



Consultation Paper | CP21/21

Operational Resilience and Operational Continuity in Resolution: CRR firms, Solvency II firms, and Financial Holding Companies (for Operational Resilience)

November 2021





BANK OF ENGLAND
PRUDENTIAL REGULATION
AUTHORITY

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Responses are requested by Friday 14 January 2022.

In light of current measures to help prevent the spread of COVID-19, please address any comments or enquiries by email to: CP21_21@bankofengland.co.uk.

Alternatively, please address any comments or enquiries to:

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1 Overview

1.1 This Consultation Paper (CP) sets out the Prudential Regulation Authority's (PRA) proposals to apply the group provisions in the Operational Resilience Part of the PRA Rulebook relevant to Capital Requirements Regulation (CRR) firms to holding companies, and to make other minor formatting and clarification amendments to the Operational Resilience (Appendix 1) and Operational Continuity Parts of the PRA Rulebook (Appendix 3).

1.2 The proposals in this CP are relevant to different types of firms as follows:

- Operational Resilience: UK banks, building societies, and, PRA-designated investment firms (hereafter be known as 'banks'), financial holding companies, mixed financial holding companies, and, UK Solvency II firms, and the Society of Lloyd's and its managing agents (all of which will hereafter be known as 'insurers').
- Operational Continuity in Resolution: UK banks, building societies, and PRA-designated UK investment firms currently in scope of, or likely to come in scope of, the Operational Continuity Part of the PRA Rulebook.

1.3 The PRA also proposes consequential amendments to Supervisory Statement (SS) 1/21 'Operational resilience: Impact tolerances for important business services' (Appendix 2).

Implementation

1.4 The PRA proposes that the implementation date for the changes resulting from this CP would be:

- Thursday 31 March 2022 for the Operational Resilience Part; and
- Sunday 1 January 2023 for the Operational Continuity Part.

Responses and next steps

1.5 This consultation closes on Friday 14 January 2022. The PRA invites feedback on the proposals set out in this consultation. Please address any comments or enquiries to CP21_21@bankofengland.co.uk.

2 Proposals

2.1 The PRA proposes to apply the group provisions in the Operational Resilience Part of the PRA Rulebook relevant to CRR firms to financial and mixed activity holding companies. The proposals are designed to apply directly to these holding companies the same substantive policy requirements to which they are currently subject through requirements on individual firms in their groups. In addition, the PRA and to make other minor formatting and clarification amendments to the following:

- the Operational Resilience Part applying to CRR firms;
- the Operational Resilience Part applying to Solvency II firms;
- the Group Supervision Part; and
- the Operational Continuity Part.

2.2 The proposals are split into two sections: Operational resilience and Operational continuity in resolution.

Operational resilience

Operational Resilience Part of the PRA Rulebook – CRR firms

Proposals relating to Holding Companies

2.3 The Operational Resilience Part was made in March 2021, under the PRA's general and supplementary rule-making powers (sections 137G and 137T FSMA). This included obligations on firms which are part of a group and or consolidation group. The PRA stated it would review the application of Operational Resilience policy in Policy Statement (PS) 6/21 'Operational resilience: Impact tolerances for important business services.'¹

2.4 Since publication of PS6/21, HM Government's Financial Services Act 2021 (FS Act) has granted the PRA a specific power to make rules applying to approved and designated financial and mixed activity holding companies where it appears to the PRA to be necessary or expedient to make the rules for the purpose of advancing any of its objectives (section 192XA FSMA). This consultation proposes to use section 192XA FSMA to change Chapter 8 of the Operational Resilience Part from imposing certain obligations on firms which are part of a group and/or consolidated group, to imposing those obligations onto the holding company. These obligations would not apply to insurance holding companies.

2.5 Applying Chapter 8 (Group Arrangements) of the Operational Resilience Part to financial and mixed activity holding companies gives effect more directly to the initial policy intention, which stated that, where applicable, 'a group-level view' of operational resilience is taken. This 'ensures that the risks of the whole group, including those parts that are not subject to individual requirements, are taken into account'.² Applying these obligations on these holding companies

¹ March 2021: [PS6/21 | CP29/19 | DP1/18 Operational Resilience: Impact tolerances for important business services](#).

² December 2019: [CP29/19 'Operational Resilience: Impact tolerances for important business services'](#).

directly rather than on individual firms within their groups would be more proportionate and would align the Operational Resilience Part with the PRA's approach to consolidated prudential requirements, as per the proposals in CP12/21 'Financial holding companies: Further Implementation'³ and final policy in PS20/21 'Financial holding companies: Further Implementation'.⁴ The PRA considers that the proposals would advance its statutory objectives by addressing possible risks to safety and soundness, and to financial stability by aligning requirements for holding companies throughout the PRA Rulebook and making clear the holding companies' obligations and responsibilities in relation to Operational Resilience Policy.

2.6 Under Chapter 1 (Application and Definitions), the PRA proposes to amend Rule 1.1 to apply Chapter 8 of the Part to a CRR consolidation entity. This is to make Chapter 8 of the Operational Resilience Part applicable to financial holding companies and mixed financial holding companies (holding companies) that have been approved or designated in accordance with Part 12B of the Financial Services and Markets Act 2000 (FSMA).⁵

2.7 The PRA proposes to amend the definition of important business service in Rule 1.2. This change would clarify which firms must take into account the stability of the UK financial system when identifying their important business services.

2.8 The PRA proposes to amend the definition of important group business service in Rule 1.2. This is so that it would apply to holding companies.

2.9 In order for the Rules under Chapter 8 to be applicable to CRR consolidation entities, the PRA proposes to make a number of changes to the Rules under Chapter 2 (Operational Resilience Requirements). In Rule 2.1, the PRA proposes to remove the words 'and, where 8.2 applies, its important group business services'. The PRA proposes to delete Rule 2.2(2) which states 'where 8.2 applies, its important group business services'.

2.10 The PRA proposes to delete the words 'or important group business service' in Rule 2.3. In addition, the PRA proposes to amend the wording in Rule 2.3(1) to add the words 'or is controlled by'. This is to clarify which firms would take into account the stability of the UK financial system when setting impact tolerances.

2.11 The PRA proposes to delete the words 'or important group business service' in Rule 2.4 as this Rule only applies to the individual CRR firm, and would not apply to the financial or mixed activity holding company.

2.12 To ensure firms which are part of a group take a group view of operational resilience, the PRA proposes to move Rule 8.1 to Chapter 2 of the Operational Resilience Part to become Rule 2.5A. This rule sets out the obligations of the firm, rather than the obligations of the holding company which would be found in Chapter 8 (Group Arrangements).

2.13 In order to apply the Operational Resilience Part to holding companies, the PRA proposes to amend a number of rules under Chapter 8 (Group Arrangements). It is the PRA's intent that the

³ June 2021: [CP12/21 'Financial holding companies: Further implementation'](#).

⁴ September 2021: [PS20/21 'Financial holding companies: Further implementation'](#).

⁵ As amended by The Financial Holding Companies (Approval etc.) and Capital Requirements (Capital Buffers and Macro-prudential Measures) (Amendment) (EU Exit) Regulations 2020.

amendments to Chapter 8 would replicate existing obligations for group arrangements and would transfer the responsibility for compliance with the obligations from the firm to the holding company.

2.14 The PRA proposes to delete Rule 8.1 as this Rule would be replaced with Rule 2.5A, as outlined in paragraph 2.12.

2.15 The PRA proposes to insert Rules 8.1A, 8.1B, 8.1C, and 8.1D that would detail the requirements for the holding company to identify each important group business service and set impact tolerances for each important group business service. In addition, the Rules would set out the requirements the holding company must follow when setting impact tolerances.

2.16 The PRA proposes to delete Rule 8.2 as the provisions of this rule would be contained in Rules 8.1A and 8.1B.

2.17 The PRA proposes new wording for Rule 8.3 to clarify the obligations of the holding company. The amended Rule would set out requirements for the holding company to put into place sound, effective and comprehensive strategies, processes and systems to identify important group business services, set impact tolerances and ensure that the group can remain within the impact tolerances.

2.18 The PRA proposes to amend Rule 8.4 to focus on governance procedures for holding companies. The proposed amendments to Rule 8.4 would ensure the CRR consolidation entity follows the proper governance procedure by placing the obligation on the management body of the CRR consolidation entity to approve the important group business services and impact tolerances, rather than on the management body of the firm.

2.19 The PRA also proposes to amend SS1/21 to ensure the SS reflects the policy intention in relation to holding companies. The PRA proposes to amend Chapter 1 (Introductions), paragraph 1.3 to make the SS relevant to CRR consolidation entities. In addition, the PRA proposes to amend paragraphs 9.1 to 9.4 under Chapter 9 (Groups) to clarify which expectations in Chapter 9 relating to banking groups would apply to holding companies rather than individual firms.

Further proposed amendments

2.20 The PRA proposes to remove 'CRR firms' from the title of the Operational Resilience Part. The acronym 'CRR' (Capital Requirements Regulation) was originally added to help Solvency II firms distinguish Part names. The PRA proposes to remove 'CRR' to reduce the potential for confusion as to which respective Parts are relevant to which firms.

2.21 The PRA proposes to italicise the word 'person' in the definition of external group end user in Rule 1.2. This is to link the definition of 'person' contained in Schedule 1 of the Interpretation Act 1978, where 'person' includes a body of persons corporate or unincorporate.⁶

2.22 The PRA proposes to delete the O-SII definition in Rule 1.2. This is because the definition of O-SII will be introduced into the PRA Rulebook glossary. The PRA Rulebook Glossary definition of 'O-SII' includes the full reference to the Capital Requirements (Capital Buffers and Macro prudential

⁶ [Interpretation Act 1978](#).

Measures) Regulations 2014 (SI 2014/894). As such, the Capital Buffers Regulations definition is no longer needed, and the PRA proposes to delete this definition from Rule 1.2.

2.23 The PRA proposes to delete Rule 1.3. This is because the definition of O-SII, which incorporates the definition of Capital Buffers Regulations, will be introduced into the PRA Rulebook glossary before the Rules come into force on Thursday 31 March 2022, as outlined in paragraph 2.22.

2.24 Under Chapter 3 (Strategies, processes and systems), Rule 3.1, the PRA proposes to italicise 'important business service', 'important business services', and 'impact tolerance' to clarify that they are defined terms, and link the definitions of these terms to the definitions as set out in Rule 1.2 of the Operational Resilience Part. The PRA proposes to delete the words 'important group business service' and 'important group business services'.

Operational Resilience Part of the PRA Rulebook - Solvency II firms

2.25 Under Chapter 1 (Application and Definitions), the PRA proposes to italicise the word 'person' in the external group end user definition in Rule 1.2. This is to link to the definition of 'person' contained in Schedule 1 of the Interpretation Act 1978, where 'Person' includes a body of persons corporate or unincorporate.

2.26 Under Chapter 2 (Operational Resilience Requirements), Rule 2.2, the PRA proposes to replace the brackets around 'where Group Supervision 22.2 applies', with commas. This is to ensure the formatting of the document aligns with that used in the PRA Rulebook.

2.27 Under Chapter 3 (Strategies, Processes and Systems), the PRA proposes to amend Rule 3.1 to italicise 'important business services', 'important group business services', 'important group business service', and 'impact tolerance'. This aims to clarify that they are defined terms within the policy, and to link the definitions of these terms to the definitions as set out in Rule 1.2 of the Operational Resilience Part or in the PRA Rulebook Glossary.

2.28 Under Chapter 6 (Self-Assessment) and Chapter 7 (Governance), the PRA proposes to add 'where Group Supervision 22.2 applies' to Rules 6.1, 7.1, and 7.2. This addition is to clarify that firms must only take Rule 22.3 of the Group Operational Resilience Part into account when preparing a written self-assessment if they are part of a group.

2.29 In the title of Chapter 9 (Lloyds), the PRA proposes to add an apostrophe, to read 'Lloyd's'.

Group Supervision Part of the PRA Rulebook

2.30 Under Chapter 1 (Application and Definitions), the PRA proposes to:

- in Rule 1.2, italicise the word 'person' in the external group end user definition. This is to link the definition of 'person' contained in Schedule 1 of Interpretation Act 1978, where 'person' includes a body of persons corporate or unincorporated; and

- in Rule 1.2, amend the definition of *important business service* to fully reflect the scope of the policy by including ‘an appropriate degree of protection for those who are or may become the firm’s policyholders.’

2.31 Under Chapter 22 (Group Operational Resilience) the PRA proposes to italicise the words ‘third country’. This is to link the definition to that in the PRA Glossary where a third country means a territory or country other than the United Kingdom.

Have regards considerations

2.32 The PRA considers that the proposed changes would provide firms with greater clarity on the Operational Resilience Parts of the PRA Rulebook. The proposed amendments seek to ensure that the rules fully reflect the intent and scope of the Operational Resilience policy. The PRA considers that the proposals would advance its statutory objectives by addressing possible risks to safety and soundness, and to financial stability by providing greater clarity for firms, and minimise the potential for confusion with regard to the Operational Resilience Parts of the PRA Rulebook.

2.33 The PRA considers that two regulatory principles are relevant to the proposed changes: the principle that a burden or restriction which is imposed on a person should be proportionate to the benefits expected to result from the imposition of that burden, and that the PRA should exercise its functions transparently. These are analysed in more detail in Chapter 3. The PRA considers that the proposed amendments do not give rise to equality and diversity implications.

2.34 The PRA considers that the proposed amendments relating to the Operational Resilience Part for Solvency II firms, and the Group Supervision Part, would not result in any additional costs to firms. Rather, the proposals would benefit firms by providing greater clarity with regard to their obligations under the Operational Resilience Parts of the PRA Rulebook, remove any potential confusion relating to the rules, and reduce the risk of unintentional non-compliance.

2.35 In relation to the proposals relevant to CRR firms, Chapter 8 of the Operational Resilience Part already applies to firms (on the basis of the UK parent undertaking of the consolidation group). The PRA considers that there will be some cost to firms, but does not expect these costs to be material as this role must already be performed within the group and any transferal of responsibility from the firm to the holding company should be a straight forward matter. The non-materiality of the costs are similar to those set out in CP17/20, in respect of the application of consolidated prudential requirements to approved holding companies.⁷

Operational Continuity Part of the PRA Rulebook

2.36 The PRA is proposing a minor amendment to the Operational Continuity Part of the PRA Rulebook. The proposal would delete the word ‘other’ in Operational Continuity 2.3, to clarify the intended scope of application of the rule. The inclusion of the word ‘other’ has the potential to be interpreted by firms as limiting the application of Rule 2.3 to their intragroup service providers only, in so much as it can be interpreted as only applying in cases where entities in the group other than the firm itself fails, or is likely to fail. It is not the PRA’s intention to limit the application of Rule 2.3 in this way.

⁷ October 2020: [CP17/20 ‘Capital Requirements Directive V \(CRD V\): Further implementation.](#)

2.37 The effect of this proposal would be to align Rule 2.3 with the PRA's broad expectation in SS4/21 'Ensuring operational continuity in resolution' that firms should ensure they can meet payment obligations for their critical services, including through recovery, resolution, and related restructuring.⁸ In particular, the proposal would ensure the rule will be consistent with the PRA's policy intention set out in CP20/20 'Operational Continuity in Resolution: Updates to the policy',⁹ and PS9/21.¹⁰

2.38 In CP20/20, the PRA proposed to amend Rule 2.3 so that firms' financial arrangements support the continuity of their critical services during resolution and restructuring. The PRA outlined in PS9/21 that the term 'financial arrangements' is broad, and covers the ability of firms to pay their service providers, as well as the financial resilience of intragroup critical service providers.¹¹ This expectation is set out in paragraph 11.1 of SS4/21, and will apply to a firm's own payment obligations, as well as the costs associated with its intragroup and non-group critical service providers.

2.39 The proposed amendment advances the PRA's statutory objectives by addressing a potential risk to safety and soundness, and to financial stability, by clarifying which critical services should be captured under Rule 2.3.

2.40 The PRA considers that four regulatory principles are relevant to the proposed changes: the need to use the resources of the PRA in the most efficient and economical way; the principle that a burden or restriction which is imposed on a person should be proportionate to the benefits expected to result from the imposition of that burden; the responsibilities of the senior management of PRA-authorized persons in relation to compliance with requirements imposed by the PRA, and; the desirability of the PRA exercising its functions in a way that recognises differences in the nature of business carried on by different persons. These are analysed in more detail in Chapter 3. The PRA considers that the proposed amendments do not give rise to equality and diversity implications.

2.41 The PRA considers that the proposed amendments are unlikely to result in any additional costs to firms. Rather, the proposals would benefit firms by providing greater consistency and clarity within the PRA's Operational Continuity in Resolution policy.

⁸ May 2021: [SS4/21 | SS9/16 'Ensuring operational continuity in resolution'](#).

⁹ October 2020: [CP20/20 'Operational continuity in resolution: Updates to the policy'](#).

¹⁰ May 2021: [PS9/21 'Operational continuity in resolution: Updates to the policy'](#).

¹¹ May 2021: [PS9/21 'Operational continuity in resolution: Updates to the policy'](#).

3 The PRA's statutory obligations

3.1 In carrying out its policy making functions, the PRA is required to comply with several legal obligations. The PRA has a statutory duty to consult when changing rules (FSMA s138J). When not making rules, the PRA has a public law duty to consult widely where it would be fair to do so.

3.2 The PRA fulfils its statutory obligations and public law duties by providing the following in relation to the proposed policy:

- (i) **a cost benefit analysis;**
- (ii) **compatibility with the PRA's objectives:** an explanation of the PRA's reasons for considering that making the proposed rules is compatible with the PRA's duty to act in a way that advances its general objective,¹² insurance objective¹³ (if applicable), and secondary competition objective;¹⁴
- (iii) **FSMA regulatory principles:** an explanation of the ways in which having regard to the regulatory principles has affected the proposed rules;¹⁵
- (iv) **CRR rules:** in addition to the above, FSMA requires the PRA to 'have regard' to several further matters when making CRR rules.¹⁶ It also requires the PRA to explain how the new 'have regards' have affected its proposed rules.¹⁷ Furthermore, when making CRR rules, the PRA is required to 'consider, and consult the Treasury about, the likely effect of the rules on relevant equivalence decisions';¹⁸
- (v) **impact on mutuals:** a statement as to whether the impact of the proposed rules will be significantly different to mutuals than to other persons;¹⁹
- (vi) **HM Treasury recommendation letter:** the Prudential Regulation Committee (PRC) should have regard to aspects of the Government's economic policy as recommended by HM Treasury;²⁰ and
- (vii) **equality and diversity:** the PRA is also required by the Equality Act 2010²¹ to have due regard to the need to eliminate discrimination and to promote equality of opportunity in carrying out its policies, services, and functions.

3.3 Appendix 4 lists the statutory obligations applicable to the PRA's policy development process. The analysis in this chapter explains how the proposals have had regard to the most relevant

¹² Section 2B of FSMA.

¹³ Section 2C of FSMA.

¹⁴ Section 2H(1) of FSMA.

¹⁵ Sections 2H(2) and 3B of FSMA.

¹⁶ Section 144C(1) of FSMA. Part 9D FSMA (s144) defines CRR rules as PRA general rules related to either (i) provisions of the UK CRR revoked by HMT or (ii) 'CRR Basel standards' (as defined under s4 of the FS Act 2021). CRR rules also include rules made under section 192XA, which gives powers to the PRA to make rules in relation to specific matters and applying to financial holding companies and mixed financial holding companies that are approved or designated by the PRA ('Holdco rules').

¹⁷ Section 144D of FSMA.

¹⁸ Section 144C(3) of FSMA.

¹⁹ Section 138K of FSMA.

²⁰ Section 30B of the Bank of England Act 1998.

²¹ Section 149.

matters listed in paragraph 3.2 including an explanation of the ways in which having regard to these matters has affected the proposals.

Operational Resilience Part of the PRA Rulebook

3.4 As set out above, the PRA proposes to apply Chapter 8 of the Operational Resilience Part of the PRA Rulebook (for CRR firms) to financial and mixed activity holding companies, and to make other minor formatting and clarification amendments to the Operational Resilience Parts of the PRA Rulebook.

3.5 The PRA considers that the proposed amendments would advance its primary objective by improving transparency and its general objective to promote the safety and soundness of firms.

Cost benefit analysis

3.6 The PRA considers the proposed amendments would benefit firms by providing greater clarity with regard to their obligations under the Operational Resilience Parts of the PRA Rulebook. The corrections would remove any potential for confusion in relation to the rules, and would reduce the risk of unintentional non-compliance with the Operational Resilience Part of the PRA Rulebook, and any other costs that would be associated with necessary corrective actions. The amendments would also ensure standardisation of formatting throughout the PRA Rulebook, and would therefore avoid the potential for more general misunderstanding by correcting errors in the defined terms.

3.7 The proposal to apply the requirements in Chapter 8 of the Operational Resilience Part (for CRR firms) to holding companies would ensure consistency within the PRA Rulebook regarding the application of consolidated prudential requirements at the level of the approved or designated financial and mixed activity holding company. In addition, this amendment would provide greater clarity for firms by aligning the PRA's approach to holding companies throughout the PRA Rulebook by making clear these holding companies obligations and responsibilities in relation to Operational Resilience policy.

3.8 Chapter 8 of the Operational Resilience Part already applies to CRR firms on the basis of the consolidation situation of the UK parent undertaking of the consolidation group. The PRA considers that the proposal to apply the requirements in Chapter 8 to financial and mixed activity holding companies would incur some cost to firms. These costs would relate to transferring responsibility for identifying important group business services, and setting impact tolerances for those important group business services, to the holding company. The management body of the holding company would be required to approve the important group business services and their impact tolerances, and therefore would need to be able to demonstrate that they are responsible for meeting these requirements. However, these roles must already be performed within the group and any transferal of responsibility from the firm to the holding company should be a straight forward matter, so the cost is not expected to be material. The non-materiality of the costs are similar to those set out in CP17/20, in respect of the application of consolidated prudential requirements to approved holding companies.²²

3.9 The PRA considers that its proposals relating to the Operational Resilience Part (for Solvency II firms) and the Group Supervision Part would not result in additional costs to firms. These parts of

²² October 2020: [CP17/20 'Capital Requirements Directive V \(CRD V\): Further implementation.](#)

the PRA Rulebook already apply to relevant firms, and the proposed amendments do not create new obligations. The proposed changes to the Operational Resilience Parts are simple corrections and clarifications.

PRA objectives

3.10 The PRA considers that the proposed amendments would advance its primary objective by providing greater clarity for firms (and holding companies in relation to the Operational Resilience Part applicable to CRR firms), and removing any potential for confusion with regard to the Operational Resilience Parts of the PRA Rulebook.

3.11 The PRA considers that the proposed amendments to the Operational Resilience Parts of the PRA Rulebook in this CP do not have a material impact on effective competition, as they do not materially change the PRA's existing requirements.

Have regards

FSMA regulatory principles

3.12 In developing these proposals, the PRA has had regard to the regulatory principles. The following two principles are particularly relevant:

- (i) **The principle that a burden or restriction which is imposed on a person should be proportionate to the benefits expected to result from the imposition of that burden:** The PRA considers that the proposed amendments would not result in any additional burden to firms and will incur a minimal burden on holding companies. The PRA considers that the proposed amendments would benefit firms, as they would provide clarity with regard to their obligations under the Operational Resilience Parts of the PRA Rulebook.
- (ii) **The PRA should exercise its functions transparently:** The proposals are compatible with this principle as they seek to make corrections and clarifications to the Operational Resilience Parts of the PRA Rulebook which clarify the PRA's requirements, aiding transparency.

3.13 The PRA has considered the remaining FSMA regulatory principles (see references in Appendix 4), and considers that they are not material to this proposal.

Section 192XA rules

- **Relevant standards recommended by the Basel Committee on Banking Supervision:** The PRA considers that the proposals are consistent with Basel standards. The proposed changes ensure the continued application of consolidated supervision of banking groups, which is a key element of the Basel Framework.
- **The relative standing of the UK as a place for internationally active credit institutions and investment firms to be based or to carry on activities:** The PRA considers that the proposed changes are minor, and are unlikely to result in a material change in the current relative standing of the UK.
- **The likely effect of the rules on the ability of CRR firms to continue to provide finance to businesses and consumers in the United Kingdom on a sustainable basis in the medium and long term:** The proposed changes are unlikely to have a significant impact on the ability of CRR firms to provide finance on a sustainable basis.

3.14 The PRA has considered the remaining matters to which it should have regard when making CRR rules (see references in Appendix 4), and considers that they are not material to this proposal.

Impact on mutuals

3.15 The PRA considers that the impact of the proposed rule changes on mutuals is expected to be no different from the impact on other firms.

HM Treasury recommendation letter

3.16 HM Treasury has made recommendations to the Prudential Regulation Committee (PRC) about aspects of the Government's economic policy to which the PRC should have regard when considering how to advance the PRA's objectives and how to apply the regulatory principles.²³ The PRA considers the aspect most relevant to the proposals is transparency. This has been discussed in paragraph 3.11 above.

3.17 The PRA has considered the remaining aspects of government economic policy as laid out in the HM Treasury recommendation letter (see references in Appendix 4), and considers that they are not material to this proposal. Additionally, the PRA has considered the impact of the changes on climate and biodiversity and does not consider them to have a material bearing on the proposals.

Equality and diversity

3.18 The PRA considers that the proposals do not give rise to equality and diversity implications.

Operational Continuity Part of the PRA Rulebook

3.19 The PRA proposes to delete the word 'other' from Rule 2.3 in the Operational Continuity in Resolution Part of the PRA Rulebook, to clarify the intended scope of application of the rule.

3.20 The PRA considers that this proposal would address a potential risk to safety and soundness, and to financial stability, by clarifying which critical services should be captured under Rule 2.3 in the Operational Continuity in Resolution Part of the PRA Rulebook.

Cost benefit analysis

3.21 The PRA considers that the likelihood of costs being incurred by firms as a result of its proposal is very small. The benefit of the proposed amendment would be increased consistency and clarity within the PRA's Operational Continuity in Resolution policy. The proposal would benefit firms by increasing clarity regarding the PRA's policy set out in PS9/21, which helps reduce implementation costs to firms ahead of the policy's implementation on Sunday 1 January 2023.

PRA objectives

3.22 The PRA considers that its proposal addresses a potential risk to safety and soundness of firms, and to financial stability, because it would clarify that a firm's operational and financial arrangements must ensure the continuity of critical services when any member of its group, including the firm itself, fails or is likely to fail.

3.23 The PRA considers that its proposal would facilitate effective competition, given that the proposal clarifies that the application of Rule 2.3 is not intended to be limited to firms with intra-group service providers only. This facilitates competition because Rule 2.3 would apply to firms with a variety of service provision models.

Have regards

FSMA regulatory principles

3.24 In developing this proposal, the PRA has had regard to the regulatory principles. Four of the principles are particularly material.

- (i) **The need to use the resources of the PRA in the most efficient and economical way:** The PRA considers that the proposal would improve the efficiency of use of the PRA's resources. In the absence of the proposed amendment, firms may have adopted a narrow interpretation of Rule 2.3, requiring the PRA to expend regulatory resource to ensure risks to firms' financial arrangements supporting the continuity of critical services had been addressed.
- (ii) **The principle that a burden or restriction which is imposed on a person should be proportionate to the benefits which are expected to result from the imposition of that burden:** The PRA considers that the proposal would not impose additional burden or restriction on a firm relative to its policy set out in PS9/21. Firms that may have adopted a narrow interpretation of Rule 2.3 would need to ensure they can meet payment obligations for their critical services where they might otherwise not need to. However, closing an unintended gap in the rules that could otherwise result in discontinuity and disruption of services during recovery and resolution supports the PRA's statutory objectives, and is therefore consistent with taking a proportionate approach.
- (iii) **The responsibilities of the senior management of PRA-authorized persons in relation to compliance with requirements imposed by the PRA:** The PRA considers that relevant firms' senior management would not incur any additional responsibilities as a result of this proposal.
- (iv) **The desirability of the PRA exercising its functions in a way that recognises differences in the nature of businesses carried on by different persons:** The PRA considers this principle is relevant to this proposal because firms that rely on services provided predominately through a business unit within the firm itself to one or more of its other business units (intra-entity) would be most affected. However, consideration of this principle has not changed the proposal because the PRA considers that the requirements under Rule 2.3 (as amended), and the expectations in paragraph 11.1 of SS4/21, would apply to firms regardless of their business or service provision models.
- (v) **The principle that the PRA should exercise its functions transparently:** The PRA's proposal is compatible with this principle as it seeks to align the scope of Rule 2.3 in the Operational Continuity in Resolution Part of the PRA Rulebook with the PRA's expectations set out in SS4/21. This aids transparency by removing the potential for firms to interpret Rule 2.3 as having a limited application, which does not align with the PRA's intention.

3.25 The PRA has considered the remaining FSMA regulatory principles (see Appendix 4) and considers that they are not material to this proposal.

Impact on mutuals

3.26 The PRA considers that the impact of the proposed rule changes on mutuals is expected to be no different from the impact on those non-mutuals that predominately rely on intra-entity service provision.

HM Treasury recommendation letter

3.27 HM Treasury has made recommendations to the PRC about aspects of the Government's economic policy to which the PRC should have regard when considering how to advance the PRA's objectives and apply the regulatory principles.²⁴

3.28 **Competition:** The PRA considers that its proposal would facilitate effective competition given the proposal clarifies that the application of Rule 2.3 is not intended to be limited to firms with intra-group service providers only. This facilitates competition because Rule 2.3 would apply to firms with a variety of service provision models.

3.29 The PRA has considered the remaining aspects of government economic policy as laid out in the HM Treasury letter (see Appendix 4), and considers that they are not material to this proposal.

Equality and diversity

3.30 The PRA considers that the proposal does not give rise to equality and diversity implications.

Appendices

1	Draft Operational Resilience Instrument	15
2	Draft amendments to SS1/21 'Operational resilience: Impact tolerances for important business services'	24
3	Draft Operational Continuity Instrument	26
4	PRA statutory obligations	28

1 Draft Operational Resilience Instrument

PRA RULEBOOK: CRR FIRMS, SII FIRMS: OPERATIONAL RESILIENCE INSTRUMENT 2022

Powers exercised

- A. The Prudential Regulation Authority (“PRA”) makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
- (1) section 137G (The PRA’s general rules);
 - (2) section 137T (General supplementary powers); and
 - (3) section 192XA (Rules applying to holding companies).
- B. The rule-making powers referred to above are specified for the purpose of section 138G(2) (Rule-making instrument) of the Act.

Pre-conditions to making

- C. In accordance with sections 144C(3) and 144E of the Act the PRA consulted the Treasury about the likely effect of the rules on relevant equivalence decisions within the meaning of section 144C (4) of the Act.
- D. In accordance with section 138J of the Act (Consultation by the PRA), the PRA consulted the Financial Conduct Authority.
- E. The PRA published a draft of the proposed rules in accordance with section 138J(1)(b) of the Act, accompanied by the information listed in section 138J(2) and the explanation referred to in section 144D of the Act insofar as that section is applicable to the rules.
- F. [The PRA had regard to representations made.]

PRA Rulebook: CRR Firms, SII Firms: Operational Resilience Instrument 2022

- G. The PRA makes the rules in Annexes to this instrument.

Part	Annex
Operational Resilience – CRR Firms	A
Operational Resilience – Solvency II Firms	B
Group Supervision	C

Commencement

- H. This instrument comes into force on [31 March 2022].

Citation

- I. This instrument may be cited as the PRA Rulebook: CRR Firms, SII Firms: Operational Resilience Instrument 2022.

By order of the Prudential Regulation Committee

[DATE]

Annex A

Amendments to the Operational Resilience- CRR Firms Part

In this Annex, new text is underlined and deleted text is struck through.

OPERATIONAL RESILIENCE – CRR FIRMS

1 APPLICATION AND DEFINITIONS

1.1 Unless otherwise stated:

(1) other than Chapter 8, this Part applies to every *firm* that is a *CRR firm*;

(2) Chapter 8 applies to every CRR consolidation entity.

1.2 In this Part, the following definitions shall apply:

~~Capital Buffers Regulations~~

~~means the Capital Requirements (Capital Buffers and Macro-prudential Measures) Regulations 2014 (SI 2014/894).~~

~~external group end user~~

~~means a ~~person~~ person who receives services and who is not a member of the ~~firm's CRR consolidation entity's consolidation group~~ on the basis of the consolidated situation of the firm's UK parent undertaking.~~

...

~~important business service~~

~~means a service provided by a *firm*, or by another *person* on behalf of the *firm*, to another *person* which, if disrupted, could pose a risk to:~~

~~(1) where the *firm* is, or is controlled by, an O-SII, the stability of the UK financial system; or~~

~~(2) the *firm's* safety and soundness.~~

...

~~important group business service~~

~~means a service provided by a member of the ~~firm's CRR consolidation entity's consolidation group~~ (other than the *firm*) on the basis of the consolidated situation of the UK parent undertaking of that consolidation group, to an *external group end user* which, if disrupted, could pose a risk to:~~

~~(1) where the *firm* any member of the CRR consolidation entity's consolidation group is an O-SII, the stability of the UK financial system; or~~

~~(2) the *firm's* safety and soundness of any CRR firm within the CRR consolidation entity's consolidation group.~~

~~O-SII~~

~~means a *person* or group identified by the PRA in accordance with Part 5 of the Capital Buffers Regulations.~~

1.3 ~~[deleted.] Unless otherwise defined, any italicised expression used in this Part and in the CRR has the same meaning as in the CRR.~~

2 OPERATIONAL RESILIENCE REQUIREMENTS

2.1 A firm must identify its *important business services* and, where 8.2 applies, its *important group business services*.

2.2 A firm must set an *impact tolerance* for each of:

(1) its *important business services*; and

(2) where 8.2 applies, its *important group business services*.

2.3 The *impact tolerance* set for each *important business service* or *important group business service* must specify the first point at which a disruption to the *important business service* or *important group business service* would pose a risk to:

(1) where the firm is, or is controlled by, an O-SII, the stability of the UK financial system; or

(2) the firm's safety and soundness.

2.4 The *impact tolerance* set for each *important business service* or *important group business service* must specify the length of or point in time, in addition to any other relevant metrics, for which a disruption to that *important business service* or *important group business service* can be tolerated.

...

2.5A Where a firm is a member of a group, the firm must ensure it accounts for any additional risks arising elsewhere within its group that may affect the firm's ability to comply with 2.5.

...

3 STRATEGIES, PROCESSES AND SYSTEMS

3.1 A firm must have in place sound, effective and comprehensive strategies, processes and systems that enable it adequately to:

(1) identify its *important business services* *important business services* and, where 8.2 applies, *important group business services*;

(2) set an *impact tolerance* *impact tolerance* for each *important business service* *important business service* and, where 8.2 applies, each *important group business service*; and

(3) identify and address any risks to its ability to comply with the obligation under 2.5.

...

8 GROUP ARRANGEMENTS

8.1 ~~[deleted.] Where a firm is a member of a group, the firm must ensure it accounts for any additional risks arising elsewhere in the group that may affect the firm's ability to comply with the obligation under 2.5.~~

8.1A A CRR consolidation entity must identify each *important group business service*.

8.1B A CRR consolidation entity must set an *impact tolerance* for each *important group business service*.

8.1C The *impact tolerance* set for each *important group business service* must specify the first point at which a disruption to the *important group business service* would pose a risk to:

(1) where any member of the *CRR consolidation entity's consolidation group* is an *O-SII*, the stability of the *UK* financial system; or

(2) the safety and soundness of any *CRR firm* within the *CRR consolidation entity's consolidation group*.

8.1D The *impact tolerance* set for each *important group business service* must specify the length of or point in time, in addition to any other relevant metrics, for which a disruption to that *important group business service* can be tolerated.

8.2 ~~[deleted.]Where a *firm* is a member of a *consolidation group*, the *firm* must also comply with 2.1 and 2.2 in relation to its *important group business services*, on the basis of the *consolidated situation* of the *UK parent undertaking* of the *consolidation group*.~~

8.3 ~~With the exception of 3.1(3), where a *firm* is a member of a *consolidation group*, t~~The *firm**CRR consolidation entity* must ensure that they have in place sound, effective and comprehensive strategies, processes and systems at the level of the *consolidation group* of which it is a member comply with the obligations set out in 3 on the basis of the *consolidated situation* of the *UK parent undertaking* of the *consolidation group* that enable it adequately to:

(1) identify each *important group business service*;

(2) set an *impact tolerance* for each *important group business service*; and

(3) assess whether each member of the *CRR consolidation entity's consolidation group* providing each *important group business service* could remain within the *impact tolerance* set for that *important group business service* in the event of a severe but plausible disruption to its operations.

8.4 A *CRR consolidation entity* must ensure that its *management body* approves:

(1) the *important group business services* identified by it in compliance with this Chapter; and

(2) the *impact tolerances* set by it in compliance with this Chapter~~Where a *firm* is a member of a *consolidation group*, the *firm* must ensure that the strategies, processes and systems at the level of its *consolidation group* enable the *firm* to assess on the basis of the *consolidated situation* of the *UK parent undertaking* of the *consolidation group* whether the member of that *consolidation group* providing each *important group business service* could remain within the *impact tolerance* in the event of a severe but plausible disruption to its operations.~~

...

Annex B

Amendments to the Operational Resilience – Solvency II Firms Part

In this Annex, new text is underlined and deleted text is struck through.

1 APPLICATION AND DEFINITIONS

...

1.2 In this Part, the following definitions shall apply:

external group end user

means a ~~person~~person who receives services and who is outside of the *group* of which the *firm* is a member.

...

2 OPERATIONAL RESILIENCE REQUIREMENTS

...

2.2 A *firm* must set an *impact tolerance* for each of:

(1) its *important business services*; and

(2) ~~{where Group Supervision 22.2 applies}~~, its *important group business services*.

...

3 STRATEGIES, PROCESSES AND SYSTEMS

3.1 A *firm* must have in place sound, effective and comprehensive strategies, processes and systems that enable it adequately to:

(1) identify its ~~important business services~~*important business services* and, where Group Supervision 22.2 applies, its ~~important group business services~~*important group business services*;

(2) set an ~~impact tolerance~~*impact tolerance* for each ~~important business service~~*important business service* and, where Group Supervision 22.2 applies, each ~~important group business service~~*important group business service*; and

(3) identify and address any risks to its ability to comply with the obligation in 2.5.

...

6 SELF-ASSESSMENT

6.1 A *firm* must prepare and regularly update a written self-assessment of its compliance with this Part and, where Group Supervision 22.2 applies, Group Supervision 22.

...

7 GOVERNANCE

- 7.1 A *firm* must ensure that its *management body* approves the *important business services* and *important group business services* identified by the *firm* in compliance with 2.1 and, where Group Supervision 22.2 applies, Group Supervision 22.3.
- 7.2 A *firm* must ensure that its *management body* approves the *impact tolerances* set by the *firm* in compliance with 2.2 and, where Group Supervision 22.2 applies, Group Supervision 22.3.

...

9 LLOYD'S

- 9.1 This Part applies to the *Society* and *managing agents* separately.

Annex C

Amendments to the Group Supervision Part

In this Annex new text is underlined and deleted text is struck through.

1 APPLICATION AND DEFINITIONS

...

1.2 In this Part, the following definitions shall apply:

...

external group end user

means a ~~person~~person who receives services and who is outside of the *group* of which the *firm* is a member.

...

important business service

means a service provided by a *firm*, or by another *person* on behalf of the *firm*, to another *person* which, if disrupted, could pose a risk to:

- (1) where the *firm* is a *relevant Solvency II firm*, the stability of the *UK* financial system;
or
- (2) the *firm's* safety and soundness; or
- (3) an appropriate degree of protection for those who are or may become the *firm's* *policyholders*.

...

22 GROUP OPERATIONAL RESILIENCE

...

22.5 Where a *firm* is a member of a *group* covered by 2.1(3), 22.2, 22.3 and 22.4 do not apply if, subject to 22.6, the ~~third country~~third country in which the *group's parent undertaking* has its head office is assessed to be equivalent under Article 260 of the *Solvency II Directive*, Article 380 and 380A of the *delegated act*, or an equivalence determination under paragraph 12 of Schedule 1 of The Equivalence Determinations for Financial Services and Miscellaneous Provisions (Amendment etc) (EU Exit) Regulations 2019.

...

EXTERNALLY DEFINED TERMS

Term	Definition source
group (external definition applies in Annex A only)	Section 421 of the Financial Services and Markets Act 2000
person	Interpretation Act 1978 Schedule 1

2 Draft amendments to SS1/21 ‘Operational resilience: Impact tolerances for important business services’

In this Annex, new text is underlined and deleted text is struck through.

...

1 Introduction

...

1.3 This SS is relevant to all:

- UK banks, building societies, and PRA-designated investment firms (hereafter banks), CRR consolidation entities; and
- UK Solvency II firms, the Society of Lloyd’s, and its managing agents (hereafter insurers).

1.4 Banks and insurers are collectively referred to as ‘firms’ in this SS. Chapter 9 of this SS, ‘Groups’, relates to the consolidated application of the PRA’s operational resilience expectations. In chapter 9, where those expectations relate to a banking group, the term ‘CRR consolidation entity’ is used; where those expectations refer to an insurance group, the term ‘insurer’ is used.

...

4 Actions to remain within impact tolerance

...

Policy implementation

...

4.14 Senior management are expected to take responsibility for delivering the policy outcomes. Firms are expected to have a prioritised plan which sets out how they will comply with the requirement to be able to remain within their impact tolerances within a reasonable time, and no later than Monday 31 March 2025.²⁵ For a firm’s plan to be effective, firms must have started putting the plan into effect by Thursday 31 March 2022. As part of this planning, firms should prioritise their regular mapping and scenario testing so that they will be able to identify vulnerabilities in sufficient time so that measures can be taken to remediate them. Firms, particularly larger, more complex ones, will need to make choices and prioritise with the ultimate goal of delivering the outcomes of the policy.

...

²⁵ Operational Resilience – CRR Firms 2.5, 2.6, Operational Resilience – Solvency II Firms 2.5, 2.6. Firms should note that they must comply with Operational Resilience – CRR Firms 2.5A by Thursday 31 March 2022.

9 Groups

9.1 The PRA expects ~~firms~~ CRR consolidation entities (in the case of UK Banking Groups) or insurers (in the case of UK Insurance Groups) to identify a proportionate number of important group business services and respective impact tolerances at the level of the group. Taking a group level view of operational resilience ensures the risks to the whole group, including parts of the group that are not subject to the individual requirements, are taken into account.

9.2 An important group business service²⁶ is a service provided by a member of the ~~firm's~~ group to an external end user²⁷ which, if disrupted, could ~~(via their impact on the group as a whole)~~ pose a risk to financial stability in the UK, ~~the UK firm's~~ the safety and soundness of any firm in the group ~~(via their impact on the group as a whole)~~, or (in the case of PRA-regulated insurers) policyholder protection. For example, where there is a UK group that has a subsidiary, branch, or business unit providing a service to customers outside the UK, which could, if disrupted, pose a risk to the safety and soundness of the UK group or UK financial stability, the group should identify that service as an important group business service and assess whether each important group business service could remain within the impact tolerance in the event of a severe but plausible disruption to its operations.

...

9.4 The Operational Resilience Parts²⁸ require that ~~firms~~ CRR consolidation entities or insurer ensure that the strategies, processes, and systems at the level of their group enable ~~the firm~~ it to assess whether important group business services are able to remain within their impact tolerances in severe but plausible scenarios. A ~~firm~~ CRR consolidation entity or insurer would be expected to work with other members of its group to take action, should it be likely that an important group business service could not be delivered within its impact tolerance. Firms are required to include this analysis in their self-assessments.

²⁶ The definition of important group business services is in the Operational Resilience – CRR Firms Part and Group Supervision Part.

²⁷ The definition of group external end user is in the Operational Resilience – CRR Firms Part and Operational Resilience – Solvency II Firms Part.

²⁸ Operational Resilience – CRR Firms 8.3 ~~8.4~~, Group Supervision 22.5.

3 Draft Operational Continuity Instrument

PRA RULEBOOK: CRR FIRMS: OPERATIONAL CONTINUITY INSTRUMENT 2022

Powers exercised

- A. The Prudential Regulation Authority (“PRA”) makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
- (1) section 137G (The PRA’s general rules); and
 - (2) section 137T (General supplementary powers).
- B. The rule-making powers referred to above are specified for the purpose of section 138G(2) (Rule-making instruments) of the Act.

Pre-conditions to making

- C. In accordance with section 138J of the Act (Consultation by the PRA), the PRA consulted the Financial Conduct Authority. After consulting, the PRA published a draft of proposed rules and had regard to representations made.

PRA Rulebook: CRR Firms: Operational Continuity Instrument 2022

- D. The PRA makes the rules in the Annex to this instrument.

Commencement

- E. This instrument comes into force on 1 January 2023.

Citation

- F. This instrument may be cited as the PRA Rulebook: CRR Firms: Operational Continuity Instrument 2022.

By order of the Prudential Regulation Committee

[DATE]

Annex

Amendments to the Operational Continuity Part

In this Annex deleted text is struck through.

...

2 FACILITATION OF EFFECTIVE RECOVERY AND RESOLUTION PLANNING

...

2.3 A *firm's* operational and financial arrangements must ensure the continuity of the *critical services* it receives in the event of:

- (1) circumstances in which all or part of the business of any ~~other~~ member of its *group* is likely to fail; or
- (2) the failure of all or part of the business of any ~~other~~ member of its *group*.

...

4 PRA statutory obligations

The statutory obligations applicable to the PRA's policy development process are set out below. This CP explains the policy assessment of relevant considerations.

- Purpose of the policy proposals (FSMA s138J(2)(b)).
- Cost benefit analysis (FSMA s138J(2)(a) and (7)(a)); and an estimate of those costs and benefits (if reasonable) (FSMA s138J(8)).
- Analysis of whether the impact on mutuals is significantly different to the impact on other authorised firms (FSMA s138J(2)(c) and 138K).
- Compatibility with the PRA's primary objectives (FSMA s138J(2)(d)(i), 2B and 2C).
- Compatibility with the PRA's secondary competition objective (FSMA s138J(2)(d)(ii) and 2H(1)).
- Compatibility with the regulatory principles (FSMA s138J(2)(d)(ii), 2H(2) and 3B).
- Have regard to the HMT recommendation letter (BoE Act s30B).
- Have due regard to the public sector equality duty (Equality Act s149).
- Have regard, subject to any other requirement affecting the exercise of the regulatory function, to the principles of good regulation and when determining general policy or principles to the Regulators Code (Legislative and Regulatory Reform Act 2006 s21 & 22)
- Have regard, so far as consistent with the proper exercise of those functions, to the purpose of conserving biodiversity. Conserving biodiversity includes, in relation to a living organism or type of habitat, restoring or enhancing a population or habitat (Natural Environment and Rural Communities Act 2006, s40).
- Consultation of the FCA (FSMA s138J(1)(a)).
- *Where the consultation proposals a PRA rule change or amendment to onshored BTS that affects the processing of personal data - consultation with the Information Commissioner's Office (article 36(4) General Data Protection Regulation).*
- *For UK Technical Standards Instruments only:* FSMA s138J(1)(a) is replaced with: consultation of the FCA and/or Bank, where that Regulator has an interest in the technical standards (FSMA s138P(4) and (5)).
- *For UK Technical Standards Instruments only:* notice given to HMT of the consultation on the UKTS ('best efforts' basis).
- *For CRR rules only:* subject to certain exceptions, have regard to:
 - relevant standards recommended by the Basel Committee on Banking Supervision from time to time

- the likely effect of the rules on the relative standing of the United Kingdom as a place for internationally active credit institutions and investment firms to be based or to carry on activities. For these purposes, the PRA must consider the United Kingdom's standing in relation to the other countries and territories in which, in its opinion, internationally active credit institutions and investment firms are most likely to choose to be based or carry on activities
- the likely effect of the rules on the ability of CRR firms to continue to provide finance to businesses and consumers in the United Kingdom on a sustainable basis in the medium and long term
- the target in section 1 of the Climate Change Act 2008 (carbon target for 2050)

(s144C (1) & (2) FSMA – exceptions in s144E FSMA).

- *For CRR rules only* – explanation of the ways in which having regard to the matters specified above has affected the proposed rules (s144D FSMA).
- *For CRR rules only* – publication of a summary of the proposed CRR rules.
- *For CRR rules only* – consideration and consultation with the Treasury about the likely effect of the rules on relevant equivalence decisions (s144C (3) & (4) FSMA).