



STATUTORY INSTRUMENTS.

S.I. No. 315 of 2024

EUROPEAN UNION (CAPITAL REQUIREMENTS) (AMENDMENT)
REGULATIONS 2024

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I, MICHAEL MCGRATH, 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 2013¹, as last amended by Directive (EU) 2023/2864 of the European Parliament and of the Council of 13 December 2023², hereby make the following regulations:

1. These Regulations may be cited as the European Union (Capital Requirements) (Amendment) Regulations 2024.
2. In these Regulations, “Principal Regulations” means the European Union (Capital Requirements) Regulations 2014 (S.I. No. 158 of 2014).
3. Regulation 9A(3) of the Principal Regulations is amended –
 - (a) in subparagraph (c), by the substitution of “Regulation 9CA” for “the criteria specified in Regulation 9C(3)”, and
 - (b) in subparagraph (e), by the substitution of “9C, 9CA” for “9C”.
4. Regulation 9C of the Principal Regulations is amended –
 - (a) in paragraph (1)(c), by the substitution of “subject to Regulation 9CA” for “having regard to the criteria specified in paragraph (3)”, and
 - (b) by the revocation of paragraph (3).
5. The Principal Regulations are amended by the insertion of the following Regulation after Regulation 9C:

“Assessment of suitability of shareholders or members

- 9CA. (1) The Bank shall not grant an application for approval to a financial holding company or mixed financial holding company unless the application includes the names of –
 - (a) the applicant’s shareholders or members that have qualifying holdings and of the amounts of those holdings, or

¹ OJ No. L 176, 27.6.2013, p. 338

² OJ L, 2023/2864, 20.12.2023

- (b) where there are no qualifying holdings, the 20 largest shareholders or members.
- (2) In determining whether the criteria for a qualifying holding are fulfilled, the voting rights referred to in Articles 9 and 10 of Directive 2004/109/EC in relation to information about issuers whose securities are admitted to trading on a regulated market and the conditions regarding aggregation thereof set out in Articles 12(4) and (5) of that Directive shall be taken into account.
- (3) Voting rights or shares which institutions hold as a result of providing the underwriting of financial instruments or placing of financial instruments on a firm commitment basis included under point 6 of Section A of Annex I to Directive 2004/39/EC shall not be taken into account provided that those rights are not exercised or otherwise used to intervene in the management of the issuer and are disposed of within one year of acquisition.
- (4) The Bank shall not grant an application for approval to a financial holding company or mixed financial holding company if, taking into account the need to ensure the sound and prudent management of such company, it is not satisfied, having regard to the criteria specified in paragraph (5), as to the suitability of the shareholders or members of the financial holding company or mixed financial holding company, as the case may be.
- (5) The criteria referred to in paragraph (4) 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 set out 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, the Capital Requirements Regulation and, where applicable, other European Union law, in particular –
 - (i) Directive 2002/87/EC, and

- (ii) Directive 2009/110/EC of the European Parliament and of the Council of 16 September 2009³;
 - (e) 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 and determine the allocation of responsibilities among the competent authorities;
 - (f) whether there are reasonable grounds to suspect that, in connection with the application for approval, money laundering or terrorist financing (within the meaning of Article 1 of Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015⁴, as last amended by Directive (EU) 2019/2177 of the European Parliament and of the Council of 18 December 2019⁵), is being or has been committed or attempted, or that the application for approval could increase the risk of money laundering or terrorist financing.
- (6) The Bank shall grant an application for approval unless –
- (a) there are reasonable grounds for not doing so on the basis of the criteria set out in paragraph (5), or
 - (b) the information provided by the financial holding company or mixed financial holding company is incomplete.
- (7) The Bank shall neither impose any prior conditions in respect of the level of holding that must be acquired nor examine an application for approval in terms of the economic needs of the market.
- (8) Regulation 16 shall apply with any necessary modifications to an application for approval by a financial holding company or mixed financial holding company.
- (9) Where close links exist between a financial holding company or mixed financial holding company and other natural or legal persons, the Bank shall grant approval only where those links do not prevent the effective exercise of its supervisory functions.
- (10) The Bank shall not grant an application for approval where the laws, regulations or administrative provisions of a third country governing one or more natural or legal persons with which the financial holding company or mixed financial holding company has close links, or difficulties involved in the enforcement of those laws, regulations or administrative provisions, prevent the effective exercise of its supervisory functions.
- (11) The Bank shall require financial holding companies or mixed financial holding companies to provide it with the information it

³ OJ No. L 267, 10.10.2009, p. 7

⁴ OJ No. L 141, 5.6.2015, p. 73

⁵ OJ No. L 334, 27.12.2019, p. 155

requires to monitor compliance with the conditions referred to in paragraphs (9) and (10) on an ongoing basis.”.

6. Regulation 15(2)(b)(vi) of the Principal Regulations is amended by the substitution of “Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015⁴, as last amended by Directive (EU) 2019/2177 of the European Parliament and of the Council of 18 December 2019⁵” for “Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005⁶”.

7. Regulation 85(6A) of the Principal Regulations is amended by the substitution of “the EBA and, in a case in which the Bank is not the authority or body that supervises the institution in accordance with Directive (EU) 2015/849 and is competent for ensuring compliance with that Directive, that authority or body” for “the EBA”.

8. Regulation 92A(1)(a) of the Principal Regulations is amended by the substitution of “Capital Requirements Regulation and Chapter 2 of Regulation (EU) 2017/2402” for “Capital Requirements Regulation”.

9. Regulation 101 of the Principal Regulations is amended by the insertion of the following paragraph after paragraph (11):

“(11A) Where the EBA has been consulted, the Bank shall consider its advice, and explain any significant deviation therefrom.”.

10. Regulation 104(1A) of the Principal Regulations is amended by the substitution of “Articles 76 and 81 of Directive 2014/65/EU” for “Articles 76 and 81 of the Capital Requirements Directive.”.

GIVEN under my Official Seal,
19 June, 2024.

MICHAEL MCGRATH,
Minister for Finance.

⁶ OJ No. L 309, 25.11.2005, p. 15

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