

13 June 2023

## Circular to Credit Institutions on the Implementation of Prudential Requirements for Financial Holding Companies

The Malta Financial Services Authority (the “MFSA”) is hereby issuing a Circular to provide further guidance on the requirement introduced by the latest revision of the Capital Requirements Directive (CRD V) in relation to the implementation of the prudential requirements for financial holding companies (“FHCs”) as defined therein. The relevant provisions have been implemented in Banking Rule ([BR/25](#)) and in article 11B and article 29AA of the [Banking Act](#) (the “Act”).

Previously, under CRD IV, competent authorities, such as the MFSA, had the discretion to include FHCs in consolidated supervision “where appropriate”. Such discretion has now been removed under CRD V and article 119(1) of the CRD was amended to the effect that Member States are now required to adopt any measures necessary to include FHCs in consolidated supervision, subject to article 21a (transposed into article 11B in the Act).

Following this amendment to the CRD, the exemption from approval of the FHC under article 11B of the Act by the MFSA does not have an impact on the prudential perimeter for consolidated requirements.

Consequently, for credit institutions that are subsidiaries to such approved or exempt FHCs, prudential supervision, including all capital requirements, shall be applied at individual levels as well as at the level of each Member State.<sup>1</sup> For the avoidance of doubt, the credit institution in question (the “Designated Subsidiary Credit Institution”) would need to comply with the requirements as listed in Annex 1 to this Circular.

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<sup>1</sup> There is a derogation from this general principle for the applicability of liquidity requirements (Part Six of the CRR), as per Article 11(4) CRR, and for the applicability of disclosure requirements (Part Eight of the CRR), as per Article 13(1) CRR. There, the applicability of these prudential requirements is at the highest level in the European Union, that is, the level of the “EU parent institution”.

Notwithstanding the above, the MFSA shall communicate the scope of consolidation and the expectations in term of deadlines and reporting to all individual credit institutions concerned.

*For further clarifications in relation to this Circular, kindly direct any queries to the Policy & Legal Team ([bsupolicy@mfsa.mt](mailto:bsupolicy@mfsa.mt)) and/or the LSI Team ([lsisupervision@mfsa.mt](mailto:lsisupervision@mfsa.mt)) within Banking Supervision.*

## Annex 1

### Applicable Requirements

In case a financial holding company is exempted from approval under Article 21a(4) CRD, the following holds:

The designated subsidiary credit institution shall comply with:

- The requirements laid down in Article 11(1) CRR **on the basis of the consolidated situation of the FHC** that is exempted from approval under Article 21a(4) CRD; and
- The requirements laid down in Article 6(1) CRR **on the basis of its individual situation** (unless a waiver from individual prudential requirements is granted under Article 7 CRR).

The requirements laid down in Articles 6(1) and 11(1) CRR encompass all the requirements of Article 92 CRR. Accordingly, the designated subsidiary credit institution shall comply with:

- Article 92 CRR **on the basis of the consolidated situation of the FHC** that is exempted from approval under Article 21a (4) CRD; and
- Article 92 CRR **on the basis of its individual situation** (unless a waiver from individual prudential requirements is granted under Article 7 CRR).

In addition to the above, **the Designated Subsidiary Credit institution shall comply with the buffer requirements as well as applicable Pillar 2 requirements on the basis of the consolidated situation of the FHC as well as on the basis of its individual situation**, where such requirements apply or are imposed on the consolidated level of the FHC or on the individual level of that subsidiary credit institution. Reference is made to Articles 128 to 140 CRD. SREP and supervisory measures, including P2R and P2G, are based on Article 16 SSMR and Articles 104, 104a, and 110 CRD.

Thus, when there is a parent FHC the level of application is always on the basis of the consolidated situation of the parent FHC. Then depending on whether the parent FHC is exempted or not, the entity responsible for compliance may change, but the consolidated situation will not change because that always includes the parent FHC.

The regime does not create any new set of prudential requirements, nor does it change the definition of the consolidated situation. It thus merely implies a shift of the entity ensuring compliance with the requirements. Indeed, Article 21a(4)(c) CRD reads as follows: *“a subsidiary credit institution is designated as responsible to ensure the group’s compliance with prudential requirements on a consolidated basis and is given all the necessary means and legal authority to discharge those obligations in an effective manner”*. The consolidated basis remains the consolidated situation of the parent FHC even if the responsibility is shifted to the designated institution.