*) by the insertion of the following paragraph after paragraph (4):

"(5) For the purposes of paragraphs (2) and (3), categories of staff whose professional activities have a material impact on the institution's risk profile include—

(*a*) all members of the management body and senior management,

(*b*) staff members with managerial responsibility over the institution's control functions or material business units, and

(*c*) staff members entitled to significant remuneration in the preceding financial year where—

(i) the staff member's remuneration is equal to or greater than—

(I) €500,000, and

(II) the average remuneration awarded to the members of the institution's management body and senior management referred to in subparagraph (a), and

(ii) the staff member performs the professional activity within a material business unit, and the activity is of a kind that has a significant impact on the relevant business unit's risk profile.".

Amendment of Regulation 82 of Principal Regulations

24. Regulation 82 of the Principal Regulations is amended—

(*a*) in paragraph (1)—

(i) by the substitution of "the following principles shall apply in addition to, and under the same conditions as, the requirements specified in Regulation 80(3)" for "the following principles shall apply in addition to, and under the same conditions as, those set out in Regulation 80(3)",

(ii) in subparagraph (l), by the substitution of the following clause for clause (i):

"(i) (I) shares or, subject to the legal structure of the institution concerned, equivalent ownership interests, or

(II) share-linked instruments or, subject to the legal structure of the institution concerned, equivalent non-cash instruments;", and

(iii) by the substitution of the following subparagraph for subparagraph (m)—

"(m) subject to paragraphs (4) and (4A), a substantial portion, and in any event not less than 40 per cent, of the variable remuneration component is deferred over a period which is not less than 4 to 5 years and is correctly aligned with the nature of the business, its risks and the activities of the staff member concerned.",

(*b*) in paragraph (4), by the substitution of "the staff member concerned" for "the member of staff in question",

(*c*) by the insertion of the following paragraph after paragraph (4):

"(4A) For members of the management body and senior management of institutions that are significant in terms of their size, internal organisation and the nature, scope and complexity of their activities, the deferral period referred to in paragraph (1)(m) shall be not less than five years.",

(*d*) in paragraph (9), by the substitution of "1 January 2014" for "31 December 2013", and

(*e*) by the insertion of the following paragraphs after paragraph (9):

"(10) Subparagraphs (l) and (m) of paragraph (1) and paragraphs (3), (4), (4A) and (8) shall not apply to—

(*a*) an institution—

(i) that is not a large institution as defined in point (146) of Article 4(1) of the Capital Requirements Regulation, and

(ii) the value of the assets of which is on average and on an individual basis in accordance with these Regulations and the Capital Requirements Regulation equal to or less than the threshold for the institution, as specified in paragraph (11) or, where applicable, under paragraph (12), over the four-year period immediately preceding the current financial year, or

(*b*) a staff member whose annual variable remuneration does not exceed €50,000 and does not represent more than one third of the staff member's total annual remuneration.

(11) Subject to paragraph (12), the threshold for an institution, for the purposes of paragraph (10)(a)(ii), shall be €5,000,000,000.

(12) Where the Bank is satisfied that it is appropriate, taking into account the nature, scope and complexity of an institution's

activities, the internal organisation of the institution or, if applicable, the characteristics of the group to which the institution belongs, the Bank may specify a threshold for the institution, for the purposes of paragraph (10)(a)(ii)—

(*a*) in a case in which the institution meets the criteria specified in points (145)(c), (d) and (e) of Article 4(1) of the Capital Requirements Regulation, that is greater than €5,000,000,000 but less than or equal to €15,000,000,000, and

(*b*) in any other case, that is less than €5,000,000,000.

(13) Where the Bank specifies a threshold for an institution, for the purposes of paragraph (10)(a)(ii), under paragraph (12), the Bank shall notify the institution concerned of the threshold so specified.".

Amendment of Regulation 85 of Principal Regulations

25. Regulation 85 of the Principal Regulations is amended—

(*a*) in paragraph (1), by the deletion of subparagraph (b),

(*b*) by the insertion of the following paragraphs after paragraph (5):

"(5A) When conducting the review and evaluation, the Bank shall apply the principle of proportionality in accordance with the criteria published in accordance with Regulation 131(1)(c).

(5B) The Bank may tailor the methodologies for the application of the review and evaluation to take into account institutions with a similar risk profile, including having a similar business model or geographical location of exposures.

(5C) A tailored methodology referred to in paragraph (5B)—

(*a*) may include risk-oriented benchmarks and quantitative indicators,

(*b*) shall allow for due consideration of the specific risks that each institution may be exposed to, and

(*c*) shall not affect the institution-specific nature of measures imposed in accordance with Regulation 92.

(5D) Where the Bank uses a tailored methodology referred to in paragraph (5B), it shall notify the EBA.", and

(*c*) by the insertion of the following paragraphs after paragraph (6):

"(6A) Where a review and evaluation (including the evaluation of the governance arrangements, the business model, or the activities of an institution) gives the Bank reasonable grounds to suspect that, in connection with an institution, money laundering or terrorist financing is being or has been committed or attempted, or there is increased risk thereof, the Bank shall immediately notify the EBA.

(6B) Where the Bank (following liaison with the authority or body that supervises the institution in accordance with the Directive (EU) 2015/849 and is competent for ensuring compliance with that Directive, in a case in which that authority or body is not the Bank) has reasonable grounds to suspect that, in connection with an institution, there is an increased risk of money laundering or terrorist financing—

(*a*) the Bank (together with the authority or body referred to above, where applicable) shall notify its assessment immediately to the EBA, and

(*b*) the Bank shall take, as appropriate, measures in accordance with these Regulations or other financial services legislation.".

Amendment of Regulation 86 of Principal Regulations

26. Regulation 86 of the Principal Regulations is amended—

(*a*) in paragraph (1)—

(i) in subparagraph (i), by the substitution of "concerned." for "concerned;", and

(ii) by the deletion of subparagraph (j),

(*b*) in paragraph (6), by the substitution of "non-trading book activities" for "non-trading activities",

(*c*) by the substitution of the following paragraph for paragraph (7):

"(7) Subject to paragraph (7A), the Bank shall exercise supervisory powers, at a minimum, in the following cases:

(*a*) where an institution's economic value of equity as referred to in Regulation 72(1) declines by more than 15 per cent of its Tier 1 capital as a result of a sudden and unexpected change in interest rates as set out in any of the six supervisory shock scenarios applied to interest rates;

(*b*) where an institution's net interest income, as referred to in Regulation 72(1), experiences a large decline as a result of a sudden and unexpected change in interest rates as set out in any of the two supervisory shock scenarios applied to interest rates.", and

(*d*) by the insertion of the following paragraphs after paragraph (7) (as substituted by the preceding subparagraph):

"(7A) The Bank shall not be obliged to exercise supervisory powers where it considers, based on the review and evaluation performed by the Bank pursuant to Regulation 85, that—

(*a*) the institution's management of interest rate risk arising from non-trading book activities is adequate, and

(*b*) the institution is not excessively exposed to interest rate risk arising from non-trading book activities.

(7B) For the purposes of paragraphs (7) and (7A), 'supervisory powers' means—

(*a*) the powers referred to in Regulation 92(1) and (2), or

(*b*) the power to specify modelling and parametric assumptions, other than those identified by the EBA pursuant to point (b) of paragraph 5a of Article 98 of the Capital Requirements Directive, to be reflected by institutions in their calculation of the economic value of equity under Regulation 72(1).".

Amendment of Regulation 87 of Principal Regulations

27. Regulation 87 of the Principal Regulations is amended, in paragraph (3), by the deletion of subparagraph (b).

Amendment of Regulation 90 of Principal Regulations

28. Regulation 90 of the Principal Regulations is amended by the substitution of the following paragraph for paragraph (1):

"(1) The Bank shall require an institution, financial holding company or mixed financial holding company to take the necessary measures at an early stage to address relevant problems in the following circumstances:

(*a*) the institution, financial holding company or mixed financial holding company, as the case may be, does not meet the requirements of these Regulations or of the Capital Requirements Regulation;

(*b*) the Bank has evidence that the institution, financial holding company or mixed financial holding company, as the case may be, is likely to breach the requirements of these Regulations, or of the Capital Requirements Regulation, within the subsequent 12 months.".

Amendment of Regulation 91 of Principal Regulations

29. The Principal Regulations are amended by the deletion of Regulation 91.

Amendment of Regulation 92 of Principal Regulations

30. Regulation 92 of the Principal Regulations is amended—

(*a*) by the substitution of the following paragraph for paragraph (1):

"(1) For the purposes of—

(*a*) Regulation 85,

(*b*) Regulation 86(5), (6), (7) and (7A),

(*c*) Regulation 89(3) to (5),

(*d*) Regulation 90, and

(*e*) the application of the Capital Requirements Regulation,

the Bank shall have, without limitation to the Bank's powers under other financial services legislation, the powers specified in paragraph (2).",

(*b*) in paragraph (2)—

(i) by the substitution of the following for subparagraph (a):

"(a) to require institutions to have additional own funds in excess of the requirements set out in the Capital Requirements Regulation, under the conditions set out in Regulation 92A;",

(ii) in subparagraph (b), by the substitution of "Regulations 60 and 61" for "Regulations 60 to 62",

(iii) in subparagraph (c), by the substitution of "submit a plan" for "present a plan",

(iv) in subparagraph (f), by the substitution of "systems of institutions, including outsourced activities;" for "systems of institutions;", and

(v) in subparagraph (j), by the substitution of "reporting on own funds, liquidity and leverage;" for "reporting on capital and liquidity positions;",

(*c*) by the deletion of paragraphs (3) and (4), and

(*d*) by the insertion of the following paragraphs after paragraph (5):

"(6) The Bank may only impose additional or more frequent reporting requirements on institutions under paragraph (2)(j) where—

(*a*) the relevant requirement is appropriate and proportionate with regard to the purpose for which the information is required, and

(*b*) the information requested is not duplicative.

(7) Where the power under paragraph (2)(j) is being exercised for the purposes of Regulations 85 to 90, any additional information that may be required from institutions shall be deemed to be duplicative where the same or substantially the same information has already been otherwise reported to the Bank or may be produced by the Bank.

(8) The Bank shall not require an institution to report additional information where it has previously received the information in a different format or level of granularity and that different format or granularity does not prevent the Bank from

producing information of the same quality and reliability as that which would be produced on the basis of the additional information.".

Additional own funds requirement

31. The Principal Regulations are amended by the insertion of the following Regulations after Regulation 92:

"*Additional own funds requirement*

92A. (1) The Bank shall impose the additional own funds requirement referred to in Regulation 92(2)(a) where, on the basis of the reviews carried out in accordance with Regulations 85 and 89, it determines in respect of an individual institution that—

(*a*) the institution is exposed to risks or elements of risk that are not covered or not sufficiently covered by the own funds requirements set out in Parts Three, Four and Seven of the Capital Requirements Regulation,

(*b*) the institution does not meet the requirements set out in Regulation 60 and 61 or in Article 393 of the Capital Requirements Regulation and it is unlikely that other supervisory measures would be sufficient to ensure that those requirements can be met within an appropriate timeframe,

(*c*) the adjustments referred to in Regulation 86(5) are deemed to be insufficient to enable the institution to sell or hedge out its positions within a short period without incurring material losses under normal market conditions,

(*d*) the evaluation carried out in accordance with paragraphs (3) to (5) of Regulation 89 reveals that the non-compliance with the requirements for the application of the permitted approach will likely lead to inadequate own funds requirements,

(*e*) the institution repeatedly fails to establish or maintain an adequate level of additional own funds to cover the guidance communicated in accordance with Regulation 92B(4), or

(*f*) there are other institution-specific situations deemed by the Bank to raise material supervisory concerns.

(2) The Bank shall only impose the additional own funds requirement referred to in Regulation 92(2)(a) to cover the risks incurred by individual institutions due to their activities, including those reflecting the impact of certain economic and market developments on the risk profile of an individual institution.

(3) For the purposes of paragraph (1)(a), risks or elements of risk shall only be considered as not covered or not sufficiently covered by the own funds requirements set out in Parts Three, Four and Seven of the Capital Requirements Regulation and in Chapter 2 of Regulation (EU) 2017/2402 where the amounts, types and distribution of capital considered adequate by the

Bank, taking into account the supervisory review of the assessment carried out by institutions in accordance with Regulation 60(1), are higher than the own funds requirements set out in Parts Three, Four and Seven of the Capital Requirements Regulation and in Chapter 2 of Regulation (EU) 2017/2402.

(4) For the purposes of paragraph (3), the Bank shall assess, taking into account the risk profile of each individual institution, the risks to which the institution is exposed, including—

(*a*) institution-specific risks or elements of such risks that are explicitly excluded from or not explicitly addressed by the own funds requirements set out in Parts Three, Four and Seven of the Capital Requirements Regulation and in Chapter 2 of Regulation (EU) 2017/2402, and

(*b*) institution-specific risks or elements of such risks likely to be underestimated despite compliance with the applicable requirements set out in Parts Three, Four and Seven of the Capital Requirements Regulation and in Chapter 2 of Regulation (EU) 2017/2402.

(5) For the purposes of paragraph (4)(b), to the extent that risks or elements of risk are subject to transitional arrangements or grandfathering provisions laid down in these Regulations or in the Capital Requirements Regulation, they shall not be considered risks or elements of such risks likely to be underestimated despite compliance with the applicable requirements set out in Parts Three, Four and Seven of the Capital Requirements Regulation and in Chapter 2 of Regulation (EU) 2017/2402.

(6) For the purposes of paragraph (3), the capital considered adequate shall cover all risks or elements of risks identified as material pursuant to the assessment laid down in paragraph (4) that are not covered or not sufficiently covered by the own funds requirements set out in Parts Three, Four and Seven of the Capital Requirements Regulation and in Chapter 2 of Regulation (EU) 2017/2402.

(7) Interest rate risk arising from non-trading book positions may be considered material at least in the cases referred to in Regulation 86(7), unless the Bank, in performing the review and evaluation, comes to the conclusion that the institution's management of interest rate risk arising from non-trading book activities is adequate and that the institution is not excessively exposed to interest rate risk arising from non-trading book activities.

(8) Where additional own funds are required to address risks, other than the risk of excessive leverage not sufficiently covered by point (d) of Article 92(1) of the Capital Requirements Regulation, the Bank shall determine the level of the additional own funds required under paragraph (1)(a) as the difference between the capital considered adequate pursuant to paragraph (3) and the relevant own funds requirements set out in Parts Three and Four of the Capital Requirements Regulation and in Chapter 2 of Regulation (EU) 2017/2402.

(9) Where additional own funds are required to address the risk of excessive leverage not sufficiently covered by point (d) of Article 92(1) of the Capital Requirements Regulation, the Bank shall determine the level of the additional own funds required under paragraph (1)(a) as the difference between

the capital considered adequate pursuant to paragraph (3) and the relevant own funds requirements set out in Parts Three and Seven of the Capital Requirements Regulation.

(10) Subject to paragraph (12), an institution shall meet the additional own funds requirement, imposed by the Bank under Regulation 92(2)(a) to address risks other than the risk of excessive leverage, with own funds that satisfy the following conditions:

(*a*) at least three quarters of the additional own funds requirement shall be met with Tier 1 capital;

(*b*) at least three quarters of the Tier 1 capital referred to in subparagraph (a) shall be composed of Common Equity Tier 1 capital.

(11) Subject to paragraph (12), an institution shall meet the additional own funds requirement, imposed by the Bank under Regulation 92(2)(a) to address the risk of excessive leverage, with Tier 1 capital.

(12) The Bank may require an institution to meet its additional own funds requirement with a higher portion of Tier 1 capital or Common Equity Tier 1 capital than that required under paragraph (10), where necessary, and having regard to the specific circumstances of the institution.

(13) Own funds that are used to meet the additional own funds requirement referred to in Regulation 92(2)(a) imposed by the Bank to address risks other than the risk of excessive leverage shall not be used to meet any of the following:

(*a*) own funds requirements set out in points (a), (b) and (c) of Article 92(1) of the Capital Requirements Regulation;

(*b*) the combined buffer requirement;

(*c*) the guidance on additional own funds referred to in Regulation 92B(4) where that guidance addresses risks other than the risk of excessive leverage.

(14) Own funds that are used to meet the additional own funds requirement referred to in Regulation 92(2)(a) imposed by the Bank to address the risk of excessive leverage not sufficiently covered by point (d) of Article 92(1) of the Capital Requirements Regulation shall not be used to meet any of the following:

(*a*) the own funds requirement set out in point (d) of Article 92(1) of the Capital Requirements Regulation;

(*b*) the leverage ratio buffer requirement referred to in Article 92(1a) of the Capital Requirements Regulation;

(*c*) the guidance on additional own funds referred to in Regulation 92B(4), where that guidance addresses risks of excessive leverage.

(15) The Bank shall duly justify in writing to each institution the decision to impose an additional own funds requirement under Regulation 92(2)(a), at a

minimum by giving a clear account of the full assessment of the elements referred to in paragraphs (1) to (13).

(16) The justification referred to in paragraph (15) shall include, in the case set out in paragraph (1)(e), a specific statement of the reasons for which the imposition of guidance on additional own funds is no longer considered sufficient.

Guidance on additional own funds

92B. (1) Pursuant to the strategies and processes referred to in Regulation 60, institutions shall set their internal capital at an adequate level of own funds that is sufficient—

(*a*) to cover all the risks that an institution is exposed to, and

(*b*) to ensure that the institution's own funds can absorb potential losses resulting from stress scenarios, including those identified under the supervisory stress test referred to in Regulation 88.

(2) The Bank shall regularly review the level of the internal capital set by each institution in accordance with paragraph (1) as part of the reviews and evaluations performed in accordance with Regulations 85 and 89, including the results of the stress tests referred to in Regulation 88.

(3) The Bank shall, pursuant to the review referred to in paragraph (2), determine for each institution the overall level of own funds it considers appropriate.

(4) The Bank shall communicate its guidance on additional own funds to institutions.

(5) The guidance on additional own funds referred to in paragraph (4) shall be the own funds exceeding the relevant amount of own funds required pursuant to Parts Three, Four and Seven of the Capital Requirements Regulation, Chapter 2 of Regulation (EU) 2017/2402, Regulation 92(2)(a) and Regulation 115(g) or pursuant to Article 92(1a) of the Capital Requirements Regulation, as relevant, which are needed to reach the overall level of own funds considered appropriate by the Bank pursuant to paragraph (2).

(6) The Bank's guidance on additional own funds pursuant to paragraph (4) shall be institution-specific.

(7) The guidance referred to in paragraph (4) may cover risks addressed by the additional own funds requirement imposed pursuant to Regulation 92(2)(a) only to the extent that it covers aspects of those risks that are not already covered under that requirement.

(8) Own funds that are used to meet the guidance on additional own funds communicated in accordance with paragraph (4) to address risks other than the risk of excessive leverage shall not be used to meet any of the following:

(*a*) the own funds requirements set out in points (a), (b) and (c) of Article 92(1) of the Capital Requirements Regulation;

(*b*) the requirement laid down in Regulation 92A imposed by the Bank to address risks other than the risk of excessive leverage and the combined buffer requirement.

(9) Own funds that are used to meet the guidance on additional own funds communicated in accordance with paragraph (4) to address the risk of excessive leverage shall not be used to meet—

(*a*) the own funds requirement set out in point (d) of Article 92(1) of the Capital Requirements Regulation,

(*b*) the requirement laid down in Regulation 92A imposed by the Bank to address the risk of excessive leverage, or

(*c*) the leverage ratio buffer requirement referred to in Article 92(1a) of the Capital Requirements Regulation.

(10) Failure to meet the guidance referred to in paragraph (4) shall not trigger the restrictions referred to in Regulation 129 or 129B where an institution meets—

(*a*) the relevant own funds requirements set out in Parts Three, Four and Seven of the Capital Requirements Regulation and in Chapter 2 of Regulation (EU) 2017/2402,

(*b*) the relevant additional own funds requirement referred to in Regulation 92(2)(a), and

(*c*) where relevant, the combined buffer requirement or the leverage ratio buffer requirement referred to in Article 92(1a) of the Capital Requirements Regulation.

Cooperation with resolution authorities

92C. The Bank shall notify the relevant resolution authorities of—

(*a*) the additional own funds requirement imposed on institutions pursuant to Regulation 92(2)(a), and

(*b*) any guidance on additional own funds communicated to institutions in accordance with Regulation 92B(4).".

Amendment of Regulation 93 of Principal Regulations

32. Regulation 93(1) of the Principal Regulations is amended—

(*a*) in subparagraph (c), by the substitution of "with Regulation 85." for "with Regulation 85;", and

(*b*) by the deletion of subparagraph (d).

Amendment of Regulation 96 of Principal Regulations

33. Regulation 96 of the Principal Regulations is amended by the deletion of paragraphs (5) and (6).

Amendment of Regulation 97 of Principal Regulations

34. Regulation 97 of the Principal Regulations is amended—

(*a*) in paragraph (2), by the substitution of "ensure that the arrangements" for "ensure that their arrangements",

(*b*) in paragraph (3), by the substitution of "in their subsidiaries, including those established in offshore financial centres," for "in their subsidiaries,",

(*c*) by the insertion of the following paragraph after paragraph (3):

"(3A) Subsidiary undertakings that are not themselves subject to this Regulation shall comply with their sector-specific requirements on an individual basis.",

(*d*) by the substitution of the following paragraph for paragraph (5):

"(5) The obligations contained in Regulations 61 to 84 concerning subsidiary undertakings, that are not themselves subject to these Regulations, shall not apply where the EU parent institution can demonstrate to the Bank that the application of those Regulations is unlawful under the laws of the third country where the subsidiary is established.", and

(*e*) by the insertion of the following paragraphs after paragraph (5):

"(6) Subject to paragraph (7), the remuneration requirements specified in Regulations 80, 82 and 83 shall not apply on a consolidated basis to either of the following:

(*a*) subsidiary undertakings established in the European Union, where they are subject to specific remuneration requirements in accordance with European Union legal acts other than the Capital Requirements Directive;

(*b*) subsidiary undertakings established in a third country where they would be subject to specific remuneration requirements in accordance with other Union legal acts if they were established in the Union.

(7) Regulations 80, 82 and 83 apply to members of staff of subsidiaries that are not subject to these Regulations on an individual basis where—

(*a*) the subsidiary is either an asset management company, or an undertaking that provides the investment services and activities listed in paragraphs 2, 3, 4, 6 and 7 of Part 1 of Schedule 1 to the European Union (Markets in Financial Instruments) Regulations 2017 (S.I. No. 375 of 2017), and

(*b*) those members of staff have been mandated to perform professional activities that have a direct material impact on the risk profile or the business of the institutions within the group.".

Amendment of Regulation 99 of Principal Regulations

35. The Principal Regulations are amended by the substitution of the following Regulation for Regulation 99:

"*Determination of the consolidating supervisor*

99. (1) Where—

(a) the Bank supervises a parent credit institution in a Member State or an EU parent credit institution on an individual basis, and

(b) that parent credit institution in a Member State or that EU parent credit institution, as the case may be, is a parent undertaking,

the Bank shall be the consolidating supervisor of the group of which the parent undertaking is the parent undertaking.

(2) Where—

(*a*) the Bank supervises a parent investment firm in a Member State or an EU parent investment firm on an individual basis,

(*b*) that parent investment firm in a Member State or that EU parent investment firm, as the case may be, is a parent undertaking, and

(*c*) none of the subsidiaries of the parent undertaking is a credit institution,

the Bank shall be the consolidating supervisor of the group of which the parent undertaking is the parent undertaking.

(3) Subject to paragraph (7), where—

(*a*) a parent undertaking is a parent investment firm in a Member State or an EU parent investment firm,

(*b*) one or more of the subsidiaries of the parent undertaking is a credit institution, and

(*c*) either—

(i) only one of the subsidiaries is a credit institution and the Bank is the competent authority for that credit institution, or

(ii) more than one of the subsidiaries is a credit institution and the Bank is the competent authority for the credit institution with the largest balance sheet total,

the Bank shall be the consolidating supervisor of the group of which the parent undertaking is the parent undertaking.

(4) Where—

(*a*) the parent undertaking of an institution is—

(i) a parent financial holding company in a Member State,

(ii) a parent mixed financial holding company in a Member State,

(iii) an EU parent financial holding company, or

(iv) an EU parent mixed financial holding company, and

(*b*) the Bank supervises the institution on an individual basis,

the Bank shall be the consolidating supervisor of the group of which the parent undertaking is the parent undertaking.

(5) Where —

(*a*) two or more institutions authorised in the European Union have the same parent financial holding company in a Member State, parent mixed financial holding company in a Member State, EU parent financial holding company or EU parent mixed financial holding company, and

(*b*)

(i) in a case in which there is only one credit institution within the group, the Bank is the competent authority of the credit institution,

(ii) subject to paragraph (7), in a case in which there are several credit institutions within the group, the Bank is the competent authority of the credit institution with the largest balance sheet total, or

(iii) subject to paragraph (8), in a case in which the group does not include any credit institution, the Bank is the competent authority of the investment firm within the group with the largest balance sheet total,

the Bank shall be the consolidating supervisor of the group of which the institutions referred to in subparagraph (a) are members.

(6) Subject to paragraph (7), where consolidation is required pursuant to Article 18(3) or (6) of the Capital Requirements Regulation, the Bank shall be the consolidating supervisor of a group where it is—

(*a*) the competent authority of the credit institution in the group with the largest balance sheet total, or

(*b*) in a case in which the group does not include any credit institution, the competent authority of the investment firm with the largest balance sheet total.

(7) Notwithstanding paragraphs (3), (5)(b)(ii) and (6), where—

(*a*) the Bank supervises on an individual basis more than one credit institution within a group, and

(*b*) the sum of the balance sheet totals of those supervised credit institutions is higher than that of the credit institutions within the group supervised on an individual basis by any other competent authority,

the Bank shall be the consolidating supervisor for that group.

(8) Notwithstanding paragraph (5)(b)(iii), where—

(*a*) the Bank supervises on an individual basis more than one investment firm within a group,

(*b*) the aggregate balance sheet total of those investment firms is higher than the aggregate balance sheet total of the investment firms, within that group, supervised by any other competent authority,

the Bank shall be the consolidating supervisor for that group.

(9) Paragraphs (1), (2), (3), (5) and (6) shall not apply where the Bank has, by common agreement with other competent authorities—

(*a*) waived the application of those paragraphs on the grounds that their application would be inappropriate, taking into account the institutions concerned and the relative importance of their activities in the relevant Member States, or the need to ensure the continuity of supervision on a consolidated basis by the same competent authority, and

(*b*) appointed a different consolidating supervisor.

(10) Where the Bank would not be the consolidating supervisor for a group, in accordance with paragraph (1), (2), (3), (5) or (6), the Bank shall be the consolidating supervisor for that group where the Bank has by common agreement with other competent authorities—

(*a*) waived the application of paragraph (1), (2), (3), (5) or (6) on the grounds that their application would be inappropriate, taking into account the institutions concerned and the relative importance of their activities in the relevant Member States, or the need to ensure the continuity of supervision on a consolidated basis by the same competent authority, and

(*b*) the Bank has, pursuant to that agreement, been appointed as the consolidating supervisor.

(11) Where it is proposed that the application of paragraph (1), (2), (3), (5) or (6) be waived in accordance with paragraph (9) or (10), the EU parent institution, EU parent financial holding company, EU parent mixed financial holding company or the institution with the largest balance sheet total, as the case may be, shall have the right to be heard before the competent authorities take the decision.

(12) The Bank shall, together with the other competent authorities concerned, notify the European Commission and EBA without delay of any agreement referred to in paragraph (9) or (10).".

Amendment of Regulation 101 of Principal Regulations

36. Regulation 101 of the Principal Regulations is amended—

(*a*) by the substitution of the following paragraph for paragraph (1):

"(1) Where, in respect of subsidiaries of an EU parent institution, an EU parent financial holding company or EU parent mixed-financial holding company, the Bank is responsible for supervision as—

(*a*) the consolidating supervisor, or

(*b*) a competent authority,

the Bank shall—

(i) where it is such a consolidating supervisor, make all efforts to reach a joint decision with such competent authorities, or

(ii) where it is such a competent authority, make all efforts to reach a joint decision with the consolidating supervisor and other such competent authorities, if any,

on the following:

(I) the application of Regulations 60 and 85 to determine the adequacy of the consolidated level of own funds held by the group of institutions with respect to its financial situation and risk profile and the required level of own funds for the application of Regulation 92(2)(a) to each entity within the group of institutions and on a consolidated basis;

(II) the measures to address any significant matters and material findings relating to liquidity supervision including relating to the adequacy of the organisation and the treatment of risks, as required pursuant to Regulation 74, and relating to the need for institution-specific liquidity requirements in accordance with Regulation 93;

(III) any guidance on additional own funds referred to in Regulation 92B(4).",

(*b*) by the substitution of the following paragraph for paragraph (2):

"(2) The joint decisions referred to in paragraph (1) shall be reached—

(*a*) for the purpose of paragraph (1)(I), not later than 4 months after submission by the consolidating supervisor of a report containing the risk assessment of the group of institutions in accordance with Regulations 92A to the other relevant competent authorities,

(*b*) for the purpose of paragraph (1)(II), not later than four months after submission by the consolidating supervisor of a report containing the assessment of the liquidity risk profile of the group of institutions in accordance with Regulations 74 and 93, and

(*c*) for the purpose of paragraph (1)(III), not later than four months after submission by the consolidating supervisor

of a report containing the assessment of the liquidity risk profile of the group of institutions in accordance with Regulation 92B.",

(*c*) by the substitution of the following paragraph for paragraph (3):

"(3) The Bank shall, together with the other competent authorities and, where applicable, the consolidating supervisor, duly consider the risk assessment of subsidiaries performed by the competent authorities in accordance with Regulations 60, 85, 92A and 92B when reaching a joint decision referred to in subparagraph (I), (II) or (III) of paragraph (1).",

(*d*) by the insertion of the following paragraph after paragraph (3):

"(3A) The joint decisions referred to in subparagraphs (I) and (II) of paragraph (1) shall be set out in documents containing full reasons which shall be provided to the EU parent institution concerned by the consolidating supervisor.",

(*e*) in paragraph (4), by the substitution of "the joint decisions referred to in subparagraphs (I) and (II) of paragraph (1), the Bank, where it is the consolidating supervisor" for "the joint decisions referred to in paragraph (1), the Bank, where it is responsible for supervision on a consolidated basis",

(*f*) in paragraph (5), by the substitution of "a decision on the application of Regulations 60, 74, 85, 92(2)(a), 92B and 93" for "a decision on the application of Regulations 60, 74, 85, 92(2)(a) and 93",

(*g*) in paragraph (8), by the substitution of "The decision on the application of Regulations 60, 74, 85, 92(2)(a), 92B and 93" for "The decision on the application of Regulations 60, 74, 85, 92(2)(a) and 93",

(*h*) in paragraph (13)(b)—

(*a*) by the substitution of "a written and fully reasoned request" for "a written and reasoned request", in each place where it occurs, and

(b) by the substitution of "update a decision on the application of Regulations 92(2)(a), 92B and 93" for "update a decision on the application of Regulations 92(2)(a) and 93", in each place where it occurs, and

(*i*) in paragraph (14), by the substitution of "in paragraph (13)(b)" for "in paragraph (13)".

Amendment of Regulation 103 of Principal Regulations

37. Regulation 103 of the Principal Regulations is amended:

(*a*) by the substitution of the following paragraph for paragraph (1):

"(1) In order to facilitate and establish effective supervision, the Bank shall have written coordination and cooperation arrangements in place—

(*a*) where the Bank is the consolidating supervisor, with the other competent authorities and the parent company competent authority, if any,

(*b*) where the Bank is not the consolidating supervisor, with the consolidating supervisor, the other competent authorities, if any, and the parent company competent authority, if any, and

(*c*) where the Bank is the parent company competent authority, with the consolidating supervisor and the other competent authorities, if any.", and

(*b*) by the insertion of the following paragraph after paragraph (1):

"(1A) In paragraph (1), 'parent company competent authority' means, where the consolidating supervisor is different from the competent authority in the Member State where a financial holding company or mixed financial holding company that has been granted approval in accordance with Article 21a of the Capital Requirements Directive is established, the competent authority of the Member State where the parent undertaking is established.".

Amendment of Regulation 104 of Principal Regulations

38. Regulation 104 of the Principal Regulations is amended—

(*a*) by the insertion of the following paragraphs after paragraph (1):

"(1A) The Bank, where it is responsible for supervision on a consolidated basis, shall also establish colleges of supervisors to facilitate the tasks referred to in Regulations 100(1), 102(1) and (2) and 103(1) and (2), where all the cross-border subsidiaries of an EU parent institution, an EU parent financial holding company or an EU parent mixed financial holding company have their head offices in third countries, provided that the third countries' supervisory authorities are subject to confidentiality requirements that are equivalent to the requirements laid down in Section II of Chapter 1 of Title VII of the Capital Requirements Directive and, where applicable, in Articles 76 and 81 of the Capital Requirements Directive.", and

(*b*) in paragraph (5)—

(i) in subparagraph (e), by the substitution of "EBA;" for "EBA.", and

(ii) by the insertion of the following subparagraph after subparagraph (e)—

"(f) the competent authority in the Member State where a financial holding company or a mixed financial holding company that has been granted approval in accordance with Article 21a of the Capital Requirements Directive is established.".

Amendment of Regulation 105 of Principal Regulations

39. Regulation 105 of the Principal Regulations is amended by the insertion of the following paragraphs after paragraph (12):

"(13) Subject to paragraph (14), the Bank, where it is a competent authority, financial intelligence units and authorities entrusted with the public duty of supervising the obliged entities listed in points (1) and (2) of Article 2(1) of Directive (EU) 2015/849 for compliance with that Directive shall—

(*a*) cooperate closely with other competent authorities, and

(*b*) shall provide to and procure from those authorities information relevant for their respective tasks under these Regulations, the Capital Requirements Regulation and under the law of the State giving effect to Directive (EU) 2015/849.

(14) Paragraph (13)(a) or (b), as the case may be, shall not apply where the cooperation or information exchange concerned would impinge on an on-going inquiry, investigation or proceedings in accordance with the criminal or administrative laws of the Member State where the competent authority, financial intelligence unit or authority entrusted with the public duty of supervising the obliged entities listed in points (1) and (2) of Article 2(1) of Directive (EU) 2015/849, as the case may be, is located.".

Amendment of Regulation 107 of Principal Regulations

40. Regulation 107 of the Principal Regulations is amended, in paragraph (1), by the substitution of "Subject to Chapter 1A of Part 3, the Bank shall adopt" for "Where appropriate, the Bank shall adopt".

Amendment of Regulation 108 of Principal Regulations

41. Regulation 108 of the Principal Regulations is amended by the substitution of the following paragraph for paragraph (2):

"(2) Where a mixed-financial holding company is subject to equivalent provisions under these Regulations and the European Union (Insurance and Reinsurance) Regulations 2015 (S.I. No. 485 of 2015), in particular in terms of risk-based supervision, the Bank, where it is responsible for exercising supervision on a consolidated basis, may, in agreement with the group supervisor in the insurance sector, apply to that mixed-financial holding company only the provisions of the Regulations, being either these Regulations or the European Union (Insurance and Reinsurance) Regulations 2015, which relate to the most significant financial sector, as defined in Regulation 4(2) of

the European Communities (Financial Conglomerates) Regulations 2004 (S.I. No. 727 of 2004).".

Amendment of Regulation 113 of Principal Regulations

42. Regulation 113 of the Principal Regulations is amended by the insertion of the following paragraphs after paragraph (4):

"(5) Where, in accordance with Article 111 of the Capital Requirements Directive, the consolidating supervisor of a group with a parent mixed financial holding company is different from the coordinator determined in accordance with Article 10 of Directive 2002/87/EC, the Bank, where it is either that consolidating supervisor or the coordinator, as so determined, shall cooperate with the consolidating supervisor or coordinator, as the case may be, for the purpose of applying these Regulation and the Capital Requirements Regulation on a consolidated basis.

(6) In order to facilitate and establish effective cooperation under paragraph (5), the Bank shall have written coordination and cooperation arrangements in place with the consolidating supervisor or the coordinator, as the case may be.".

Restrictions on use of Common Equity Tier 1 Capital maintained to meet the combined buffer requirement

43. The Principal Regulations are amended by the insertion of the following Regulation after Regulation 116:

"*Restrictions on use of Common Equity Tier 1 Capital maintained to meet the combined buffer requirement*

116A. (1) Institutions shall not use Common Equity Tier 1 capital that is maintained to meet the combined buffer requirement—

(*a*) to meet any of the requirements set out in points (a), (b) and (c) of Article 92(1) of the Capital Requirements Regulation,

(*b*) to meet the additional own funds requirements imposed pursuant to Regulation 92A to address risks other than the risk of excessive leverage, or

(*c*) to comply with the guidance communicated in accordance with Regulation 92B(4) to address risks other than the risk of excessive leverage.

(2) Institutions shall not use Common Equity Tier 1 capital that is maintained to meet one of the elements of its combined buffer requirement to meet the other applicable elements of its combined buffer requirement.

(3) Institutions shall not use Common Equity Tier 1 capital that is maintained to meet the combined buffer requirement to meet the risk-based components of the requirements set out in Articles 92a and 92b of the Capital Requirements Regulation and in Regulations 80E and 80F of the European Union (Bank Recovery and Resolution) Regulations 2015 (S.I. No. 289 of 2015).".

Amendment of Regulation 117 of Principal Regulations

44. Regulation 117 of the Principal Regulations is amended—

(*a*) in paragraph (1), by the substitution of "maintained to meet any of the own funds requirements specified in points (a), (b) and (c) of Article 92(1) of the Capital Requirements Regulation" for "maintained to meet the own funds requirement imposed by Article 92 of the Capital Requirements Regulation", and

(*b*) by the deletion of paragraph (2).

Amendment of Regulation 118 of Principal Regulations

45. Regulation 118 of the Principal Regulations is amended by the substitution of the following paragraph for paragraph (2):

"(2) The institution-specific countercyclical capital buffer referred to in paragraph (1) shall consist of Common Equity Tier 1 capital.".

Amendment of Regulation 120 of Principal Regulations

46. Regulation 120 of the Principal Regulations is amended—

(*a*) in paragraph (1), by the substitution of "authority responsible for the application" for "authority in charge of the application", and

(*b*) by the substitution of the following paragraph for paragraph (3):

"(3) Where it applies an exemption under paragraph (1), the Bank shall notify the ESRB.".

Amendment of Regulation 121 of Principal Regulations

47. Regulation 121 of the Principal Regulations is amended

(*a*) in paragraph (1), by the substitution of "G-SIIs" for "global systemically important institutions (in these Regulations referred to as 'G-SIIs')", and

(*b*) by the substitution of the following paragraph for paragraph (2):

"(2) For the purposes of paragraph (1)—

(*a*) G-SIIs shall be—

(i) a group headed by an EU parent institution, an EU parent financial holding company, an EU parent mixed-financial holding company, or

(ii) an institution that is not a subsidiary of an EU parent institution, of an EU parent financial holding company or of an EU parent mixed-financial holding company,

(*b*) O-SIIs may either be an institution or a group headed by an EU parent institution, an EU parent financial holding company, an EU parent mixed financial holding company, a parent institution in a

Member State, a parent financial holding company in a Member State or a parent mixed financial holding company in a Member State,

(*c*) the identification methodology for G-SIIs shall be based on the following categories:

(i) size of the group;

(ii) interconnectedness of the group with the financial system;

(iii) substitutability of the services or of the financial infrastructure provided by the group;

(iv) complexity of the group;

(v) cross-border activity of the group, including cross-border activity between Member States and between a Member State and a third country,

(*d*) each category, referred to in subparagraph (c), shall receive an equal weighting and shall consist of quantifiable indicators,

(*e*) the methodology, referred to in subparagraph (c), shall produce an overall score for each entity referred to in this Regulation that is assessed, which allows G-SIIs to be identified and allocated into a sub-category as described in Regulation 123(6),

(*f*) an additional identification methodology for G-SIIs shall be based on the following categories:

(i) the categories referred to in subparagraph (c)(i) to (iv);

(ii) cross-border activity of the group, excluding the group's activities across participating Member States as referred to in Article 4 of Regulation (EU) No 806/2014 of the European Parliament and of the Council of 15 July 2014[17],

(*g*) each category referred to in subparagraph (f) shall receive an equal weighting and shall consist of quantifiable indicators,

(*h*) for the categories referred to in clause (i) of subparagraph (f) of this paragraph, the indicators shall be the same as the corresponding indicators determined pursuant to subparagraph (c), and

(*i*) the additional identification methodology shall produce an additional overall score for each entity as

[17] OJ No. L. 225, 30.7.2014, p. 1.

referred to in subparagraph (a) assessed, on the basis of which the Bank may take one of the measures referred to in Regulation 123(7)(c).".

Amendment of Regulation 123 of Principal Regulations

48. Regulation 123 of the Principal Regulations is amended—

(*a*) by the substitution of the following paragraph for paragraph (2):

"(2) The Bank may require each O-SII, on a consolidated or sub-consolidated or individual basis, as applicable, to maintain an O-SII buffer of up to 3 per cent of the total risk exposure amount calculated in accordance with Article 92(3) of the Capital Requirements Regulation, taking into account the criteria for the identification of the O-SII.",

(*b*) by the insertion of the following paragraph after paragraph (2):

"(2A) Subject to the Commission authorisation referred to in the third subparagraph of Article 131(5a) of the Capital Requirements Directive, the Bank may require each O-SII, on a consolidated, sub-consolidated or individual basis, as applicable, to maintain an O-SII buffer higher than 3 per cent of the total risk exposure amount calculated in accordance with Article 92(3) of the Capital Requirements Regulation.

(2B) The buffers referred to in paragraphs (2) and (2A) shall consist of Common Equity Tier 1 capital.",

(*c*) by the substitution of the following paragraph for paragraph (4):

"(4) Before setting or resetting an O-SII buffer, the Bank shall, not later than one month before the publication of the decision referred to in paragraph (2) and not later than three months before the publication of the decision of the Bank referred to in paragraph (2A) notify the ESRB, and such notifications shall include details of—

(*a*) the grounds on which the O-SII buffer is considered likely to be effective and proportionate to mitigate the risk,

(*b*) based on information which is available to the Bank, an assessment of the likely positive or negative impact of the O-SII buffer on the internal market, and

(*c*) the O-SII buffer rate that the Bank wishes to set.",

(*d*) by the substitution of the following paragraph for paragraph (5):

"(5) Without prejudice to Article 133 of the Capital Requirements Directive and paragraph (2), where an O-SII is a subsidiary of either a G-SII or an O-SII which is either an institution or a group headed by an EU parent institution and subject to an O-SII buffer on a consolidated basis, the buffer that applies on an individual or sub-consolidated basis for the O-SII shall not exceed the lower of the following:

(*a*) the sum of the higher of the G-SII or the O-SII buffer rate applicable to the group on a consolidated basis and one per cent of the total risk exposure amount calculated in accordance with Article 92(3) of the Capital Requirements Regulation;

(*b*) 3 per cent of the total risk exposure amount calculated in accordance with Article 92 (3) of the Capital Requirements Regulation, or the rate the Commission has authorised to be applied to the group on a consolidated basis in accordance with Article 131(5a) of the Capital Requirements Directive.",

(*e*) by the substitution of the following paragraph for paragraph (6):

"(6)

(*a*) There shall be at least 5 subcategories of G-SIIs.

(*b*) The lowest boundary and the boundaries between each subcategory shall be determined by the scores in accordance with the identification methodology referred to in Regulation 121(2)(c).

(*c*) The cut-off scores between adjacent sub-categories shall be defined clearly and shall adhere to the principle that there is a constant linear increase of systemic significance, between each sub-category resulting in a linear increase in the requirement of additional Common Equity Tier 1 capital, with the exception of sub-category 5 and any added higher sub-category.

(*d*) For the purposes of this paragraph, systemic significance is the expected impact exerted by the G-SII's distress on the global financial market.

(*e*) The lowest sub-category shall be assigned a G-SII buffer of 1 per cent of the total risk exposure amount calculated in accordance with Article 92(3) of the Capital Requirements Regulation and the buffer assigned to each sub-category shall increase in gradients of at least 0.5 per cent of the total risk exposure amount calculated in accordance with Article 92(3) of the Capital Requirements Regulation.",

(*f*) by the substitution of the following paragraph for paragraph (7):

"(7) Without prejudice to Regulation 121(2)(a) and (c) and paragraph (6) and using the sub-categories and cut-off scores referred to in paragraph (6), the Bank may, in the exercise of sound supervisory judgment—

(*a*) re-allocate a G-SII from a lower sub-category to a higher sub-category,

(*b*) allocate an entity referred to in Regulation 121(2) that has an overall score as referred to in Regulation 121(2)(e) that

is lower than the cut-off score of the lowest sub-category, to that sub-category or to a higher sub-category, thereby designating it as a G-SII, or

(*c*) taking into account the Single Resolution Mechanism, on the basis of the additional overall score referred to in Regulation 121(2)(i) re-allocate a G-SII from a higher sub-category to a lower sub-category.",

(*g*) by the deletion of paragraph (8),

(*h*) by the substitution of the following paragraph for paragraph (9):

"(9) The Bank shall—

(*a*) notify the names of the G-SIIs and O-SIIs and the respective subcategory to which each G-SII is allocated, to the ESRB,

(*b*) disclose the names of the G-SIIs and O-SIIs and the sub-category to which each G-SII is allocated to the public,

(*c*) review annually the identification of G-SIIs and O-SIIs and the G-SII allocation into the respective sub-categories and report the result to the systemically important institution concerned and the ESRB, and

(*d*) disclose the updated list of identified systemically important institutions, and the sub-category into which each identified G-SII is allocated, to the public.",

(*i*) by the insertion of the following paragraph after paragraph (9):

"(9A) A notification under paragraph (9)(a) shall contain full reasons why supervisory judgment has been exercised or not in accordance with paragraph (7).",

(*j*) by the deletion of paragraph (10),

(*k*) by the substitution of the following paragraph for paragraph (11):

"(11) Where a group, on a consolidated basis, is subject to a G-SII buffer and to an O-SII buffer, the higher buffer shall apply.",

(*l*) by the substitution of the following paragraph for paragraph (12):

"(12) Where an institution is subject to a systemic risk buffer, set in accordance with Regulations 123A to 123N, that buffer shall be cumulative with the O-SII buffer or the G-SII buffer that is applied in accordance with this Regulation.",

(*m*) by the insertion of the following paragraph after paragraph (12):

"(12A) Where the sum of the systemic risk buffer rate as calculated for the purposes of Regulation 123I, 123J or 123K and the O-SII buffer rate or the G-SII buffer rate to which the

same institution is subject to would be higher than 5 per cent, the procedure set out in paragraph (2A) shall apply.", and

(*n*) by the deletion of paragraphs (13) and (14).

Systemic risk buffer

49. The Principal Regulations are amended by the insertion of the following Regulations after Regulation 123:

"*Designation of authority for the systemic risk buffer*

123A. The Bank is designated as the authority responsible for setting the systemic risk buffer and for identifying the exposures and subsets of institutions to which it applies.

Power to set systemic risk buffer

123B. (1) The Bank may set a systemic risk buffer of Common Equity Tier 1 capital for the financial sector or one or more subsets of that sector on all or a subset of exposures as referred to in Regulation 123E, in order to prevent and mitigate macroprudential or systemic risks not covered by the Capital Requirements Regulation and by Regulations 118 to 123.

(2) In this Regulation, 'macroprudential or systemic risk' means 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 a specific Member State.

Calculation of systemic risk buffer

123C. Institutions shall calculate the systemic risk buffer as follows:

$$B_{SR} = \mathrm{r}_T * E_T + \sum_i r_i * E_i$$

where:

B_{SR} is the systemic risk buffer;

r_T is the buffer rate applicable to the total risk exposure amount of an institution;

E_T is the total risk exposure amount of an institution calculated in accordance with Article 92(3) of the Capital Requirements Regulation;

i is the index denoting the subset of exposures as referred to in Regulation 123E;

r_i is the buffer rate applicable to the risk exposure amount of the subset of exposures i;

E_i is the risk exposure amount of an institution for the subset of exposures *i* calculated in accordance with Article 92(3) of the Capital Requirements Regulation.

Systemic risk buffer of Common Equity Tier 1 capital

123D. For the purposes of Regulation 123B, the Bank may require institutions to maintain a systemic risk buffer of Common Equity Tier 1 capital calculated in accordance with Regulation 123C, on an individual, consolidated, or sub-consolidated basis, as applicable in accordance with Title II of Part One of the Capital Requirements Regulation.

Exposures to which systemic risk buffer may apply

123E. A systemic risk buffer set by the Bank may apply to—

(*a*) all exposures located in the State,

(*b*) the following sectoral exposures located in the State:

(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 immovable property;

(iii) all exposures to legal persons, excluding those specified in subparagraph (ii);

(iv) all exposures to natural persons, excluding those specified in point (i),

(*c*) all exposures located in Member States other than the State, subject to Regulations 123K and 123N,

(*d*) sectoral exposures, as identified in paragraph (b), located in Member States other than the State, only to enable recognition of a buffer rate set by that other Member State in accordance with Regulation 124,

(*e*) exposures located in third countries, and

(*f*) subsets of any of the exposure categories identified in paragraph (b).

Systemic risk buffer requirements

123F. (1) A systemic risk buffer set by the Bank shall—

(*a*) apply to all exposures, or a subset of exposures as referred to in Regulation 123E, of all institutions, or one or more subsets of those institutions, for which the Bank is a competent authority under these Regulations, and

(*b*) be set in steps of adjustment of 0.5 percentage points or multiples thereof.

(2) The Bank may set different systemic risk buffer requirements for different subsets of institutions and of exposures.

(3) The systemic risk buffer set by the Bank shall not address risks that are covered by Regulations 118 to 123.

Obligations on Bank

123G. When requiring a systemic risk buffer to be maintained, the Bank shall—

(*a*) ensure that the systemic risk buffer does not entail disproportionate adverse effects on the whole or parts of the financial system of other Member States or of the European Union as a whole forming or creating an obstacle to the proper functioning of the internal market,

(*b*) review the systemic risk buffer not less than once in every two years, and

(*c*) not use the systemic risk buffer to address risks that are covered by Regulations 118 to 123.

Notification prior to publication of decision under Regulation 123L

123H. (1) The Bank shall notify the ESRB before the publication of the decision referred to in Regulation 123L.

(2) Where the institution to which one or more systemic risk buffer rates apply is a subsidiary the parent of which is established in another Member State, the Bank shall also notify the authorities of that Member State.

(3) Where a systemic risk buffer rate applies to exposures located in third countries, the Bank shall also notify the ESRB.

(4) The notifications required under paragraphs (1), (2) and (3) shall specify in detail—

(*a*) the macroprudential or systemic risks in the State,

(*b*) the reasons why the dimension of the macroprudential or systemic risks threatens the stability of the financial system at national level justifying the systemic risk buffer rate,

(*c*) the justification for the systemic risk buffer being considered likely to be effective and proportionate to mitigate the risk,

(*d*) an assessment of the likely positive or negative impact of the systemic risk buffer on the internal market, based on information which is available to the State,

(*e*) the systemic risk buffer rate or rates that the Bank intends to impose,

(*f*) the exposures to which the rates referred to in subparagraph (e) shall apply,

(*g*) the institutions which shall be subject to the rates referred to in subparagraph (e), and

(*h*) where the systemic risk buffer rate applies to all exposures, the justification for the Bank considering that the systemic risk buffer is not duplicating the functioning of the O-SII buffer provided for in Regulation 123.

(5) Where the decision to set the systemic risk buffer rate results in a decrease or no change from the previously set buffer rate, Regulations 123I, 123J and 123K shall not apply.

Notification: SyRB less than 3 per cent

123I. (1) Where—

(*a*) a set or subset of exposures referred to in Regulation 123E is subject to one or more systemic risk buffers, and

(*b*) the setting or resetting of a systemic risk buffer rate or rates by the Bank would result in a combined systemic risk buffer rate less than or equal to 3 per cent for any of those exposures,

the Bank shall notify the ESRB in accordance with Regulation 123H one month before the publication of the decision referred to in Regulation 123L.

(2) The recognition of a systemic risk buffer rate set by another Member State in accordance with Regulation 124 shall not count towards the 3 per cent threshold referred to in paragraph (1)(b).

Notification: SyRB between 3 and 5 per cent

123J. (1) Where—

(*a*) a set or subset of exposures referred to in Regulation 123E is subject to one or more systemic risk buffers, and

(*b*) the setting or resetting of a systemic risk buffer rate or rates by the Bank would result in a combined systemic risk buffer rate greater than 3 per cent and less than or equal to 5 per cent for any of those exposures,

the Bank shall request, in the notification submitted in accordance with Regulation 123H, the opinion of the European Commission on the proposed setting or resetting of the rate or rates, as the case may be.

(2) Where the opinion of the European Commission on the proposed setting or resetting of the rate or rates, as the case may be, referred to in paragraph (1) is negative, the Bank shall comply with that opinion or give reasons for not doing so.

(3) Where—

(*a*) paragraph (1) applies,

(*b*) an institution to which one or more systemic risk buffer rates referred to in paragraph (1)(b) would apply is a subsidiary, and

(*c*) the parent of that subsidiary is established in another Member State,

the Bank shall request, in the notification submitted in accordance with Regulation 123H, a recommendation by the European Commission and the ESRB.

(4) Where

(*a*) paragraph (3) applies,

(*b*) the Bank and the competent authority or the designated authority, as the case may be, of the parent disagree on the systemic risk buffer rate or rates applicable to that institution, and

(*c*) the recommendation provided by the Commission and the ESRB on foot of the request referred to in paragraph (3) is negative,

the Bank may refer the matter to the EBA and request its assistance in accordance with Article 19 of Regulation (EU) No 1093/2010.

(5) Where the Bank refers a matter to the EBA under paragraph (4), the decision to set or reset the systemic risk buffer rate or rates shall be suspended until the EBA has taken a decision.

Notification: SyRB above 5 per cent

123K. Where—

(*a*) a set or subset of exposures referred to in Regulation 123E is subject to one or more systemic risk buffers, and

(*b*) the setting or resetting of a systemic risk buffer rate or rates by the Bank would result in a combined systemic risk buffer rate greater than 5 per cent for any of those exposures,

the Bank shall seek the authorisation of the European Commission before implementing the systemic risk buffer.

Publication of SyRBs on website

123L. (1) The Bank shall announce the setting or resetting of one or more systemic risk buffer rates by way of publication on a website maintained by the Bank.

(2) Subject to paragraph (3), the publication referred to in paragraph (1) shall include at least the following information:

(*a*) the systemic risk buffer rate or rates;

(*b*) the institutions to which the systemic risk buffer applies;

(*c*) the exposures to which the systemic risk buffer rate or rates apply;

(*d*) a justification for setting or resetting the systemic risk buffer rate or rates;

(*e*) the date from which the institutions shall apply the setting or resetting of the systemic risk buffer;

(*f*) where exposures located in those countries are recognised in the systemic risk buffer, the names of the countries.

(3) Where the publication of the information referred to in paragraph (2)(d) could jeopardise the stability of the financial system, that information shall not be included in the publication.

Additional measures

123M. (1) Where an institution fails to maintain a systemic risk buffer at the rate set by the Bank under Regulation 123B, it shall be subject to the restrictions on distributions set out in Regulation 129(3) and (4).

(2) Where the application of the restrictions on distributions leads to an unsatisfactory improvement of the Common Equity Tier 1 capital of an institution in light of the relevant systemic risk, the Bank may take additional measures in accordance with—

(*a*) Regulation 90,

(*b*) Regulation 92,

(*c*) Regulation 93,

(*d*) section 11 of the Act of 1971,

(*e*) section 40 of the Act of 1989, and

(*f*) section 45(1) of the Act of 2013.

Exposures in another Member State

123N. Where the Bank decides to set the systemic risk buffer on the basis of exposures located in other Member States, the buffer shall be set equally on all exposures located within the European Union, unless the buffer is set to recognise the systemic risk buffer rate set by another Member State in accordance with Regulation 124.".

Amendment of Regulation 124 of Principal Regulations

50. Regulation 124 of the Principal Regulations is amended—

(*a*) by the substitution of the following paragraph for paragraph (2):

"(2) Where the Bank recognises a systemic risk buffer rate, referred to in paragraph (1), for domestically-authorised institutions, it shall notify the ESRB.",

(*b*) by the substitution of the following paragraph for paragraph (3):

"(3) When deciding whether to recognise a systemic risk buffer rate, in accordance with paragraph (1), the Bank shall take into consideration the information presented by the Member State that sets that buffer rate in accordance with Article 133(9) and (13) of the Capital Requirements Directive.", and

(*c*) by the insertion of the following paragraphs after paragraph (3):

"(4) Where—

(*a*) the Bank recognises a systemic risk buffer rate for domestically authorised institutions in accordance with paragraph (1), and

(*b*) that systemic risk buffer rate and the systemic risk buffer rate applied by the Bank in accordance with Regulations 123A to 123N address different risks,

those systemic risk buffer rates may be cumulative.

(5) Where—

(*a*) the Bank recognises a systemic risk buffer rate for domestically authorised institutions in accordance with paragraph (1), and

(*b*) that systemic risk buffer rate and the systemic risk buffer rate applied by the Bank in accordance with Regulations 123A to 123N address the same risks,

only the higher systemic risk buffer rate shall apply.

(6) Where the Bank sets a systemic risk buffer rate in accordance with Regulations 123A to 123N, the Bank may ask the ESRB to issue a recommendation, as referred to in Article 16 of Regulation (EU) No 1092/2010 of the European Parliament and of the Council of 24 November 2010 (as amended by Regulation (EU) 2019/2176 of the European Parliament and of the Council of 18 December 2019[18])[19], to one or more Member States which may recognise the systemic risk buffer rate.".

Amendment of Regulation 125 of Principal Regulations

51. Regulation 125 of the Principal Regulations is amended—

(*a*) by the substitution of the following paragraph for paragraph (3):

"(3) The Bank shall—

(*a*) assess—

(i) the intensity of cyclical systemic risk, and

[18] OJ No. L 334, 27.12.2019, p. 146.
[19] OJ No. L 331, 15.12.2010, p. 1.

(ii) the appropriateness of the countercyclical buffer rate for the State,

on a quarterly basis, and

(*b*) set or adjust the countercyclical buffer rate, if necessary.",

(*b*) by the insertion of the following paragraph after paragraph (3):

"(3A) In carrying out its obligations under paragraph (3), the Bank shall take into account—

(*a*) the buffer guide calculated in accordance with paragraph (2),

(*b*) any current guidance maintained by the ESRB in accordance with Article 135(1)(a), (c) and (d) of the Capital Requirements Directive,

(*c*) any recommendations issued by the ESRB on the setting of a buffer rate, and

(*d*) other variables that the Bank considers relevant for addressing cyclical systemic risk.",

(*c*) in paragraph (4)(b), by the substitution of "paragraphs (3) and (3A)" for "paragraph (3)", and

(*d*) by the substitution of the following paragraph for paragraph (7):

"(7) The Bank shall—

(*a*) publish quarterly on its website at least the following information:

(i) the applicable countercyclical buffer rate;

(ii) the relevant credit-to-GDP-ratio and its deviation from the long term trend;

(iii) the buffer guide calculated in accordance with paragraph (2);

(iv) a justification for that buffer rate;

(v) where the buffer rate is increased, the date from which the institutions shall apply that increased buffer rate for the purpose of calculating their institution-specific countercyclical capital buffer;

(vi) where the date referred to in clause (v) is less than 12 months after the date of the publication under this paragraph, a reference to the exceptional circumstances that justify that shorter deadline for application;

(vii) where the buffer rate is decreased, the indicative period during which no increase in the buffer rate is expected, together with a justification for that period,

(*b*) take all reasonable steps to coordinate the timing of that publication with designated authorities in other Member States, and

(*c*) notify each change of the countercyclical buffer rate and the information specified in subparagraphs (a)(i) to (vii) to the ESRB.".

Amendment of Regulation 129 of Principal Regulations

52. Regulation 129 of the Principal Regulations is amended—

(*a*) in paragraph (3), in subparagraph (b), by the substitution of "requirement" for "requirements",

(*b*) in paragraph (4), by the substitution of "Where" for "While",

(*c*) by the substitution of the following paragraph for paragraph (6):

"(6) The sum to be multiplied in accordance with paragraph (5) shall be—

(*a*) the interim profits not included in Common Equity Tier 1 capital pursuant to Article 26(2) of the Capital Requirements Regulation net of any distribution of profits or any payment resulting from the actions referred to in subparagraphs (a), (b) and (c) of paragraph (3), plus

(*b*) the year-end profits not included in Common Equity Tier 1 capital pursuant to Article 26(2) of the Capital Requirements Regulation net of any distribution of profits or any payment resulting from the actions referred to in subparagraphs (a), (b) and (c) of paragraph (3), minus

(*c*) the amounts which would be payable by tax if the items specified in paragraphs (a) and (b) were to be retained.", and

(*d*) by the substitution of the following paragraph for paragraph (7):

"(7) The factor, referred to in paragraph (5), shall be determined as follows:

(*a*) where the Common Equity Tier 1 capital maintained by the institution which is not used to meet any of the own funds requirements set out in points (a), (b) and (c) of Article 92(1) of the Capital Requirements Regulation and the additional own funds requirement addressing risks other than the risk of excessive leverage set out in Regulation 92(2)(a), expressed as a percentage of the total risk exposure amount calculated in accordance with Article 92(3) of that Regulation, is within the first (that is, the lowest) quartile of the combined buffer requirement, the factor shall be zero;

(*b*) where the Common Equity Tier 1 capital maintained by the institution which is not used to meet any of the own funds requirements set out in points (a), (b) and (c) of Article 92(1) of the Capital Requirements Regulation and the additional own funds requirement addressing risks other than the risk of excessive leverage set out in Regulation 92(2)(a), expressed as a percentage of the total risk exposure amount calculated in accordance with Article 92(3) of that Regulation, is within the second quartile of the combined buffer requirement, the factor shall be 0.2;

(*c*) where the Common Equity Tier 1 capital maintained by the institution which is not used to meet the own funds requirements set out in points (a), (b) and (c) of Article 92(1) of the Capital Requirements Regulation and the additional own funds requirement addressing risks other than the risk of excessive leverage set out in Regulation 92(2)(a), expressed as a percentage of the total risk exposure amount calculated in accordance with Article 92(3) of that Regulation, is within the third quartile of the combined buffer requirement, the factor shall be 0.4;

(*d*) where the Common Equity Tier 1 capital maintained by the institution which is not used to meet the own funds requirements set out in points (a), (b) and (c) of Article 92(1) of the Capital Requirements Regulation and the additional own funds requirement addressing risks other than the risk of excessive leverage set out in Regulation 92(2)(a), expressed as a percentage of the total risk exposure amount calculated in accordance with Article 92(3) of that Regulation, is within the fourth (that is, the highest) quartile of the combined buffer requirement, the factor shall be 0.6;

(*e*) The lower and upper bounds of each quartile of the combined buffer requirement shall be calculated as follows:

$$Lower\ bound\ of\ quartile = \frac{Combined\ buffer\ requirement}{4} * (Q_n - 1)$$

$$Upper\ bound\ of\ quartile = \frac{Combined\ buffer\ requirement}{4} * (Q_n)$$

where:

Q_n = the ordinal number of the quartile concerned.”.

Failure to meet buffer requirements

53. The Principal Regulations are amended by the insertion of the following Regulations after Regulation 129:

"Failure to meet combined buffer requirement

129A. An institution shall be considered as failing to meet the combined buffer requirement for the purposes of Regulation 129 where it does not have own funds in an amount and of the quality needed to meet, at the same time, that combined buffer requirement and each of the following:

(*a*) the requirement under point (a) of Article 92(1) of the Capital Requirements Regulation and the additional own funds requirement addressing risks other than the risk of excessive leverage under Regulation 92(2)(a);

(*b*) the requirement under point (b) of Article 92(1) of the Capital Requirements Regulation and the additional own funds requirement addressing risks other than the risk of excessive leverage under Regulation 92(2)(a);

(*c*) the requirement under point (c) of Article 92(1) of the Capital Requirements Regulation and the additional own funds requirement addressing risks other than the risk of excessive leverage under Regulation 92(2)(a).

Restriction on distributions in case of failure to meet leverage ratio buffer requirement

129B. (1) An institution that meets the leverage ratio buffer requirement pursuant to Article 92(1a) of the Capital Requirements Regulation shall not make a distribution in connection with Tier 1 capital to an extent that would decrease its Tier 1 capital to a level where the leverage ratio buffer requirement is no longer met.

(2) An institution that fails to meet the leverage ratio buffer requirement shall calculate the leverage ratio related maximum distributable amount (in this Regulation referred to as the 'L-MDA') in accordance with paragraph (5) and shall notify the Bank thereof.

(3) Where the paragraph (2) applies, the institution shall not undertake any of the following actions before it has calculated the L-MDA:

(*a*) make a distribution in connection with Common Equity Tier 1 capital;

(*b*) create an obligation to pay variable remuneration or discretionary pension benefits or pay variable remuneration if the obligation to pay was created at a time when the institution failed to meet the leverage ratio buffer requirement;

(*c*) make payments on Additional Tier 1 instruments.

(4) Where an institution fails to meet or exceed its leverage ratio buffer requirement, it shall not distribute more than the L-MDA calculated in accordance with paragraph (5) through any action referred to in paragraph (3).

(5) Institutions shall calculate the L-MDA by multiplying the sum calculated in accordance with paragraph (7) by the factor determined in accordance with paragraph (8).

(6) The L-MDA shall be reduced by the amount, if any, resulting from the actions referred to in paragraph (3).

(7) The sum to be multiplied in accordance with paragraph (5) shall consist of—

(*a*) any interim profits not included in Common Equity Tier 1 capital pursuant to Article 26(2) of the Capital Requirements Regulation net of any distribution of profits or any payment related to the actions referred to in paragraph (3), plus

(*b*) any year-end profits not included in Common Equity Tier 1 capital pursuant to Article 26(2) of the Capital Requirements Regulation net of any distribution of profits or any payment related to the actions referred to in paragraph (3), minus

(*c*) amounts which would be payable by tax if the items specified in subparagraphs (a) and (b) were to be retained.

(8) The factor referred to in paragraph (5) shall be determined as follows:

(*a*) where the Tier 1 capital maintained by the institution which is not used to meet the requirements under point (d) of Article 92(1) of the Capital Requirements Regulation and under Regulation 92(2)(a) when addressing the risk of excessive leverage not sufficiently covered by point (d) of Article 92(1) of the Capital Requirements Regulation, expressed as a percentage of the total exposure measure calculated in accordance with Article 429(4) of the Capital Requirements Regulation, is within the first (that is, the lowest) quartile of the leverage ratio buffer requirement, the factor shall be zero;

(*b*) where the Tier 1 capital maintained by the institution which is not used to meet the requirements under point (d) of Article 92(1) of the Capital Requirements Regulation and under Regulation 92(2)(a)when addressing the risk of excessive leverage not sufficiently covered by point (d) of Article 92(1) of the Capital Requirements Regulation, expressed as a percentage of the total exposure measure calculated in accordance with Article 429(4) of the Capital Requirements Regulation, is within the second quartile of the leverage ratio buffer requirement, the factor shall be 0.2;

(*c*) where the Tier 1 capital maintained by the institution which is not used to meet the requirements under point (d) of Article 92(1) of the Capital Requirements Regulation and under Regulation 92(2)(a) when addressing the risk of excessive leverage not sufficiently covered by point (d) of Article 92(1) of the Capital Requirements Regulation, expressed as a percentage of the total exposure measure calculated in accordance with Article 429(4) of the Capital Requirements Regulation, is within

the third quartile of the leverage ratio buffer requirement, the factor shall be 0.4;

(*d*) where the Tier 1 capital maintained by the institution which is not used to meet the requirements under point (d) of Article 92(1) of the Capital Requirements Regulation and under Regulation 92(2)(a) when addressing the risk of excessive leverage not sufficiently covered by point (d) of Article 92(1) of the Capital Requirements Regulation, expressed as a percentage of the total exposure measure calculated in accordance with Article 429(4) of the Capital Requirements Regulation, is within the fourth (that is, the highest) quartile of the leverage ratio buffer requirement, the factor shall be 0.6;

(*e*) The lower and upper bounds of each quartile of the leverage ratio buffer requirement shall be calculated as follows:

$$Lower\ bound\ of\ quartile = \frac{Leverage\ ratio\ buffer\ requirement}{4} * (Q_n - 1)$$

$$Upper\ bound\ of\ quartile = \frac{Leverage\ ratio\ buffer\ requirement}{4} * (Q_n)$$

where:

Q_n = the ordinal number of the quartile concerned.

(9) The restrictions imposed by this Regulation shall only apply to payments that result in a reduction of Tier 1 capital or in a reduction of profits, and where a suspension of payment or failure to pay does not constitute an event of default or a condition for the commencement of proceedings under the insolvency regime applicable to the institution.

(10) Where an institution fails to meet the leverage ratio buffer requirement and intends to distribute any of its distributable profits or undertake an action referred to in paragraph (3), it shall notify the Bank and provide the information listed in Regulation 129(9), with the exception of subparagraph (a)(iii) thereof, and the L-MDA calculated in accordance with paragraph (5).

(11) Institutions shall maintain arrangements to ensure that the amount of distributable profits and the L-MDA are calculated accurately, and shall be able to demonstrate that accuracy to the Bank on request.

(12) For the purposes of paragraphs (1), (2) and (3), a distribution in connection with Tier 1 capital shall include any of the items listed in Regulation 129(11).

Failure to meet leverage ratio buffer requirement

129C. An institution shall be considered as failing to meet the leverage ratio buffer requirement for the purposes of Regulation 129B where it does not have Tier 1 capital in the amount needed to meet, at the same time, the

requirement under Article 92(1a) of the Capital Requirements Regulation and the requirement under point (d) of Article 92(1) of that Regulation and in Regulation 92(2)(a) when addressing the risk of excessive leverage not sufficiently covered by point (d) of Article 92(1) of the Capital Requirements Regulation.".

Amendment of Regulation 130 of Principal Regulations

54. Regulation 130 of the Principal Regulations is amended, in paragraph (1), by the substitution of the following subparagraph for subparagraph (a):

> "(a) Where an institution fails to meet its combined buffer requirement or, where applicable, its leverage ratio buffer requirement, it shall prepare a capital conservation plan and submit it to the Bank no later than 5 working days after it identified that it was failing to meet that requirement, unless the Bank authorises a longer period, which shall not exceed 10 days.".

Amendment of Regulation 131 of Principal Regulations

55. Regulation 131 of the Principal Regulations is amended, in paragraph (1), by the substitution of the following subparagraph for subparagraph (c):

"(c) the general criteria and methodologies it uses in the review and evaluation referred to in Regulation 85, including the criteria for applying the principle of proportionality as referred to in Regulation 85(5A);".

Transitional provisions on approval of financial holding companies and mixed financial holding companies

56. The Principal Regulations are amended by the insertion of the following Regulations after Regulation 132:

"*Transitional provisions on approval of financial holding companies and mixed financial holding companies*

142A. (1) Parent financial holding companies and parent mixed financial holding companies already existing on 27 June 2019 shall apply for approval in accordance with Chapter 1A of Part 3 by 28 June 2021.

(2) Where a financial holding company or mixed financial holding company already existing on 27 June 2019 fails to apply for approval by 28 June 2021, appropriate measures shall be taken pursuant to Regulation 9F.

(3) During the period up to and including 28 June 2021, the Bank may exercise its powers under—

(*a*) Regulation 9F,

(*b*) Regulation 90,

(*c*) Regulation 92,

(*d*) Regulation 93, and

(*e*) section 45(1) of the Act of 2013,

in respect of financial holding companies and mixed financial holding companies subject to approval in accordance with Chapter 1A of Part 3 for the purposes of consolidated supervision.".

Amendment of Central Bank Act 1942

57. The Central Bank Act 1942 (No. 22 of 1942) is amended—

(*a*) in section 33AK—

(i) in subsection (5)—

(I) in paragraph (ba), by the substitution of "1988 to 2018, or" for "1988 to 2018.", and

(II) by the insertion of the following paragraph after paragraph (ba):

"(bb) to financial intelligence units (within the meaning of Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015[20] on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC, as amended by Directive (EU) 2018/843 of the European Parliament and of the Council of 30 May 2018[21] amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, and amending Directives 2009/138/EC and 2013/36/EU).", and

(ii) in subsection (10), by the substitution of the following paragraph for paragraph (r) of the definition of "supervisory EU legal acts":

"(r) Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013[22] on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC as amended by—

[20] OJ No. L. 141, 5.6.2015, p. 73.
[21] OJ No. L. 156, 19.6.2018, p. 43.
[22] OJ No. L. 176, 27.06.2013, p. 338.

(i) Directive 2014/17/EU of the European Parliament and of the Council of 4 February 2014[23] on credit agreements for consumers relating to residential immovable property and amending Directives 2008/48/EC and 2013/36/EU and Regulation (EU) No 1093/2010,

(ii) Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014[24] establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No 1093/2010 and (EU) No 648/2012, of the European Parliament and of the Council,

(iii) Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015[25] on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC,

(iv) Directive (EU) 2018/843 of the European Parliament and of the Council of 30 May 2018[26] amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, and amending Directives 2009/138/EC and 2013/36/EU, and

(v) Directive (EU) 2019/878 of the European Parliament and of the Council of 20 May 2019[2] amending Directive 2013/36/EU as regards exempted entities, financial holding companies, mixed financial holding companies, remuneration, supervisory measures and powers and capital conservation measures;", and

(*b*) in section 33ANC, in subsection (1)(a)—

(i) in subparagraph (iii), by the substitution of "a provision of those Regulations," for "a provision of those Regulations, or",

(ii) in subparagraph (iv), by the substitution of "under this Part, or" for "under this Part,", and

[23] OJ No. L. 60, 28.2.2014, p. 34.
[24] OJ No. L. 173, 12.6.2014, p. 190.
[25] OJ No. L. 337, 23.12.2015, p. 35.
[26] OJ No. L. 156, 19.6.2018, p. 43.

(iii) by the insertion of the following subparagraph after subparagraph (iv):

"(v) any obligation imposed on a financial holding company or a mixed financial holding company by Part IV of the Central Bank Act 1997 or Part 2, 3 or 7 of the Central Bank (Supervision and Enforcement) Act 2013,".

Amendment of Central Bank Act 1971

58. The Central Bank Act 1971 (No. 24 of 1971) is amended—

(*a*) in section 2—

(i) in subsection (1), by the substitution of the following definition for the definition of "Capital Requirements Directive":

" 'Capital Requirements Directive' means Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013[27] on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC as amended by—

(*a*) Directive 2014/17/EU of the European Parliament and of the Council of 4 February 2014[28] on credit agreements for consumers relating to residential immovable property and amending Directives 2008/48/EC and 2013/36/EU and Regulation (EU) No 1093/2010,

(*b*) Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014[29] establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No 1093/2010 and (EU) No 648/2012, of the European Parliament and of the Council,

(*c*) Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015[30] on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and

[27] OJ No. L. 176, 27.06.2013, p. 338.
[28] OJ No. L. 60, 28.2.2014, p. 34.
[29] OJ No. L. 173, 12.6.2014, p. 190.
[30] OJ No. L. 337, 23.12.2015, p. 35.

2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC,

(*d*) Directive (EU) 2018/843 of the European Parliament and of the Council of 30 May 2018[31] amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, and amending Directives 2009/138/EC and 2013/36/EU, and

(*e*) Directive (EU) 2019/878 of the European Parliament and of the Council of 20 May 2019[2] amending Directive 2013/36/EU as regards exempted entities, financial holding companies, mixed financial holding companies, remuneration, supervisory measures and powers and capital conservation measures;", and

(ii) by the substitution of the following section for subsection (1A):

"(1A) In this Act, 'competent authority', 'financial holding company', 'group', 'insurance undertaking', 'investment firm', 'management body', 'mixed financial holding company', 'own funds', 'parent undertaking', and 'qualifying holding' each has the meaning assigned to it by Regulation 3 of the European Union (Capital Requirements) Regulations 2014.",

(*b*) in section 7—

(i) in subsection (4)—

(I) in paragraph (d), by the substitution of "credit union." for "credit union, or", and

(II) by the deletion of paragraphs (e) and (f), and

(ii) by the insertion of the following subsection after subsection (4):

"(4A) Subsection (1) shall not apply where—

(*a*) the person accepting deposits or other repayable funds from the public is not a credit institution,

(*b*) the person is—

(i) a manager, trustee or custodian of a unit trust or a collective investment undertaking or an entity that provides services to such an undertaking,

(ii) another member state of the European Union, a regional or local authority of such a state, or

[31] OJ No. L. 156, 19.6.2018, p. 43.

a public international organisation of which one or more member states of the European Union are members, or

(iii) a case covered expressly by European Union law, and

(*c*) the acceptance of deposits or other repayable funds from the public by the person is subject to regulation and controls intended to protect depositors and investors.",

(*c*) in section 9A—

(i) in subsection (1), by the substitution of "In this section and sections 9B, 9C and 9CA" for "In this section and sections 9B and 9C", and

(ii) by the substitution of the following subsection for subsection (5):

"(5) The Bank shall notify the European Banking Authority of the following:

(*a*) the authorisations granted under subsection (2) for branches and any subsequent changes to such authorisations;

(*b*) the total assets and liabilities of the branches in respect of which an authorisation has been granted under subsection (2), as periodically reported;

(*c*) the name of the third-country group to which a branch, in respect of which an authorisation has been granted, belongs.",

(*d*) by the insertion of the following sections after section 9C:

"*Third country branch reporting*

9CA. (1) Subject to subsection (2), a branch shall report the following information to the Bank on an annual basis:

(*a*) the total assets corresponding to the activities of the branch;

(*b*) information on the liquid assets available to the branch, including the availability of liquid assets in EEA state currencies;

(*c*) the own funds that are at the disposal of the branch;

(*d*) the deposit protection arrangements available to depositors in the branch;

(*e*) the risk management arrangements;

(*f*) the governance arrangements, including key function holders for the activities of the branch;

(*g*) the recovery plans covering the branch;

(*h*) any other information considered by the Bank to be necessary to enable comprehensive monitoring of the activities of the branch.

(2) The Bank may direct a branch to report the information required under subsection (2) more frequently than is provided for in that subsection where such a direction is necessary to ensure effective supervision of the branch.

Cooperation with competent authorities

9CB. Where—

(*a*) a branch of a credit institution which is part of a third-country group and has its head office in a third country is supervised by a competent authority in an EEA member state (in this section referred to as 'a third-country group branch competent authority'),

(*b*) an institution in the third-country group is supervised by a competent authority in another EEA member state (in this section referred to as 'a third-country group credit institution competent authority'), and

(*c*) the Bank is either a third country group branch competent authority or a third-country group credit institution competent authority,

the Bank shall cooperate closely with all third country branch competent authorities and third-country group credit institution competent authorities—

(i) to ensure that all activities of that third-country group in the European Union are subject to comprehensive supervision,

(ii) to prevent the requirements applicable to third-country groups pursuant to the Capital Requirements Directive and the Capital Requirements Regulation from being circumvented, and

(iii) to prevent any detrimental impact on the financial stability of the European Union.",

(*e*) by the substitution of the following section for section 9D:

"9D. (1) An application for a licence shall be accompanied by—

(*a*) a programme of operations, and

(*b*) a description of the arrangements, processes and mechanisms referred to in Regulation 61(1) of the European Union (Capital Requirements) Regulations 2014 proposed to be implemented.

(2) A programme of operations referred to in subsection (1)(a) shall—

(*a*) set out the types of business envisaged by the applicant,

(*b*) set out the structural organisation of the credit institution in respect of which the application is being made, and

(*c*) where the credit institution is part of a group, specify—

(i) the parent undertakings,

(ii) the financial holding companies, if any, and

(iii) the mixed financial holding companies, if any,

within the group.

(3) The Bank shall not take a draft decision to propose to the ECB to grant a licence unless it is satisfied that the arrangements, processes and mechanisms referred to in Regulation 61 of the European Union (Capital Requirements) Regulations 2014 proposed to be implemented would, if implemented, enable sound and effective risk management by that institution.",

(*f*) in section 9G, by the substitution of the following subsection for subsection (4):

"(4) The Bank shall not take a draft decision to propose to the ECB to grant a licence if, taking into account the need to ensure the sound and prudent management of a credit institution, it is not satisfied, having regard to the criteria specified in section 9GA(1), as to the suitability of the shareholders or members.",

(*g*) by the insertion of the following section after section 9G:

"*Assessment of suitability of shareholders or members*

9GA. (1) The criteria referred to in section 9G(4) are as follows:

(*a*) the reputation of the shareholders or members of the credit institution;

(*b*) the reputation, knowledge, skills and experience, as specified in Regulation 79 of the European Union (Capital Requirements) Regulations 2014, of any member of the management body who will direct the business of the shareholders or members of the credit institution;

(*c*) the financial soundness of the credit institution, in particular in relation to the type of business pursued and envisaged in the credit institution;

(*d*) whether the credit institution will be able to comply and continue to comply with the prudential requirements of the European Union (Capital Requirements) Regulations 2014 and the Capital Requirements Regulation, and where applicable, other European Union law, in particular Directive 2002/87/EC of the European Parliament and of the Council of 16 December 2002[32] and Directive 2009/110/EC of the European Parliament and of the Council of 16 September 2009[33], including, where applicable, whether the group of which it is a part has a structure that makes it possible to exercise effective supervision, effectively exchange information among the competent authorities of relevant Member States and determine the allocation of responsibilities among the competent authorities of relevant Member States;

(*e*) whether there are reasonable grounds to suspect that, in connection with the proposed authorisation, money laundering or terrorist financing within the meaning of Article 1 of Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005[34] on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing is being or has been committed or attempted, or that the

[32] O.J. No. L 35, 11.2.2003, p. 1.
[33] O.J. No. L 267, 10.10.2009, p. 7.
[34] O.J. No. L 309, 25.11.2005, p. 15.

proposed authorisation could increase the risk thereof.

(2) In carrying out its assessment of the suitability of the shareholders or members, the Bank shall consult with the competent authorities of other relevant Member States if one or more of the shareholders or members is—

(*a*) a credit institution, insurance undertaking, reinsurance undertaking, investment firm, or a management company within the meaning of Article 2(1)(b) of Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009[35] (in this subsection referred to as a 'UCITS management company') authorised in another Member State,

(*b*) the parent undertaking of a credit institution, insurance undertaking, reinsurance undertaking, investment firm or UCITS management company authorised in another Member State, or

(*c*) a natural or legal person controlling a credit institution, insurance undertaking, reinsurance undertaking, investment firm or UCITS management company authorised in another Member State.

(3) The Bank shall, without undue delay, provide competent authorities in other Member States with any information that is essential or relevant for the assessment of the shareholders or members.

(4) The Bank shall, for the purposes of subsection (3), communicate all relevant information upon request and all essential information on its own initiative.

(5) A draft decision taken by the Bank to propose to the ECB to grant a licence shall indicate any views or reservations expressed by the competent authorities responsible for the shareholder or member concerned.

(6) In this section, 'reinsurance undertaking' has the meaning assigned to it in point (6) of Article 4(1) of the Capital Requirements Regulation.",

(*h*) in section 9I, by the insertion of the following subsections after subsection (4):

"(5) The Bank may reject an application only if—

[35] O.J. No. L 302, 17.11.2009, p. 32.

(*a*) there are reasonable grounds for doing so on the basis of the criteria specified in section 9GA(1), or

(*b*) the information provided by the applicant is incomplete.

(6) The Bank shall not assess an application in terms of the economic needs of the market.", and

(i) in section 11(1)(b)(x), by the substitution of the following clause for clause (I):

"(I) set out in Part Three (other than Articles 92a and 92b), Four or Six of the Capital Requirements Regulation, or".

Amendment of Building Societies Act 1989

59. The Building Societies Act 1989 (No. 17 of 1989) is amended—

(*a*) in section 2(1A), by the substitution of " 'qualifying holding' and 'Capital Requirements Regulation' " for "and 'qualifying holding' ",

(*b*) by the substitution of the following section for section 17A:

"17A. (1) An application for an authorisation shall be accompanied by—

(*a*) a programme of operations, and

(*b*) a description of the arrangements, processes and mechanisms referred to in Regulation 61(1) of the European Union (Capital Requirements) Regulations 2014 proposed to be implemented.

(2) A programme of operations referred to in subsection (1)(a) shall—

(*a*) set out the types of business envisaged by the applicant,

(*b*) set out the structural organisation of the society in respect of which the application is being made, and

(*c*) where the society is part of a group, specify—

(i) the parent undertakings,

(ii) the financial holding companies, if any, and

(iii) the mixed financial holding companies, if any,

within the group.

(3) The Bank shall not take a draft decision to propose to the ECB to grant an authorisation unless it is satisfied that the arrangements, processes and mechanisms referred to in Regulation 61(1) of the European Union (Capital

Requirements) Regulations 2014 proposed to be implemented would, if implemented, enable sound and effective risk management by that society.".

(*c*) in section 17D, by the substitution of the following subsection for subsection (4):

"(4) The Bank shall not take a draft decision to propose to the ECB to grant an authorisation if, taking into account the need to ensure the sound and prudent management of a society, it is not satisfied, having regard to the criteria specified in section 17DA(1), as to the suitability of the shareholders or members.",

(*d*) by the insertion of the following sections after section 17D:

"*Assessment of suitability of shareholders or members*

17DA. (1) The criteria referred to in section 17D(4) are as follows:

(*a*) the reputation of the shareholders or members of the society;

(*b*) the reputation, knowledge, skills and experience, as specified in Regulation 79 of the European Union (Capital Requirements) Regulations 2014, of any member of the management body who will direct the business of the shareholders or members of the society;

(*c*) the financial soundness of the society, in particular in relation to the type of business pursued and envisaged in the society;

(*d*) whether the society will be able to comply and continue to comply with the prudential requirements of the European Union (Capital Requirements) Regulations 2014 and the Capital Requirements Regulation, and where applicable, other European Union law, in particular Directive 2002/87/EC of the European Parliament and of the Council of 16 December 2002[36] and Directive 2009/110/EC of the European Parliament and of the Council of 16 September 2009[37], including, where applicable, whether the group of which it is a part has a structure that makes it possible to exercise effective supervision, effectively exchange information among the competent authorities of relevant Member States and

[36] O.J. No. L 35, 11.2.2003, p. 1.
[37] O.J. No. L 267, 10.10.2009, p. 7.

determine the allocation of responsibilities among the competent authorities of relevant Member States;

(*e*) whether there are reasonable grounds to suspect that, in connection with the proposed authorisation, money laundering or terrorist financing within the meaning of Article 1 of Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005[38] on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing is being or has been committed or attempted, or that the proposed authorisation could increase the risk thereof.

(2) In carrying out its assessment of the suitability of the shareholders or members, the Bank shall consult with the competent authorities of other relevant Member States if one or more of the shareholders or members is—

(*a*) a credit institution, insurance undertaking, reinsurance undertaking, investment firm, or a management company within the meaning of Article 2(1)(b) of Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009[39] (in this subsection referred to as a 'UCITS management company') authorised in another Member State,

(*b*) the parent undertaking of a credit institution, insurance undertaking, reinsurance undertaking, investment firm or UCITS management company authorised in another Member State, or

(*c*) a natural or legal person controlling a credit institution, insurance undertaking, reinsurance undertaking, investment firm or UCITS management company authorised in another Member State.

(3) The Bank shall, without undue delay, provide competent authorities in other Member States with any information that is essential or relevant for the assessment of the shareholders or members.

---

[38] O.J. No. L 309, 25.11.2005, p. 15.
[39] O.J. No. L 302, 17.11.2009, p. 32.

(4) The Bank shall, for the purposes of subsection (3), communicate all relevant information upon request and all essential information on its own initiative.

(5) A draft decision taken by the Bank to propose to the ECB to grant an authorisation shall indicate any views or reservations expressed by the competent authorities responsible for the shareholder or member concerned.

(6) In this section, 'reinsurance undertaking' has the meaning assigned to it in point (6) of Article 4(1) of the Capital Requirements Regulation.

Waiver for credit institutions permanently affiliated to central body

17DB. (1) The Bank may waive the requirements set out in sections 17A, 17B and 17C(b) and (c) with regard to a credit institution referred to in Article 10 of the Capital Requirements Regulation in accordance with the conditions set out therein.

(2) Where the Bank exercises a waiver referred to in paragraph (1)—

(*a*) Regulation 7,

(*b*) Regulations 32 and 33,

(*c*) Regulation 35(1) to (3),

(*d*) Regulations 38 to 44,

(*e*) Regulations 61 to 84, and

(*f*) Regulations 115 to 130,

of the European Union (Capital Requirements) Regulations 2014 (S.I. No. 158 of 2014) shall apply to the whole as constituted by the central body together with its affiliated institutions.", and

(*e*) in section 40(2)(n), by the substitution of "prudential requirements set out in Part Three (other than Articles 92a and 92b), Four or Six" for "prudential requirements set out in Parts Three, Four or Six".

Amendment of Central Bank Act 1997

60. Section 24 of the Central Bank Act 1997 (No. 8 of 1997) is amended—

(*a*) by the insertion of the following definitions:

" 'financial holding company' has the same meaning as it has in the European Union (Capital Requirements) Regulations 2014 (S.I. No. 158 of 2014);

‘mixed financial holding company’ has the same meaning as it has in the European Union (Capital Requirements) Regulations 2014;”, and

(*b*) by the insertion of the following subsection after subsection (3):

“(4) In this Part—

(*a*) a reference to a financial service provider shall include a reference to a financial holding company or a mixed financial holding company,

(*b*) a reference to a regulated financial service provider shall include a reference to a financial holding company or a mixed financial holding company, and

(*c*) a reference to a person concerned in the management of a financial service provider shall include a reference to a person concerned in the management of a financial holding company or a mixed financial holding company.”.

Amendment of Central Bank (Supervision and Enforcement) Act 2013

61. The Central Bank (Supervision and Enforcement) Act 2013 (No. 26 of 2013) is amended—

(*a*) in section 3, by the insertion of the following definitions:

“ ‘financial holding company’ has the same meaning as it has in the European Union (Capital Requirements) Regulations 2014 (S.I. No. 158 of 2014);

‘mixed financial holding company’ has the same meaning as it has in the European Union (Capital Requirements) Regulations 2014;”,

(*b*) by the substitution of the following section for section 7:

“*Interpretation (Part 2)*

7. (1) In this Part—

‘reviewee’ shall be read in accordance with section 8;

‘reviewer’ shall be read in accordance with section 11.

(2) In this Part—

(*a*) a reference to a financial service provider shall include a reference to a financial holding company or a mixed financial holding company, and

(*b*) a reference to a regulated financial service provider shall include a reference to a financial holding company or a mixed financial holding company.”,

(*c*) in section 21, in subsection (1)—

(i) in paragraph (j), by the substitution of "Regulations;" for "Regulations.", and

(ii) by the insertion of the following paragraphs after paragraph (j):

"(k) a financial holding company;

(l) a mixed financial holding company.",

(*d*) in section 22(1), in paragraph (a), by the substitution of "financial service providers, financial holding companies or mixed financial holding companies, or" for "financial service providers, or",

(*e*) in section 24(1), by the substitution of "effective regulation of financial service providers, financial holding companies or mixed financial holding companies," for "effective regulation of financial service providers,",

(*f*) in section 29(1), by the substitution of "the business of a regulated financial service provider, a financial holding company or a mixed financial holding company" for "the business of a regulated financial service provider", and

(*g*) in Part 7, by the insertion of the following section after section 47:

"*Financial holding companies and mixed financial holding companies*

47A. In this Part—

(*a*) a reference to a financial service provider shall include a reference to a financial holding company or a mixed financial holding company, and

(*b*) a reference to a regulated financial service provider shall include a reference to a financial holding company or a mixed financial holding company.".

Amendment of European Communities (Financial Conglomerates) Regulations 2004

62. The European Communities (Financial Conglomerates) Regulations 2004 (S.I. No. 727 of 2004) are amended, in Regulation 3(1), by the substitution of the following definition for the definition of "Capital Requirements Directive":

" 'Capital Requirements Directive' means Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013[40] on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC as amended by—

(*a*) Directive 2014/17/EU of the European Parliament and of the Council of 4 February 2014[41] on credit agreements for consumers relating to residential immovable property and amending Directives 2008/48/EC and 2013/36/EU and Regulation (EU) No 1093/2010,

(*b*) Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014[42] establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No 1093/2010 and (EU) No 648/2012, of the European Parliament and of the Council,

(*c*) Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015[43] on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC,

(*d*) Directive (EU) 2018/843 of the European Parliament and of the Council of 30 May 2018[44] amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, and amending Directives 2009/138/EC and 2013/36/EU, and

(*e*) Directive (EU) 2019/878 of the European Parliament and of the Council of 20 May 2019[2] amending Directive 2013/36/EU as regards exempted entities, financial holding companies, mixed financial holding companies, remuneration, supervisory measures and powers and capital conservation measures;".

Amendment of European Union (Bank Recovery and Resolution) Regulations 2015

63. The European Union (Bank Recovery and Resolution) Regulations 2015 (S.I. No. 289 of 2015) are amended, in Regulation 3(1), by the substitution of the following definition for the definition of "Capital Requirements Directive":

---

[40] OJ No. L. 176, 27.06.2013, p. 338.
[41] OJ No. L. 60, 28.2.2014, p. 34.
[42] OJ No. L. 173, 12.6.2014, p. 190.
[43] OJ No. L. 337, 23.12.2015, p. 35.
[44] OJ No. L. 156, 19.6.2018, p. 43.

" 'Capital Requirements Directive' means Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013[45] on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC as amended by—

(*a*) Directive 2014/17/EU of the European Parliament and of the Council of 4 February 2014[46] on credit agreements for consumers relating to residential immovable property and amending Directives 2008/48/EC and 2013/36/EU and Regulation (EU) No 1093/2010,

(*b*) Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014[47] establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No 1093/2010 and (EU) No 648/2012, of the European Parliament and of the Council,

(*c*) Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015[48] on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC,

(*d*) Directive (EU) 2018/843 of the European Parliament and of the Council of 30 May 2018[49] amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, and amending Directives 2009/138/EC and 2013/36/EU, and

(*e*) Directive (EU) 2019/878 of the European Parliament and of the Council of 20 May 2019[50] amending Directive 2013/36/EU as regards exempted entities, financial holding companies, mixed financial holding companies, remuneration, supervisory measures and powers and capital conservation measures;".

Amendment of European Union (Credit Institutions: Financial Statements) Regulations 2015

64. The European Union (Credit Institutions: Financial Statements) Regulations 2015 (S.I. No. 266 of 2015) are amended, in Regulation 102, by the substitution of the following definition for the definition of "Capital Requirements Directive":

[45] OJ No. L. 176, 27.06.2013, p. 338.
[46] OJ No. L. 60, 28.2.2014, p. 34.
[47] OJ No. L. 173, 12.6.2014, p. 190.
[48] OJ No. L. 337, 23.12.2015, p. 35.
[49] OJ No. L. 156, 19.6.2018, p. 43.
[50] OJ No. L. 150, 7.6.2019, p. 253.

" 'Capital Requirements Directive' means Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013[51] on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC as amended by—

(*a*) Directive 2014/17/EU of the European Parliament and of the Council of 4 February 2014[52] on credit agreements for consumers relating to residential immovable property and amending Directives 2008/48/EC and 2013/36/EU and Regulation (EU) No 1093/2010,

(*b*) Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014[53] establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No 1093/2010 and (EU) No 648/2012, of the European Parliament and of the Council,

(*c*) Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015[54] on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC,

(*d*) Directive (EU) 2018/843 of the European Parliament and of the Council of 30 May 2018[55] amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, and amending Directives 2009/138/EC and 2013/36/EU, and

(*e*) Directive (EU) 2019/878 of the European Parliament and of the Council of 20 May 2019[56] amending Directive 2013/36/EU as regards exempted entities, financial holding companies, mixed financial holding companies, remuneration, supervisory measures and powers and capital conservation measures;".

Amendment of European Union (Payment Services) Regulations 2018

65. The European Union (Payment Services) Regulations 2018 (S.I. No. 6 of 2018) are amended, in Regulation 2(1), by the substitution of the following definition for the definition of "Directive 2013/36/EU":

[51] OJ No. L. 176, 27.06.2013, p. 338.
[52] OJ No. L. 60, 28.2.2014, p. 34.
[53] OJ No. L. 173, 12.6.2014, p. 190.
[54] OJ No. L. 337, 23.12.2015, p. 35.
[55] OJ No. L. 156, 19.6.2018, p. 43.
[56] OJ No. L. 150, 7.6.2019, p. 253.

" 'Directive 2013/36/EU' means Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013[57] on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC as amended by—

(*a*) Directive 2014/17/EU of the European Parliament and of the Council of 4 February 2014[58] on credit agreements for consumers relating to residential immovable property and amending Directives 2008/48/EC and 2013/36/EU and Regulation (EU) No 1093/2010,

(*b*) Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014[59] establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No 1093/2010 and (EU) No 648/2012, of the European Parliament and of the Council,

(*c*) Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015[60] on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC,

(*d*) Directive (EU) 2018/843 of the European Parliament and of the Council of 30 May 2018[61] amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, and amending Directives 2009/138/EC and 2013/36/EU, and

(*e*) Directive (EU) 2019/878 of the European Parliament and of the Council of 20 May 2019[62] amending Directive 2013/36/EU as regards exempted entities, financial holding companies, mixed financial holding companies, remuneration, supervisory measures and powers and capital conservation measures;".

[57] OJ No. L. 176, 27.06.2013, p. 338.
[58] OJ No. L. 60, 28.2.2014, p. 34.
[59] OJ No. L. 173, 12.6.2014, p. 190.
[60] OJ No. L. 337, 23.12.2015, p. 35.
[61] OJ No. L. 156, 19.6.2018, p. 43.
[62] OJ No. L. 150, 7.6.2019, p. 253.

L.S.

GIVEN under my Official Seal,
22 December, 2020.

PASCHAL DONOHOE,
Minister for Finance.

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ó
FOILSEACHÁIN RIALTAIS,
52 FAICHE STIABHNA, BAILE ÁTHA CLIATH 2,
D02 DR67.

Teil: 076 110 6834
r-post: publications@opw.ie

———————

DUBLIN
PUBLISHED BY THE STATIONERY OFFICE
To be purchased from
GOVERNMENT PUBLICATIONS,
52 ST. STEPHEN'S GREEN, DUBLIN 2,
D02 DR67.

Tel: 076 110 6834
E-mail: publications@opw.ie

———————

ISBN 978-1-4468-8571-0

€ 16.00

(BS-10) 75. 12/20. Propylon.