

Covid-19 related amendments to the Capital Requirements Regulation and Second Capital Requirements Regulation (Regulation (EU) 2020/873)

On 28 April 2020, the European Commission put forward a package of legislative measures at the onset of the Covid-19 pandemic. These measures amend Regulations (EU) 575/2013 and (EU) 2019/876 also known as the Capital Requirements Regulation (CRR) and the Second Capital Requirements Regulation (CRRII) respectively.

The final legislative text as set out in Regulation (EU) 2020/873 entered the EU Official Journal on 26 June 2020.

As this date falls within the Transition Period, any directly applicable provisions will automatically form part of retained EU law under the EU (Withdrawal) Act 2018.

Previously, the Treasury made the Capital Requirements (Amendment) (EU Exit) Regulations 2019 (SI2019/1232), using powers under the European Union (Withdrawal) Act 2018 (as amended by the European Union (Withdrawal Agreement) Act 2020), to address deficiencies in the CRR, as amended by CRR II, to ensure that it continues to operate effectively in the UK once it forms part of retained EU law at the end of the Transition Period – a process referred to as “onshoring”.

The Treasury will use the same powers to address any deficiencies arising from the relevant provisions of Regulation (EU) 2020/873, ensuring these elements of retained EU law operate effectively in the UK at the end of the Transition Period.

The approach aligns with the wider work of the Treasury to ensure that the UK has an independent and coherent financial services regulatory regime at the end of the Transition Period; it is not intended to make policy changes, other than to reflect the UK’s position outside the EU.

Provisions that will be onshored

The table below sets out the provisions within Regulation (EU) 2020/873 that became applicable on 27 June 2020 and therefore will form part of retained EU law at the end of the Transition Period.

Relevant Articles in Regulation (EU) 2020/873	Description of requirement/discretion
Article 1(1)	Extension of preferential prudential treatment to non-performing loans guaranteed by Covid government schemes
Article 1(6)	Re-introduction of a temporary prudential filter for public sector exposures from 1 January 2020 to 31 December 2022
Article 1(7)	Extending transitional arrangements for mitigating the impact of IFRS9 provisions on regulatory capital
Article 1(9)	Temporary treatment of public debt issues in the currency of another Member State until 31 December 2024

Article 1(9)	Temporary exclusion of certain exposures to central banks from the total exposure measure in view of the COVID-19 pandemic until 27 June 2021
Article 1(9)	Exclusion of overshootings from the calculation of the back-testing addend in view of the COVID-19 pandemic
Article 1(9)	Temporary calculation of the exposure value of regular-way purchases and sales awaiting settlement in view of the COVID-19 pandemic, until 27 June 2021
Article 1(10)	Mandate for a report from the Commission on overshootings and supervisory powers to limit distributions
Article 2(1)	Application date brought forward for provisions on the treatment of certain loans granted by credit institutions to pensioners or employees laid down in Article 123 of Regulation (EU) 575/2013 as amended by Regulation (EU) 2019/876
Article 2(1)	Application date brought forward for provisions on adjustment of risk-weighted non-defaulted SME exposures laid down in Article 501 of Regulation (EU) 575/2013 as amended by Regulation (EU) 2019/876
Article 2(1)	Application date brought forward for provisions on adjustment to own funds requirements for credit risk for exposures to entities that operate or finance physical structures or facilities, systems and networks that provide or support essential public services laid down in Article 501a of Regulation (EU) 575/2013 as amended by Regulation (EU) 2019/876
Article 2(3) ¹	Provisions on the exemption from deductions of prudently valued software assets will apply from the date of entry into force of the regulatory technical standards referred to in Article 36(4) of Regulation (EU) 575/2013 as amended by Regulation (EU) 2019/876

¹Article 36(4) requires the European Banking Authority (EBA) to develop draft regulatory technical standards. If the associated regulatory technical standards enter into force before the end of the Transition Period, they will form part of retained EU law. In the event they enter into force after this date, they will not apply in the UK.

Provisions that will not be onshored

The following table sets out provisions within Regulation (EU) 2020/873, which will become retained EU law under the European Union (Withdrawal) Act 2018 (as amended by the European Union (Withdrawal Agreement) Act 2020), and will not be applicable in the UK as they apply after the end of the Transition Period.

Relevant Articles in Regulation (EU) 2020/873	Description of requirement/discretion
Article 1(4)	Amendments to article 429a, as amended by Regulation (EU) 2019/876 setting out the basis on which central bank exposures (CBEs) may be excluded from the calculation of the leverage ratio
Article 2(2)	Requirement for own funds for G-SIIs (Globally Systemically Important Institutions) laid down in Article 92(1a) of Regulation (EU) 575/2013, will apply from 1 January 2023

Regarding the provisions which will not apply before the end of the Transition Period, matters relating to the leverage ratio and G-SII requirements are for the Financial Policy Committee (FPC) and Prudential Regulation Authority (PRA) to consider as part of the FPC-PRC leverage ratio framework.