

Authorising your holding company

Certain UK incorporated holding companies of banks and investments firms will, for the first time, be required to obtain PRA authorisation in 2021. The required applications for authorisation are detailed and will require input from legal, governance and risk teams.

Background

The holding company authorisation requirement arises under the new Part 12B of the Financial Services and Markets Act (**Part 12B**),¹ which derives from EU requirements under CRDV and CRR II and which came in to force on 29 December 2020.

Under Part 12B, UK established parent financial holding companies (**FHCs**) or parent mixed financial holding companies (**MFHCs**) must be approved by the PRA where one or more of their subsidiaries is a credit institution or PRA-authorized investment firm, and the entity is not exempt; a holding company will not be exempt where:

- (a) it is designated as a 'resolution entity' for purposes of the Banking Act 2009;
- (b) it does not have a PRA-authorized affiliate which has been designated by the PRA as responsible to ensure the group's compliance with prudential requirements on a consolidated or sub-consolidated basis;
- (c) it takes any management, operational or financial decisions affecting;
 - (i) the group as a whole, or
 - (ii) any of its subsidiary undertakings which are institutions or financial institutions; and
- (d) the PRA considers that there is otherwise an impediment to the effective supervision of the group on a consolidated or sub-consolidated basis.

The PRA confirmed its approach on holding company approvals in PS 26/20, published in early December 2020 and specified that holding companies are to submit form applications for approval (or exemption from approval) between 1 and 28 June 2021.

In CP 17/20 (published in October 2020), the PRA helpfully included a set of indicative information requirements for applicants for approval and for applicants who consider that they are exempt from approval. In CP 17/20, they indicated that some 60 banking groups are expected to be affected by the new authorisation requirement.

Part 12B goes on to specify three conditions for approval, which drive the information the PRA expects to require as part of an application for approval.

¹ Introduced by The Financial Holding Companies (Approval etc.) and Capital Requirements (Capital Buffers and Macro-prudential Measures) (Amendment) (EU Exit) Regulations 2020.

The challenge

Some of the information required is straightforward. For example, the PRA will expect up to date structure charts identifying all shareholdings.

However, other aspects of the application are novel and will require extensive drafting, internal discussion and agreement. For example, firms will need to:

- allocate at least two persons who they determine are effectively directing the FHC or MFHC and detail how they are of ‘sufficiently good repute, and possess sufficient knowledge, skills and experience’ – in practice, this requirement will apply to all directors of the holding company;

- provide details on ‘the internal organisation and distribution of tasks within the group with specific reference to group company risk measurement...’, demonstrating how these are effective to co-ordinate all the subsidiary undertakings of the company, prevent or manage intra-group conflicts, and enforce the group-wide policies set by the company throughout the group; and

- describe how ‘internal procedures and information systems are integrated, consistent, and reliable throughout the consolidated group...’.

We anticipate that firms will need to start preparing these applications well in advance, in order to ensure that they are of sufficient quality and clarity, and allowing adequate time for internal review and approvals.

How we can help

A&O’s legal and consulting teams are experts in regulatory policy and the resulting requirements, strategy, governance and risk management. Our multi-disciplinary team is uniquely well positioned to provide a seamless service, helping firms to:

- prepare applications prior to internal review and approval through formal governance
- undertake quality assurance reviews on draft applications prior to submission to the PRA

Our support can help firms to have confidence that applications will meet internal stakeholder requirements and the PRA’s expectations.

If you would like to discuss how we could help, we would love to have a conversation.

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