

2024 No.

FINANCIAL SERVICES AND MARKETS

**The Capital Buffers and Macro-prudential Measures Regulations
[2024]**

<i>Made</i>	- - - -	***
<i>Laid before Parliament</i>		***
<i>Coming into force</i>	- -	***

The Treasury make these Regulations in exercise of the powers conferred by sections 4, 84(2) and 86(5) of the Financial Services and Markets Act 2023(a).

PART 1

Introductory provisions

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Capital Buffers and Macro-prudential Measures Regulations [2024].

(2) These Regulations come into force on [TBC](b).

(3) These Regulations extend to England and Wales, Scotland and Northern Ireland.

Interpretation

2.—(1) In these Regulations—

“the Bank” means the Bank of England;

“the Capital Requirements Regulation” means Regulation (EU) No. 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No. 648/2012(c);

“FPC” means the Financial Policy Committee of the Bank of England;

“institution-specific countercyclical capital buffer” means—

(a) in relation to a PRA-authorized person, the countercyclical capital buffer that the person must calculate (if any) in accordance with the Capital Buffers Part of the PRA Rulebook;

(a) 2023 c. 29.

(b) The revocation of the Capital Requirements (Capital Buffers and Macro-prudential Measures) Regulations 2014 (S.I. 2014/894) by section 1 of the Financial Services and Markets Act 2023 is to come into force on [TBC] by virtue of regulation [X] of the Financial Services and Markets Act 2023 (Commencement No. X) Regulations 2024 (S.I. 2024/X (C. X)).

(c) EUR 2013/575.

(b) in relation to a parent financial holding company or a parent mixed financial holding company, a countercyclical capital buffer which the holding company must calculate (if any) in accordance with the Capital Buffers Part of the PRA Rulebook;

“O-SII” means other systemically important institution;

“overseas regulator” means an authority in a country or territory outside the United Kingdom which has functions corresponding to those of the FPC under Part 2 of these Regulations;

“parent financial holding company” has the meaning given in section 192O(2) (interpretation) of FSMA 2000(a);

“parent mixed financial holding company” has the meaning given in section 192O(2) (interpretation) of FSMA 2000;

“parent undertaking” has the meaning given in section 420 (parent and subsidiary undertaking) of FSMA 2000(b);

“PRA-authorized person” has the meaning given in section 2B(5) (the PRA’s general objective) of FSMA 2000(c);

“UK institution” means an institution with permission to carry on a regulated activity under Part 4A (permission to carry on regulated activities) of FSMA 2000.

(2) Except as provided in paragraph (1) or otherwise provided in these Regulations, any expression used in these Regulations which is defined in Article 4 (definitions) of the Capital Requirements Regulation has the meaning which is given in that Article.

(3) In these Regulations, a reference to the PRA Rulebook is to the Rulebook published by the Prudential Regulation Authority containing rules made by that Authority under FSMA 2000 as those rules have effect from time to time(d).

PART 2

Countercyclical Capital Buffer

Use of buffer rates to determine institution-specific countercyclical capital buffers

3.—(1) The buffer rates mentioned in regulations 4 and 8 must be used in the determination of institution-specific countercyclical capital buffers where the PRA has made rules under FSMA 2000 requiring UK institutions, or a specified description of UK institutions, to calculate institution-specific countercyclical capital buffers.

(2) In paragraph (1) “specified” means specified in rules made by the PRA under FSMA 2000.

Countercyclical buffer rate

4.—(1) The FPC must assess and set a buffer rate for the United Kingdom in accordance with this regulation.

(2) The buffer rate must be assessed and set for the purpose of enabling institutions with exposures located in the United Kingdom to calculate their institution-specific countercyclical capital buffers.

(3) The buffer rate must be assessed and set at least on a quarterly basis, taking into account any variables that the FPC considers relevant for addressing cyclical systemic risk.

(a) Section 192O was inserted by S.I. 2020/1406 and amended by S.I. 2021/1376. ‘FSMA 2000’ is defined by section 80(1) of the Financial Services and Markets Act 2023.

(b) Section 420 was amended by S.I. 2008/948 and 2019/632.

(c) Section 2B was substituted by section 6(1) of the Financial Services Act 2012 (c. 21).

(d) The rules made by the PRA are available at prerulebook.co.uk and copies of the rules can be obtained from the PRA, 20 Moorgate, London EC2R 6DA.

(4) The buffer rate must be expressed as a percentage of the total risk exposure of institutions with exposures located in the United Kingdom.

(5) Total risk exposure must be calculated in accordance with Article 92 (own funds requirements) of the Capital Requirements Regulation.

(6) The buffer rate must be—

- (a) set between 0% and 2.5%, except where the matters referred to in paragraph (3) justify a higher rate, and
- (b) an integer multiple of 0.25%.

Date from which changes to the buffer rate apply

5.—(1) Where the FPC increases the buffer rate, it must decide the date from which the new buffer rate must be applied by UK institutions that are subject to institution-specific countercyclical capital buffers.

(2) The date referred to in paragraph (1) must be 12 months after the day on which the buffer rate is published in accordance with regulation 6 unless an earlier date is justified on the basis of exceptional circumstances.

(3) Where the FPC reduces the buffer rate, it must decide on an indicative period during which no increase in that rate is expected.

(4) The indicative period referred to in paragraph (3) is not binding on the FPC.

Announcement of changes to the buffer rate

6.—(1) The Bank must publish the following information on its website—

- (a) the buffer rate assessed and set by the FPC in accordance with regulation 4;
- (b) the relevant ratio of credit to gross domestic product and its deviation from the long-term trend, and
- (c) the reasons for the FPC's decision on the level of the buffer rate.

(2) Where the FPC decides to increase the buffer rate, the Bank must publish on its website—

- (a) the date from which the new buffer rate must be applied by UK institutions subject to institution-specific countercyclical capital buffers, and
- (b) any exceptional circumstances which justify any decision by the FPC to require institutions to apply the new buffer rate from a date within the period of 12 months specified in regulation 5(2).

(3) Where the FPC decides to decrease the buffer rate, the Bank must publish on its website the indicative period referred to in regulation 5(3) and the FPC's reasons for choosing that period.

Buffer rate rules

7. Nothing in paragraph 17(9)(b) (delegation of functions) of Schedule 6A (prudential regulation committee) to the Bank of England Act 1998(a) prohibits the making of a rule by the PRA that references a countercyclical capital buffer rate set by the FPC under this Part or by an overseas regulator.

Buffer rates for exposures outside the UK

8.—(1) This regulation applies where the FPC recognises or sets a buffer rate for exposures—

- (a) held by a UK institution, and

(a) 1998 c. 11. Schedule 6A was inserted by Schedule 1 of the Bank of England and Financial Services Act 2016 (c. 14).

(b) located in a country or territory outside the United Kingdom (“overseas country or territory”).

(2) The FPC may set a buffer rate for an overseas country or territory where the overseas regulator of that country or territory has not set and published a buffer rate for a capital buffer serving the same purpose as the countercyclical buffer.

(3) The FPC may recognise the buffer rate set by an overseas regulator where that buffer rate—

- (a) exceeds 2.5%, and
- (b) serves the same purpose as the countercyclical capital buffer.

(4) The FPC may set a buffer rate, determined in accordance with paragraph (5), for an overseas country or territory where—

- (a) the overseas regulator of that country or territory sets a buffer rate serving the same purpose as the countercyclical capital buffer (“the overseas rate”), and
- (b) the FPC reasonably considers that the overseas rate is not sufficient to protect UK institutions from the risks of excessive credit growth in the country or territory to which the overseas rate applies.

(5) The FPC may—

- (a) set a buffer rate for an overseas country or territory which is higher than the overseas rate for that country or territory, or
- (b) set a buffer rate for an overseas country or territory which is lower than the overseas rate for that country or territory provided that the rate set by the FPC exceeds 2.5%.

(6) The FPC may only recognise or set a buffer rate under this regulation in order for the PRA to require UK institutions with exposures located outside the United Kingdom to apply that buffer rate in their calculation of their institution-specific countercyclical capital buffers.

Buffer rates: integer multiples of 0.25%

9. A buffer rate set by the FPC under regulation 8(2) or (4) must be an integer multiple of 0.25%.

Date of application of buffer rates

10.—(1) Where the FPC—

- (a) recognises or sets a buffer rate under regulation 8 in relation to exposures located outside the United Kingdom, and
- (b) the buffer rate is higher than the buffer rate which UK institutions are currently required to apply in relation to those exposures when calculating their institution-specific countercyclical capital buffers,

the FPC must decide the date from which the buffer rate must be applied by UK institutions subject to institution-specific countercyclical capital buffers.

(2) The date referred to in paragraph (1)—

- (a) may be a date within the period of 12 months beginning with the publication day only if that date is justified on the basis of exceptional circumstances, and
- (b) may not be later than the period of 12 months beginning with the publication day where the FPC has set the buffer rate under regulation 8(2) or (4).

(3) In this regulation, “publication day” means the day on which, in accordance with regulation 11, the Bank publishes the buffer rate recognised or set by the FPC under regulation 8.

Announcement of changes to buffer rates

11.—(1) The Bank must publish on its website the FPC’s decision to recognise or set a buffer rate under regulation 8.

(2) The Bank must also publish the following information when a decision is published under paragraph (1)—

- (a) the buffer rate,
- (b) where the FPC has set the buffer rate under regulation 8(2) or (4), the justification for the buffer rate,
- (c) the country or territory to which the buffer rate applies,
- (d) the date from which the buffer rate applies, and
- (e) any exceptional circumstances justifying a date of application which occurs on a date within a period of 12 months beginning with the publication day.

(3) In this regulation, “publication day” has the meaning given in regulation 10(3).

Application of the buffer rate to holding companies

12.—(1) This regulation applies where the PRA makes rules under section 192XA of FSMA 2000 requiring a parent financial holding company or a parent mixed financial holding company (a “holding company”) to calculate an institution-specific countercyclical capital buffer.

(2) The PRA must ensure that the following items apply to a holding company as they apply to a UK institution—

- (a) the buffer rate set by the FPC under regulation 4 or recognised or set under regulation 8;
- (b) the date set by the FPC for the application—
 - (i) of a change in the buffer rate under regulation 5, or
 - (ii) of a buffer rate recognised or set under regulation 8.

PART 3

O-SIIs and O-SII Buffers

Interpretation

13.—(1) In this Part—

“buffer rate” has the meaning given in regulation 15(2);

“CRR rules” has the meaning given in section 144A (CRR rules) of FSMA 2000;

“financial holding company” has the meaning given in section 192O (interpretation) of FSMA 2000;

“FPC framework” has the meaning given in regulation 16(1);

“large building society” means a building society where the sum total of the following two values exceeds the amount specified in regulation 12(1) (core deposit level condition) of the Financial Services and Markets Act 2000 (Ring-fenced Bodies and Core Activities) Order 2014^(a)—

- (a) the value of shares issued by the building society that are not deferred shares, and
- (b) the value of deposits held in accounts with the building society where one or more of the account holders is a small business;

“mixed financial holding company” has the meaning given in section 192O (interpretation) of FSMA 2000;

(a) S.I. 2014/1960.

“relevant O-SII” means an O-SII, or a part of an O-SII, which is—

- (a) a ring-fenced body as defined in section 142A (ring-fenced body) of FSMA 2000,
 - (b) a large building society, or
 - (c) a financial holding company or a mixed financial holding company which—
 - (i) has a ring-fenced body or a large building society as a subsidiary, and
 - (ii) is required, whether by the PRA by a direction under section 192C (power to direct qualifying parent undertaking) of FSMA 2000(a) or otherwise, to comply with [the requirements of the Capital Requirements Regulation] and CRR rules on a sub-consolidated basis.
- (2) For the purposes of the definition of “large building society” in paragraph (1)—
- (a) “building society”, “deferred shares”, “deposit” and “share” have the meanings given in section 119 (interpretation) of the Building Societies Act 1986(b);
 - (b) “small business” has the meaning given in section 7(10) (the funding limit) of the Building Societies Act 1986.

Duty of PRA to identify O-SIIs

- 14.**—(1) The PRA must identify O-SIIs in accordance with this regulation.
- (2) An O-SII must be—
- (a) a person with permission to carry on a regulated activity for the purposes of Part 4A (permission to carry on regulated activities) of FSMA 2000, or
 - (b) a person established in the United Kingdom.
- (3) An O-SII must also be—
- (a) a group, the parent undertaking of which is—
 - (i) a UK parent institution,
 - (ii) a UK parent financial holding company, or
 - (iii) a UK parent mixed financial holding company, or
 - (b) an institution.
- (4) In this regulation, “group” has the meaning given in section 421 (group) of FSMA 2000(c).

Power for the PRA to require an O-SII buffer to be maintained

- 15.**—(1) The PRA may require a relevant O-SII to maintain Common Equity Tier 1 capital, to be known as an “O-SII buffer”.
- (2) The amount of capital which the PRA may require a relevant O-SII to hold (“the buffer rate”) must be expressed as a percentage of the relevant O-SII’s total risk exposure amount calculated in accordance with Article 92 (own funds requirements) of the Capital Requirements Regulation.
- (3) In this regulation, “Common Equity Tier 1 capital” has the meaning given in Article 50 (common equity tier 1 capital) of the Capital Requirements Regulation.

O-SII buffer rates: the FPC framework

- 16.**—(1) The FPC must establish a framework for O-SII buffer rates in the United Kingdom in accordance with this regulation (“the FPC framework”).
- (2) The FPC framework must contain the following elements—

(a) Section 192C was inserted by section 27 of the Financial Services Act 2012.
(b) 1986 c. 83.
(c) Section 421 was amended by S.I. 2008/948.

- (a) a set of criteria for assessing the extent to which the failure or distress of a relevant O-SII might pose a risk to the financial system,
 - (b) a methodology for measuring those criteria and giving a relevant O-SII a single score in relation to those criteria, and
 - (c) in relation to each score that an O-SII may receive, a buffer rate that corresponds to the score.
- (3) For the purposes of paragraph (2)(a)—
- (a) a relevant O-SII is in distress only if it experiences a significant deterioration in its financial situation, and
 - (b) the criteria to be specified must each be—
 - (i) measurable, and
 - (ii) capable of being applied to a relevant O-SII on an individual basis, a sub-consolidated basis and a consolidated basis.
- (4) The only buffer rates that the FPC may specify for the purposes of paragraph (2)(c) are 0%, 1%, 1.5%, 2%, 2.5% and 3%.
- (5) The FPC must ensure that the way in which buffer rates correspond to scores in the FPC framework—
- (a) is clear, precise and unambiguous,
 - (b) ensures that a score corresponds to one buffer rate only,
 - (c) may not be expressed in terms of a discretion conferred on a person or body (including the FPC), and
 - (d) may be expressed by way of a formula, an algorithm, a graph or a table.
- (6) The Bank must publish each element of the FPC framework, together with the FPC's justification for each element.

Determination by PRA of buffer rates for individual relevant O-SII

- 17.—(1) The PRA may, in relation to each relevant O-SII, determine—
- (a) whether or not to set a buffer rate for the O-SII, and
 - (b) where it sets a buffer rate, the level of the rate,
- by applying the steps set out in paragraph (2).
- (2) The steps set out in this paragraph are—
- Step 1: determining the level of consolidation—
- (a) the PRA must choose one of the following bases on which to apply the criteria specified in the FPC framework to the relevant O-SII—
 - (i) an individual basis,
 - (ii) a sub-consolidated basis, or
 - (iii) a consolidated basis.
- Step 2: deriving a framework buffer rate from the FPC framework—
- (b) the PRA must derive a buffer rate from the FPC framework for the relevant O-SII (“a framework buffer rate”) by—
 - (i) applying the methodology of the FPC framework to obtain a score for the relevant O-SII, and
 - (ii) ascertaining to what buffer rate the score corresponds under the FPC framework.
- Step 3: setting a buffer rate for a relevant O-SII based on supervisory judgment—
- (c) the PRA may, if it makes a supervisory judgment that it is appropriate to do so—

- (i) set a buffer rate for a relevant O-SII, even if it has derived a framework buffer rate for the institution of 0% under Step 2,
- (ii) set a buffer rate for a relevant O-SII which is different to the framework buffer rate derived for the institution under Step 2, or
- (iii) set no buffer rate for a relevant O-SII, even if it has derived a framework buffer rate for the institution of other than 0% under Step 2.

Step 4: setting a buffer rate for relevant O-SIIs based on framework buffer rate—

- (d) unless the PRA exercises the discretion in Step 3—
 - (i) where the PRA derives a framework buffer rate under Step 2 of 0% for the relevant O-SII, the PRA may not set a buffer rate for the institution, and
 - (ii) where the PRA derives a framework buffer rate under Step 2 other than 0% for the relevant O-SII, the PRA must set the rate so derived as the buffer rate for the institution.

(3) Where the PRA sets a buffer rate under paragraph (i) or (ii) of Step 3 of this regulation, the rate must be 1%, 1.5%, 2%, 2.5% or 3%.

Date of application

18.—(1) Where the PRA sets a buffer rate for a relevant O-SII under regulation 17, the PRA must decide the date from which the O-SII must apply that rate in the calculation of its O-SII buffer.

(2) Where the PRA has set a buffer rate for a relevant O-SII under regulation 17 and determines that a buffer rate is no longer to be set for the O-SII under that regulation, the PRA must decide the date from which the buffer rate ceases to have effect.

Calculation of buffer

19.—(1) The PRA must require a relevant O-SII to calculate its O-SII buffer by applying the buffer rate set for it under regulation 17 to all its exposures.

(2) For the purposes of the calculation required under paragraph (1), the PRA must require the relevant O-SII to—

- (a) determine the value of its exposures by applying the level of consolidation selected by the PRA under Step 1 of regulation 17(2), and
- (b) apply the buffer rate equally to all exposures regardless of where they are located.

Publication: United Kingdom buffer rates

20.—(1) Where the PRA sets a buffer rate for a relevant O-SII under regulation 17, the PRA must publish the following information—

- (a) the relevant O-SII to which the buffer rate applies,
- (b) the buffer rate,
- (c) the justification for setting the buffer rate,
- (d) the date from which the relevant O-SII must apply the buffer rate,
- (e) the level of consolidation to be used in the calculation of the O-SII buffer (as determined in accordance with Step 1 of regulation 17(2)), and
- (f) the fact that the O-SII buffer applies to exposures located anywhere in the world.

(2) Where the PRA determines that a buffer rate is no longer to be set for a relevant O-SII under regulation 17, the PRA must publish the following information—

- (a) the fact that the buffer rate is no longer to be set,
- (b) the fact that the relevant O-SII is no longer required to maintain an O-SII buffer,

- (c) the justification for ceasing to set the buffer rate, and
- (d) the date from which the relevant O-SII may cease to apply the buffer rate.

(3) A reference to the PRA’s justification in paragraphs (1)(c) and (2)(c) includes the PRA’s justification for doing anything under Step 3 of regulation 17(2).

(4) The PRA must not publish information under paragraph (1)(c) or (2)(c) if the PRA is satisfied that publication might jeopardise the stability of the financial system of the United Kingdom.

Review

21.—(1) The FPC must review the elements of the FPC framework at least every third year.

(2) The PRA must review the following matters at least once every year—

- (a) a buffer rate set under regulation 17, and
- (b) a decision not to set a buffer rate under regulation 17.

PART 4

Transitional Provisions

Savings for buffer rates set or recognised before [TBC]

22. Any action taken by the PRA, the Bank or the FPC (as appropriate) immediately before [TBC] under a provision of the Capital Requirements (Capital Buffers and Macro-prudential Measures) Regulations 2014^(a) listed in column 1 of the table below has effect on and after [TBC] as if it had been taken under the provision of these Regulations listed in column 2 of the same row of that table.

Table

*Capital Requirements (Capital Buffers and These Regulations
Macro-prudential Measures) Regulations 2014*

Regulation 10(1)	Regulation 4(1)
Regulation 11(1)	Regulation 5(1)
Regulation 12	Regulation 6
Regulation 15(2)	Regulation 8(2)
Regulation 15(3)	Regulation 8(3)
Regulation 15(4)	Regulation 8(4)
Regulation 17(1)	Regulation 10(1)
Regulation 18(1)	Regulation 11(1)
Regulation 29	Regulation 14
Regulation 34ZA	Regulation 15
Regulation 34ZB	Regulation 16
Regulation 34ZC	Regulation 17
Regulation 34ZD	Regulation 18
Regulation 34ZE	Regulation 19
Regulation 34ZF	Regulation 20

Name

Name

Date

Two of the Lords Commissioners of His Majesty’s Treasury

(a) S.I. 2014/894.

EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 1 of, and Schedule 1 to, the Financial Services and Markets Act 2023 (c. 29) (“the Act”) revoke the Capital Requirements (Capital Buffers and Macro-prudential Measures) Regulations 2014 (S.I. 2014/894) (“the 2014 Regulations”). The revocation of the 2014 Regulations comes into force on [TBC] by virtue of regulation X of the Financial Services and Markets Act 2023 (Commencement No. X) Regulations 2024 (S.I. 2024/X (C. X)).

The 2014 Regulations implemented provisions relating to capital buffers in Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms.

These Regulations, made under sections 4, 84(2) and 86(5) of the Act, restate certain provisions of the 2014 Regulations. The restatement includes:

- the duty of the Bank of England’s Financial Policy Committee (“FPC”) to set a countercyclical buffer rate for the UK (regulation 4);
- the power of the FPC to set or recognise buffer rates for exposures held by UK institutions and located outside the UK (regulation 8);
- the duty of the Prudential Regulation Authority (“PRA”) to identify other systemically important institutions (“O-SIIs”) (regulation 14);
- the duty of the FPC to establish a framework for O-SII buffer rates in the UK (regulation 16).

Regulation 22 provides that relevant actions taken by the FPC, Bank of England or PRA under the 2014 Regulations continue, on and after [X], to have effect under these Regulations.

No impact assessment has been published in respect of these Regulations because no impact, or no significant impact, on the private, voluntary or public sector is foreseen.