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## STATUTORY INSTRUMENTS

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# 2008 No. 346

## The Regulated Covered Bonds Regulations 2008

### PART 9

#### MISCELLANEOUS

##### Notification of the Commission

<sup>F1</sup>41. ....

##### Textual Amendments

**F1** Reg. 41 omitted (31.12.2020) by virtue of [The Capital Requirements \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1401\)](#), regs. 1(3), 9 (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

##### Guidance

**42.—(1)** The Authority may give guidance consisting of such information and advice as it considers appropriate—

- (a) with respect to the operation of these Regulations;
- (b) with respect to any matters relating to functions of the Authority under these Regulations;
- (c) with respect to any other matters about which it appears to the Authority to be desirable to give information or advice.

[<sup>F2</sup>(2) The Authority must give guidance consisting of—

- (a) information as to which government securities, credit institutions and currencies are specified for the purposes of the definition of “liquid assets” in regulation 1(2);
- (b) information and advice about the quality of an asset pool for the purposes of the requirement specified in regulation 17(2)(d) and the manner in which it will assess the issuer's and owner's compliance with that requirement;
- (c) information and advice about the contents of the annual report required for the purposes of regulation 17A(3)(b).]

(3) Guidance given under paragraph (2) must include information and advice on the factors which the Authority will take into account, such as—

- (a) fluctuations in the value of assets and the income from assets;
- (b) fluctuations in the value of interest and exchange rates;
- (c) geographical concentration and diversification of assets in the asset pool;
- (d) the risk of loss if a person fails to perform its obligations, or fails to perform them in a timely manner; and

**Changes to legislation:** The Regulated Covered Bonds Regulations 2008, PART 9 is up to date with all changes known to be in force on or before 26 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (e) counterparty credit risk, in particular, in relation to any interest rate, currency or other hedging instruments relating to the asset pool.

[<sup>F3</sup>(4) Subject to paragraph (5) and the modification in paragraph (4A), if the Authority proposes to give guidance under this regulation to issuers or owners generally, or to a class of issuer or owner, subsections (1)(b), (2)(e) and (3) of section 138I of the Act (consultation by the FCA) apply to the proposed guidance as they apply to proposed rules made under the Act, unless the Authority considers that the delay in complying with them would be prejudicial to the interests of regulated covered bond holders.

(4A) For the purpose of paragraph (4) section 138I of the Act is to be treated as if in subsection (1) (b) “after doing so” were omitted.]

(5) Paragraph (4) shall not apply to the first guidance given pursuant to paragraph (2).

(6) The Authority may—

- (a) publish its guidance;
- (b) offer copies of its published guidance for sale at a reasonable price; and
- (c) if it gives guidance in response to a request made by any person, make a reasonable charge for that guidance.

#### Textual Amendments

- F2** Reg. 42(2) substituted (1.1.2013) by [The Regulated Covered Bonds \(Amendment\) Regulations 2011 \(S.I. 2011/2859\)](#), regs. 1, **2(15)**
- F3** Reg. 42(4)(4A) substituted for reg. 42(4) (1.4.2013) by [The Financial Services Act 2012 \(Consequential Amendments and Transitional Provisions\) Order 2013 \(S.I. 2013/472\)](#), **Sch. 2 para. 134(d)**

#### Disclosure of information

**43.**—(1) Sections 348 (restrictions on disclosure of confidential information by [<sup>F4</sup>FCA, PRA]), 349 (exceptions from section 348) and 352 (offences) of the Act apply to confidential information disclosed under these Regulations as they apply to confidential information under the Act.

(2) In paragraph (1) “confidential information” has the meaning given by section 348 of the Act.

#### Textual Amendments

- F4** Words in reg. 43(1) substituted (1.4.2013) by [The Financial Services Act 2012 \(Consequential Amendments and Transitional Provisions\) Order 2013 \(S.I. 2013/472\)](#), **Sch. 2 para. 134(e)**

#### Warning notices and decision notices

**44.** Part 26 of the Act (notices) is to apply for the purposes of these Regulations as it applies for the purposes of the Act.

#### Authority's exemption from liability in damages

**45.** The functions of the Authority under these Regulations are to be treated for the purposes of [<sup>F5</sup>paragraph 25 (exemption from liability in damages) of Part 4 of Schedule 1ZA] to the Act as functions conferred on the Authority under that Act.

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**Textual Amendments**

- F5** Words in [reg. 45](#) substituted (1.4.2013) by [The Financial Services Act 2012 \(Consequential Amendments and Transitional Provisions\) Order 2013 \(S.I. 2013/472\)](#), [Sch. 2 para. 134\(f\)](#)

**Modifications of primary and secondary legislation**

- 46.** The Schedule (which modifies primary and secondary legislation) has effect.

**Changes to legislation:**

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**Changes and effects yet to be applied to :**

- Regulations revoked by [2023 c. 29 Sch. 1 Pt. 2](#)