

4. Institutions shall not exclude the trade exposures referred to paragraph 1(g) and (h) where the condition set out in the third subparagraph of Article 429(5) is not met.
5. Institutions may exclude the exposures listed in paragraph 1(n) where both of the following conditions are met:
 - (a) the GFSC has determined and publicly declared that exceptional circumstances exist that warrant the exclusion in order to facilitate the implementation of monetary policies;
 - (b) the exemption is granted for a limited period of time not exceeding one year.
6. The exposures to be excluded under paragraph 1(n) shall meet both of the following conditions:
 - (a) they are denominated in the same currency as the deposits taken by the institution;
 - (b) their average maturity does not significantly exceed the average maturity of the deposits taken by the institution.
7. By way of derogation from point (d) of Article 92(1), where an institution excludes the exposures referred to in paragraph 1(n), it shall at all times satisfy the following adjusted leverage ratio requirement for the duration of the exclusion:

$$\text{aLR} = 3\% \cdot \frac{\text{EM}_{\text{LR}}}{\text{EM}_{\text{LR}} - \text{CB}}$$

where:

aLR = the adjusted leverage ratio;

EM_{LR} = the institution's total exposure measure as defined in Article 429(4), including the exposures excluded in accordance with paragraph 1(n) of this Article; and

CB = the amount of exposures excluded in accordance with paragraph 1(n) of this Article.

Article 429b

Calculation of the exposure value of assets

1. Institutions shall calculate the exposure value of assets, excluding derivative contracts listed in Annex II, credit derivatives and the positions referred to in Article 429e in accordance with the following principles:

Information shall be regarded as confidential where the institutions are obliged by customers or other counterparty relationships to keep that information confidential.

3. In the exceptional cases referred to in paragraph 2, the institution concerned shall state in its disclosures the fact that specific items of information are not being disclosed and the reason for not disclosing those items, and publish more general information about the subject matter of the disclosure requirement, except where that subject matter is, in itself, proprietary or confidential.

Article 433

Frequency and scope of disclosures

Institutions shall publish the disclosures required under Titles II and III in the manner set out in Articles 433a, 433b and 433c.

Annual disclosures shall be published on the same date as the date on which institutions publish their financial statements or as soon as possible thereafter.

Semi-annual and quarterly disclosures shall be published on the same date as the date on which the institutions publish their financial reports for the corresponding period where applicable or as soon as possible thereafter.

Any delay between the date of publication of the disclosures required under this Part and the relevant financial statements shall be reasonable and, in any event, shall not exceed the timeframe set by the GFSC under regulation 142 of the CICR Regulations.

Article 433a

Disclosures by large institutions

1. Large institutions shall disclose the information outlined below with the following frequency:

(a) all the information required under this Part on an annual basis;

(b) on a semi-annual basis the information referred to in:

(i) Article 437(a);

(ii) Article 438(e);

(iii) Article 439(e) to (l);

(iv) Article 440;

(v) Article 442(c), (e), (f) and (g);

(vi) Article 444(e);

(g) average and longest repricing maturity assigned to non-maturity deposits.

2. By way of derogation from paragraph 1, the requirements set out in points (c) and (e)(i) to (e)(iv) of paragraph 1 shall not apply to institutions that use the standardised methodology or the simplified standardised methodology referred to in regulation 41 of the CICR Regulations.

Article 449

Disclosure of exposures to securitisation positions

Institutions calculating risk-weighted exposure amounts in accordance with Chapter 5 of Title II of Part Three or own funds requirements in accordance with Article 337 or 338 shall disclose the following information separately for their trading book and non-trading book activities:

- (a) a description of their securitisation and re-securitisation activities, including their risk management and investment objectives in connection with those activities, their role in securitisation and re-securitisation transactions, whether they use the simple, transparent and standardised securitisation (STS) as defined in Article 242(10), and the extent to which they use securitisation transactions to transfer the credit risk of the securitised exposures to third parties with, where applicable, a separate description of their synthetic securitisation risk transfer policy;
- (b) the type of risks they are exposed to in their securitisation and re-securitisation activities by level of seniority of the relevant securitisation positions providing a distinction between STS and non-STS positions and:
 - (i) the risk retained in own-originated transactions;
 - (ii) the risk incurred in relation to transactions originated by third parties;
- (c) their approaches for calculating the risk-weighted exposure amounts that they apply to their securitisation activities, including the types of securitisation positions to which each approach applies and with a distinction between STS and non-STS positions;
- (d) a list of SSPEs falling into any of the following categories, with a description of their types of exposures to those SSPEs, including derivative contracts:
 - (i) SSPEs which acquire exposures originated by the institutions;
 - (ii) SSPEs sponsored by the institutions;

- (c) the most important design characteristics of the remuneration system, including information on the criteria used for performance measurement and risk adjustment, deferral policy and vesting criteria;
- (d) the ratios between fixed and variable remuneration set in accordance with regulation 51(8) of the CICR Regulations;
- (e) information on the performance criteria on which the entitlement to shares, options or variable components of remuneration is based;
- (f) the main parameters and rationale for any variable component scheme and any other non-cash benefits;
- (g) aggregate quantitative information on remuneration, broken down by business area;
- (h) aggregate quantitative information on remuneration, broken down by senior management and members of staff whose professional activities have a material impact on the risk profile of the institutions, indicating the following:
 - (i) the amounts of remuneration awarded for the financial year, split into fixed remuneration including a description of the fixed components, and variable remuneration, and the number of beneficiaries;
 - (ii) the amounts and forms of awarded variable remuneration, split into cash, shares, share-linked instruments and other types separately for the part paid upfront and the deferred part;
 - (iii) the amounts of deferred remuneration awarded for previous performance periods, split into the amount due to vest in the financial year and the amount due to vest in subsequent years;
 - (iv) the amount of deferred remuneration due to vest in the financial year that is paid out during the financial year, and that is reduced through performance adjustments;
 - (v) the guaranteed variable remuneration awards during the financial year, and the number of beneficiaries of those awards;
 - (vi) the severance payments awarded in previous periods, that have been paid out during the financial year;
 - (vii) the amounts of severance payments awarded during the financial year, split into paid upfront and deferred, the number of beneficiaries of those payments and highest payment that has been awarded to a single person;

the year under review, the number of defaulted obligors, including the new defaulted obligors, and the annual average historical default rate.

For the purposes of point (b) of this Article, institutions shall use the exposure value as defined in Article 166.

Article 453

Disclosure of the use of credit risk mitigation techniques

Institutions using credit risk mitigation techniques shall disclose the following information:

- (a) the core features of the policies and processes for on- and off-balance-sheet netting and an indication of the extent to which institutions make use of balance sheet netting;
- (b) the core features of the policies and processes for eligible collateral evaluation and management;
- (c) a description of the main types of collateral taken by the institution to mitigate credit risk;
- (d) for guarantees and credit derivatives used as credit protection, the main types of guarantor and credit derivative counterparty and their creditworthiness used for the purpose of reducing capital requirements, excluding those used as part of synthetic securitisation structures;
- (e) information about market or credit risk concentrations within the credit risk mitigation taken;
- (f) for institutions calculating risk-weighted exposure amounts under the Standardised Approach or the IRB Approach, the total exposure value not covered by any eligible credit protection and the total exposure value covered by eligible credit protection after applying volatility adjustments; the disclosure set out in this point shall be made separately for loans and debt securities and including a breakdown of defaulted exposures;
- (g) the corresponding conversion factor and the credit risk mitigation associated with the exposure and the incidence of credit risk mitigation techniques with and without substitution effect;
- (h) for institutions calculating risk-weighted exposure amounts under the Standardised Approach, the on- and off-balance sheet exposure value by exposure class before and after the application of conversion factors and any associated credit risk mitigation;
- (i) for institutions calculating risk-weighted exposure amounts under the Standardised Approach, the risk-weighted exposure amount and the ratio

conditions set out in Article 72b, except for the conditions in Article 72b(2)(b)(ii) and (f) to (m).”.

(18) Omit Articles 495 to 497.

(19) For Article 498, substitute—

“Until 1st January 2022 the provisions on own funds requirements as set out in this Regulation shall not apply to investment firms the main business of which consists exclusively of the provision of investment services or activities in relation to the financial instruments set out in paragraphs 46(5) to (7) and (9) to (11) of Schedule 2 to the Act and to which Directive 2004/39/EC did not apply on 31st December 2006.”.

(20) In Article 499, omit paragraph 3.

(21) In Article 500—

(a) in paragraph 1(a), for “competent authority” substitute “GFSC”; and

(b) in paragraph 2, for “competent authority” substitute “GFSC”.

(22) Omit Articles 500a to 500d.

(23) For Article 501.2(b), substitute—

“(b) an SME is defined in accordance with Commission Recommendation 2003/361/EC; but—

(i) in Article 2 of the Annex to that Recommendation, only the annual turnover shall be taken into account;

(ii) Article 3.5 of that Annex shall apply as if for “by national or Community rules” there were substituted “under the law of Gibraltar”; and

(iii) Article 5(b) of that Annex shall apply as if for “national law” there were substituted “ the law of the Gibraltar”;”.

(24) Omit Articles 501a to 520.

Amendment of Part 11.

15.(1) In Article 521.2, omit paragraph (c) and the final sub-paragraph.

After Article 521, insert—

“Article 522

Saving for pre-exit decisions

1. A decision which was made under this Regulation as it applied before IP completion day by–

(a) a body other than the GFSC; or

(a) another body acting jointly with the GFSC,

is to continue to have effect, with any necessary modifications, on and after IP completion day.

2. After IP completion day, a decision to which paragraph 1 applies is to be treated as if it were made by the GFSC.

3. The GFSC may review, vary, modify or revoke a decision to which paragraph 1 applies and shall have the same powers in respect of that decision on and after IP completion day as if it were a decision which the GFSC could have made before IP completion day.”.

Amendment of Annex I.

16. In Annex I–

(a) for point 1(d), substitute–

“(d)endorsements on bills not bearing the name of another institution or investment firm;”;

(b) for point 1(j), substitute–

“(j) asset sale and repurchase agreements–

(i) including agreements where the transferee is merely entitled to return the assets at the purchase price or for a different amount agreed in advance on a date specified or to be specified, the transaction in question shall be deemed to be a sale with an option to purchase; and

(ii) excluding agreements where the transferor is not entitled to show in his balance sheets the assets transferred;”;

(c) in point 2(b)(iv), for “EBA” substitute “the GFSC”;

(d) in point 3(b)(ii), for “EBA” substitute “the GFSC”; and

(e) in point 4(c), for “EBA” substitute “the GFSC”.

- (ii) omit “and any exposure to that regional government or local authority, as applicable, is treated as an exposure to the central government of the Member State in accordance with Article 115(2) of Regulation (EU) No 575/2013”;
 - (j) in point (e)(ii)–
 - (i) for “the public policy objectives of the Union or of the central or regional government or local authority in a Member State” substitute “ the public policy objectives of the government of Gibraltar”;
 - (ii) for “central or regional government or local authority and that any exposure to that regional government or local authority, as applicable, is treated as an exposure to the central government of the Member State in accordance with Article 115(2) of Regulation (EU) No 575/2013” substitute “government of Gibraltar”;
 - (k) in point (f)(i)–
 - (i) for “bonds as referred to in Article 52(4) of Directive 2009/65/EC” substitute “CRR covered bonds”; and
 - (ii) for “Regulation (EU) No 575/2013” substitute “the CRR”;
 - (l) in point (f)(ii)–
 - (i) for “competent authority” substitute “GFSC”; and
 - (ii) in both places it occurs, for “Regulation (EU) No 575/2013” substitute “the CRR”;
 - (m) in point (f)(iii), for “Regulation (EU) No 575/2013” substitute “the CRR”;
 - (n) in point (f)(iv), for “EUR 500 million” substitute “£440 million”;
 - (o) in point (f)(v), for “Regulation (EU) No 575/2013” substitute “the CRR”; and
 - (p) in point (g), for “Regulation (EU) No 575/2013” substitute “the CRR”.
- (4) In Article 11.1–
- (a) in point (a)–
 - (i) for “regional governments, local authorities or public sector entities in a Member State” substitute “the government of, or a public sector entity in, Gibraltar”; and

first-ranking charge or security over the vehicle or an appropriate guarantee in favour of the SSPE, such as a retention of title provision;”;

- (ix) in point (h), for “Regulation (EU) No 575/2013” substitute “the CRR”; and
 - (x) in point (k), for “Regulation (EU) No 575/2013” substitute “the CRR”;
 - (c) in paragraph 11, for “EUR 100 million” substitute “£88 million”; and
 - (d) in paragraph 13, for “Regulation (EU) No 575/2013” substitute “the CRR”.
- (7) In Article 15–
- (a) in paragraph 1–
 - (i) for “EUR 500 million” substitute “£440 million”; and
 - (ii) for “Regulation (EU) No 575/2013” substitute “the CRR”; and
 - (b) in paragraph 4, for “Regulation (EU) No 575/2013” substitute “the CRR”.
- (8) Omit Article 16.
- (9) In Article 17–
- (a) in paragraph 4–
 - (i) for “competent authority” substitute “GFSC”;
 - (ii) after “swap transactions” insert “with the central bank”; and
 - (iii) omit “, provided that all of the following conditions are met:” and points (a) to (c); and
 - (b) omit paragraph 5.

(10) In Article 19–

- (a) in paragraph 1(b), for “the central bank in a Member State or third country” substitute “the central bank, the European Central Bank or the central banks of third countries”;
- (b) in paragraph 3, for “by the implementing regulation to be adopted by the Commission in accordance with Article 419(4) of Regulation (EU) No 575/2013” substitute “in accordance with Commission Implementing Regulation (EU) 2015/2344 or any subsequent technical standards made by the Minister under Article 419.4 of the CRR”; and
- (c) in paragraph 4, for “by the delegated act to be adopted by the Commission in accordance with Article 419(5) of Regulation (EU) No 575/2013” substitute “in accordance with Commission Delegated Regulation (EU) 2016/709, or any subsequent technical standards made by the Minister under Article 419.4 of the CRR”.

Amendments to Title 3.

22.(1) In Article 21.1, for “Regulation (EU) No 575/2013” substitute “the CRR”.

(2) In Article 23–

- (a) in paragraph 1g, for “Regulation (EU) No 575/2013” substitute “the CRR”;
- (b) in paragraph 2–
 - (i) in the three places it occurs, for “competent authorities” substitute “GFSC”; and
 - (ii) for “Regulation (EU) No 575/2013” substitute “the CRR”; and
- (c) omit paragraph 3.

(3) In Article 24–

- (a) in paragraph 1, for “a deposit guarantee scheme in accordance with Directive 94/19/EC of the European Parliament and of the Council or Directive 2014/49/EU” substitute “the Gibraltar deposit guarantee scheme”; and
- (b) omit paragraphs 4 to 6.

(4) In Article 25–

- (a) in paragraph 2a, for “EUR 500 000” substitute “£440,000”;

- (b) in paragraph 2e–
 - (i) for “the Union” substitute “Gibraltar”; and
 - (ii) for “the euro or the domestic currency of a Member State” substitute “sterling”; and
 - (c) in paragraph 3, for “competent authorities” substitute “the GFSC”.
- (5) In Article 26–
- (a) for “competent authority” substitute “GFSC”;
 - (b) for “central government of a Member State” substitute “government of Gibraltar”;
and
 - (c) omit the second sub-paragraph.
- (6) In Article 27–
- (a) omit paragraph 1(b);
 - (b) in paragraph 2, for “a deposit guarantee scheme in accordance with Directive 94/19/EC or Directive 2014/49/EU” substitute “the Gibraltar deposit guarantee scheme”; and
 - (c) omit paragraph 3.
- (7) In Article 28–
- (a) in paragraph 1–
 - (i) for “credit unions authorised by a competent authority” substitute “authorised credit unions”; and
 - (ii) for “a deposit guarantee scheme in accordance with Directive 94/19/EC or Directive 2014/49/EU” substitute “the Gibraltar deposit guarantee scheme”;
 - (b) in paragraph 3
 - (i) in the opening words, for “Regulation (EU) No 575/2013” substitute “the CRR”; and
 - (ii) in the second sub-paragraph–
 - (aa) for “of the Member State or” substitute “or the central bank”; and

- (bb) for “that Member State or” substitute “Gibraltar or that”;
 - (c) in paragraph 4, in the second sub-paragraph–
 - (i) for “of the Member State or” substitute “or the central bank”; and
 - (ii) for “that Member State or” substitute “Gibraltar or that”;
 - (d) for paragraph 8, substitute–

“8. For the purposes of this Article, “domestic central bank” means the central bank or the central bank of the third country in which the credit institution is incorporated.”; and
 - (e) in paragraph 9–
 - (i) in point (a), for “central government, a public sector entity, a regional government or a local authority of the credit institution's home Member State” substitute “the government of, or a public sector entity in, Gibraltar”;
 - (ii) in point (b)–
 - (aa) at the beginning insert “the government of, or a public sector entity in, Gibraltar or”; and
 - (bb) omit “of the Member State or”; and
 - (iii) in the second sub-paragraph, for “Regulation (EU) No 575/2013” substitute “the CRR”.
- (8) In Article 29–
- (a) in the heading, omit “or an institutional protection scheme”;
 - (b) in paragraph 1–
 - (i) in the opening words, for “competent authorities” substitute “the GFSC”;
 - (ii) in point (b), for “relationship within the meaning of Article 12(1) of Directive 83/349/EEC(12) or a member of the same institutional protection scheme referred to in Article 113(7) of Regulation (EU) No 575/2013 or the central institution or an affiliate of a network or cooperative group as referred to in Article 10 of that Regulation” substitute “common management relationship”; and
 - (iii) in point (d), for “the same Member State” substitute “Gibraltar”; and
 - (c) omit paragraph 2.

institution or an affiliate of a network or cooperative group as referred to in Article 10 of Regulation (EU) No 575/2013”;

(iii) in point (d), for “the same Member State” substitute “Gibraltar”; and

(c) omit paragraphs 2 and 3.

Amendments to Title 4.

23.(1) In Article 35–

(a) in the heading, for “Grandfathering of Member State” substitute “Transitional provision: Government”;

(b) in paragraph 1, for “the central government of a Member State” substitute “the government of Gibraltar”;

(c) omit paragraph 2; and

(d) in paragraph 3, for “paragraphs 1 and 2” substitute “paragraph 1”.

(2) Omit Article 36.

(3) Omit Article 38.

(4) After Article 39, omit “This Regulation shall be binding in its entirety and directly applicable in all Member States.”.

**PART 3
CONSEQUENTIAL AMENDMENTS**

Amendment of the Financial Services Act 2019.

24. In section 626A of the Financial Services Act 2019–

(a) in subsection (1), after “section 11 of the European Union (Withdrawal) Act 2019” insert “or section 4 of the European Union Laws (Voluntary Implementation) Act 2019”; and

(b) in subsection (3)(b)(ii), for “retained EU” substitute “domestic”.

Dated: 23rd December 2021.

A J ISOLA
Minister with responsibility for financial services
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EXPLANATORY MEMORANDUM

These Regulations amend the Capital Requirements Regulation (Regulation (EU) No 575/2013) and the Liquidity CDR (Commission Delegated Regulation (EU) 2015/61) as they form part of domestic law. The Regulations give effect with appropriate modifications to provisions of the EU capital requirements regime which were amended before, but came into operation after, withdrawal from the European Union.