



STATUTORY INSTRUMENTS.

**S.I. No. 232 of 2022**

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EUROPEAN COMMUNITIES (ELECTRONIC MONEY) (AMENDMENT)  
REGULATIONS 2022

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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 2009/110/EC of the European Parliament and of the Council of 16 September 2009<sup>1</sup>, hereby make the following regulations:

PART 1

Preliminary and General

*Citation*

1. These Regulations may be cited as the European Communities (Electronic Money) (Amendment) Regulations 2022.

*Interpretation*

2. In these Regulations, “Principal Regulations” means the European Communities (Electronic Money) Regulations 2011 (S.I. No. 183 of 2011).

PART 2

Amendment of Principal Regulations

*Amendment of Regulation 3 of Principal Regulations*

3. Regulation 3 of the Principal Regulations is amended, in paragraph (1), by the insertion of the following definition:

“ ‘Capital Requirements Regulation’ means Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013<sup>2</sup> on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012, as amended by—

(a) Commission Delegated Regulation (EU) 2015/62 of 10 October 2014<sup>3</sup> amending Regulation (EU) No 575/2013 of the European Parliament and of the Council with regard to the leverage ratio,

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<sup>1</sup> OJ No. L. 267, 10.10.2009, p.7.

<sup>2</sup> OJ No. L. 176, 27.6.2013. p. 1.

<sup>3</sup> OJ No. L. 11, 17.1.2015, p. 37.

- (b) Regulation (EU) 2016/1014 of the European Parliament and of the Council of 8 June 2016<sup>4</sup> amending Regulation (EU) No 575/2013 as regards exemptions for commodity dealers,
- (c) Commission Delegated Regulation (EU) 2017/2188 of 11 August 2017<sup>5</sup> amending Regulation (EU) No 575/2013 of the European Parliament and of the Council as regards the waiver on own funds requirements for certain covered bonds,
- (d) Regulation (EU) 2017/2395 of the European Parliament and of the Council of 12 December 2017<sup>6</sup> amending Regulation (EU) No 575/2013 as regards transitional arrangements for mitigating the impact of the introduction of IFRS 9 on own funds and for the large exposures treatment of certain public sector exposures denominated in the domestic currency of any Member State,
- (e) Regulation (EU) 2017/2401 of the European Parliament and of the Council of 12 December 2017<sup>7</sup> amending Regulation (EU) No 575/2013 on prudential requirements for credit institutions and investment firms,
- (f) Commission Delegated Regulation (EU) 2018/405 of 21 November 2017<sup>8</sup> correcting certain language versions of Regulation (EU) No 575/2013 of the European Parliament and of the Council on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012,
- (g) Regulation (EU) 2019/630 of the European Parliament and of the Council of 17 April 2019<sup>9</sup> amending Regulation (EU) No 575/2013 as regards minimum loss coverage for non-performing exposures,
- (h) Regulation (EU) 2019/876 of the European Parliament and of the Council of 20 May 2019<sup>10</sup> amending Regulation (EU) No 575/2013 as regards the leverage ratio, the net stable funding ratio, requirements for own funds and eligible liabilities, counterparty credit risk, market risk, exposures to central counterparties, exposures to collective investment undertakings, large exposures, reporting and disclosure requirements, and Regulation (EU) No 648/2012,
- (i) Regulation (EU) 2019/2033 of the European Parliament and of the Council of 27 November 2019<sup>11</sup> on the prudential requirements of investment firms and amending Regulations

<sup>4</sup> OJ No. L. 171, 29.6.2016, p. 153.

<sup>5</sup> OJ No. L. 310, 25.11.2017, p. 1.

<sup>6</sup> OJ No. L. 345, 27.12.2017, p. 27.

<sup>7</sup> OJ No. L. 347, 28.12.2017, p. 1.

<sup>8</sup> OJ No. L. 74, 16.3.2018, p. 3.

<sup>9</sup> OJ No. L. 111, 25.4.2019, p. 4.

<sup>10</sup> OJ No. L. 150, 7.6.2019, p. 1.

<sup>11</sup> OJ No. L. 314, 5.12.2019, p. 1.

- (EU) No 1093/2010, (EU) No 575/2013, (EU) No 600/2014 and (EU) No 806/2014,
- (j) Regulation (EU) 2020/873 of the European Parliament and of the Council of 24 June 2020<sup>12</sup> amending Regulations (EU) No 575/2013 and (EU) 2019/876 as regards certain adjustments in response to the COVID-19 pandemic,
- (k) Commission Delegated Regulation (EU) 2021/424 of 17 December 2019<sup>13</sup> amending Regulation (EU) No 575/2013 of the European Parliament and of the Council with regard to the alternative standardised approach for market risk,
- (l) Regulation (EU) 2021/558 of the European Parliament and of the Council of 31 March 2021<sup>14</sup> amending Regulation (EU) No 575/2013 as regards adjustments to the securitisation framework to support the economic recovery in response to the COVID-19 crisis, and
- (m) Commission Implementing Regulation (EU) 2021/1043 of 24 June 2021<sup>15</sup> on the extension of the transitional provisions related to own funds requirements for exposures to central counterparties set out in Regulation (EU) No 575/2013 of the European Parliament and of the Council.”.

*Amendment of Regulation 13 of Principal Regulations*

4. Regulation 13 of the Principal Regulations is amended by the substitution of the following paragraph for paragraph (2):

“(2) For the purposes of calculating an applicant’s initial capital, only the elements of its own funds described in points (a) to (e) of paragraph 1 of Article 26 of the Capital Requirements Regulation shall be taken into account.”.

*Amendment of Regulation 16 of Principal Regulations*

5. Regulation 16 of the Principal Regulations is amended—

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

“(3) In calculating own funds, an applicant shall, regardless of the method used for that calculation—

(a) only take into account components referred to in point (118) of Article 4(1) of the Capital Requirements Regulation,

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<sup>12</sup> OJ No. L. 204, 26.6.2020, p. 4.

<sup>13</sup> OJ No. L. 84, 11.3.2021, p. 1.

<sup>14</sup> OJ No. L. 116, 6.4.2021, p. 25.

<sup>15</sup> OJ No. L. 225, 25.6.2021, p. 52.

- (b) ensure that at least 75 per cent of the applicant's Tier 1 capital is in the form of Common Equity Tier 1 capital, and
  - (c) ensure that the value of the applicant's Tier 2 capital is equal to or less than one third of the value of the applicant's Tier 1 capital.", and
- (b) by the insertion of the following paragraph after paragraph (4):
- “(5) In this Regulation, ‘Common Equity Tier 1 capital’, ‘Tier 1 capital’ and ‘Tier 2 capital’ each have the same meaning as they have in the Capital Requirements Regulation.”.

*Amendment of Regulation 38 of Principal Regulations*

6. Regulation 38 of the Principal Regulations is amended by the substitution of the following paragraph for paragraph (6):

- “(6) A notification under this Regulation shall be made by completing and submitting to the Bank—
- (a) the form of notification specified by the Bank for the purpose of this provision and made available on the official website of the Bank, and
  - (b) such documentation in relation to the proposed acquisition or disposal, as the case may be, as is specified in that form as being required to be submitted to the Bank with the form.”.

*Application to court where no notification given*

7. The Principal Regulations are amended by the insertion of the following Regulation after Regulation 38:

*“Application to court where no notification given*

38A. (1) A person who concludes an acquisition to which Regulation 38 applies without having notified the Bank in accordance with that Regulation, may make an application to the court under this Regulation and the court may, if it is satisfied that the failure was inadvertent and that it is in the interests of justice to do so, make an order—

- (a) requiring the person to provide the Bank with the information required under Regulation 39, and
  - (b) requiring the Bank to carry out an assessment in accordance with Regulations 40, 41 and 42.
- (2) An application under paragraph (1) shall be on notice to the Bank and the Bank shall be entitled to appear, be heard and adduce evidence at the hearing of the application.
- (3) Notice of an application under paragraph (1) shall be served on the Bank at least 14 days before the date of hearing of the application.

- (4) An affidavit giving the names and addresses of, and the places and dates of service on, all persons who have been served with the notice of application, grounding affidavit and exhibits (if any) shall be filed by the applicant at least 4 days before the application is heard.
- (5) Where any person who ought under this Regulation to have been served has not been so served, the affidavit shall state that fact and the reason for it.
- (6) Where the Bank carries out an assessment on foot of an order under paragraph (1) and it is satisfied that no grounds exist to oppose the application in accordance with Regulation 45 it may—
  - (a) lift a suspension of voting rights under Regulation 50, and
  - (b) retrospectively validate the exercise of voting rights during such a suspension.”.

*Amendment of Regulation 40 of Principal Regulations*

8. Regulation 40 of the Principal Regulations is amended by the substitution of the following paragraph for paragraph (1):

“(1) Within 2 business days after receiving a completed notification under paragraph (1) or (2) of Regulation 38 or in accordance with an order made under Regulation 38A(1)(a), as the case may be, from a proposed acquirer, the Bank shall acknowledge receipt of the notification in writing.”.

*Amendment of Regulation 45 of Principal Regulations*

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

“(b) the information provided by the proposed acquirer in its notification under Regulation 38 or in accordance with an order made under Regulation 38A(1)(a), as the case may be, is incomplete, or the proposed acquirer has not provided information in response to a request under paragraph (5) or (8) of Regulation 40.”.

*Amendment of Regulation 47 of Principal Regulations*

10. Regulation 47 of the Principal Regulations is amended, in paragraph (1), by the substitution of the following subparagraph for subparagraph (a):

- “(a) the proposed acquirer has notified the Bank of the acquisition in accordance with Regulation 38 or in accordance with an order made under Regulation 38A(1)(a), as the case may be.”.

GIVEN under my Official Seal,  
10 May, 2022.

PASCHAL DONOHOE,  
Minister for Finance.

L.S.

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