

Policy Statement | PS9/15

Depositor and dormant account protection — further amendments

May 2015



BANK OF ENGLAND
PRUDENTIAL REGULATION
AUTHORITY



Prudential Regulation Authority
20 Moorgate
London EC2R 6DA

Prudential Regulation Authority, registered office: 8 Lothbury, London EC2R 7HH.
Registered in England and Wales No: 07854923



BANK OF ENGLAND
PRUDENTIAL REGULATION
AUTHORITY

Policy Statement | PS9/15

Depositor and dormant account protection — further amendments

May 2015

This policy statement contains the final rules, and an updated supervisory statement to implement the proposals made in consultation paper CP15/15 in relation to depositor and dormant account protection.

1 Introduction

1.1 This Prudential Regulation Authority (PRA) policy statement (PS) provides feedback to responses to CP15/15 'Depositor and dormant account protection – further amendments'.⁽¹⁾ It sets out final rules intended to reduce the adverse effects the failure of firms could be expected to have on the stability of the UK financial system and enhance depositor confidence and therefore advance the PRA's general objective of promoting the safety and soundness of firms.

1.2 In CP15/15 the PRA proposed:

- a definition of public authority;
- extending deposit protection to deposits held by local authorities with an annual budget of up to €500,000;
- a new requirement for firms to inform depositors of deposits, categories of deposit and other instruments no longer covered by a deposit guarantee scheme (DGS) from 3 July 2015 (eg certain certificates of deposit);
- extending continuity of access rules in relation to overdrawn accounts; and
- a new requirement on deposit-takers to provide the Financial Services Compensation Scheme (FSCS), at their or the PRA's request, with information held on dormant accounts that have been transferred to a dormant account fund operator and which is necessary to enable the FSCS to prepare for the payment of compensation.

1.3 The annex of this PS contains amendments to the Depositor Protection rules and Dormant Account Scheme rules found in the Depositor Protection Part and Dormant Account Scheme Part of the PRA Rulebook (see Appendix 1). Amendments to the supervisory statement SS18/15 'Depositor protection' (now renamed 'Depositor and dormant account protection') are reflected in the updated statement published in this PS (see Appendix 2).⁽²⁾

1.4 This PS is relevant to:

- UK banks, building societies and credit unions as well as to overseas firms with PRA deposit-taking permission and UK branches of European Economic Area (EEA) credit institutions;
- the FSCS, as the administrator of the United Kingdom's DGS;
- depositors;
- dormant account holders; and
- dormant account fund operators.

1.5 No material changes to the proposals in CP15/15 are proposed as a result of consultation responses received, although there are some minor changes to the proposed rule amendments (see Appendix 1), and further amendments to SS18/15 are set out in light of requests for further clarification on the PRA's expectations (see Appendix 2).

Impact on mutuals

1.6 The PRA is required by the Financial Services and Markets Act 2000 (FSMA) to publish a statement on the impact of rules on mutuals where the final rule differs from the draft of the proposed rule. In the PRA's opinion, the impact of the rules as made is not significantly different from the impact of the proposed rules in CP15/15 on mutuals or other deposit-takers.

Further amendments

1.7 Firms should note that in response to queries to the Depositor Protection rules published in PS6/15 'Depositor and dormant account protection' in April 2015,⁽³⁾ the PRA will undertake a further short consultation in 2015 H1 of limited scope, focusing on clarifications and administrative amendments. Given the 3 July implementation date for various requirements, firms may wish to note in particular a proposed amendment to the transitional Single Customer View (SCV) fields so that 'account balance in the original currency' is amended to read 'account balance in sterling' in Depositor Protection 50.11.

1.8 The CP will also contain an amended version of supervisory statement SS18/15 setting out further detail on the PRA's expectations in respect of the recast DGSD disclosure requirements following industry requests for further clarity; clarifications in relation to the definition of an 'exclusions view'; rule amendments in relation to FSCS powers; and some administrative corrections.

2 Depositor protection

2.1 The PRA is required by FSMA to have regard to any representations made to the proposals in a consultation, to publish an account, in general terms, of those representations and its response to them, and to publish details of any significant differences in the rules as made. This chapter sets out feedback to responses received to PRA proposals set out in CP15/15 in relation to depositor protection.

2.2 In recognition of the requirements of Article 6(5) of the recast DGSD (to review the deposit protection limit on 3 July 2015), the PRA stated in PS6/15 that consultation on

(1) *PRA Consultation Paper CP15/15*, 'Depositor and dormant account protection – further amendments', April 2015; www.bankofengland.co.uk/pr/Pages/publications/cp/2015/cp1515.aspx.

(2) *PRA Supervisory Statement SS18/15*, 'Depositor protection', April 2015; www.bankofengland.co.uk/pr/Pages/publications/ss/2015/ss1815update.aspx.

(3) *PRA Policy Statement PS6/15*, 'Depositor and dormant account protection', April 2015; www.bankofengland.co.uk/pr/Pages/publications/ps/2015/ps615.aspx.

Depositor Protection rules which set the coverage limit and related rules, such as disclosure, remains open. For the same reasons, consultation on the relevant rules contained in this PS also remains open.

FSCS protection for public authorities and small local authorities

Public authorities

2.3 Under the recast DGSD, public authorities are ineligible for deposit protection (although there is discretion to protect local authorities with an annual budget of up to €500,000 — see 2.4 to 2.6).⁽¹⁾ No objection was raised in relation to the PRA's proposed definition of public authority as including 'a government, central administrative authority, provincial authority, regional authority, municipal authority or local authority' and therefore the PRA has included this definition in rules as proposed.

Local authorities

2.4 Respondents generally acknowledged the rationale for extending deposit protection to deposits held by local authorities with an annual budget of up to €500,000⁽²⁾ although some respondents expressed concern at the limited time available to identify such bodies to meet the requirement to mark eligible deposits from 3 July 2015.⁽³⁾ One respondent suggested that the proposed extension of protection should be delayed until 2016 and that the annual requirement to verify eligibility of small local authorities should be replaced by an approach where eligibility is confirmed post default by the FSCS. Some respondents also requested additional clarity regarding how they should treat local authorities where their annual budget is unknown, or they do not confirm with the firm what it is.

2.5 The PRA has extended eligibility to include these depositors as planned. The transposition deadline of 3 July 2015 is set by the recast DGSD and, as such, the requirement to mark eligible deposits held by such local authorities must apply from 3 July 2015.⁽⁴⁾ Where firms have concerns about meeting this deadline they should discuss this with their PRA supervisor.

2.6 The PRA acknowledges that it may be difficult for firms to meet the 3 July deadline where local authorities fail to respond in a timely manner to requests from firms to confirm their annual budget. Further clarification around the PRA's expectations in this respect has been set out in SS18/15 (see Appendix 2).

Informing depositors of deposits no longer covered by the DGS

2.7 Respondents requested additional clarity around the proposal to require firms to ensure that depositors are informed about the deposits or categories of deposits or other instruments no longer covered by a DGS from 3 July 2015, as

required by article 19(2) of the recast DGSD. The PRA has therefore amended the template exclusions list set out in Annex 3 of the Depositor Protection Part and Chapters 16 and 17 of the Depositor Protection Part to prescribe how firms should meet the requirement. It is not expected that this change will add materially to the costs set out in CP15/15.

Overdrafts

2.8 CP15/15 proposed amendments to the Depositor Protection Part to extend continuity of access (CoA) system requirements to cover accounts which are in overdraft, to enable wider application of continuity of access to deposit accounts. A number of respondents were supportive of the proposals, given the benefits of extending CoA requirements to overdrawn accounts in terms of depositor protection.

2.9 Respondents observed that it might be simpler to adopt a single approach, whereby overdrawn accounts were always either left with their existing balance or set to zero. The PRA recognises that this approach would be less complex, but reiterates the importance of having the flexibility to achieve either outcome to support the best possible range of resolution options.

2.10 Some respondents queried if the extension of SCV and CoA requirements to cover negative balances would also cover non-eligible products. The Depositor Protection rules define an SCV as being a single consistent view of a depositor's eligible deposits and the CoA requirements in Depositor Protection 13.6 relate only to negative balances in accounts that may also hold eligible deposits. The PRA has added additional guidance to SS18/15 to clarify further that SCV and CoA requirements in relation to overdrafts apply to the same deposit accounts that would otherwise be included in the SCV and exclusions files (see Appendix 2).

2.11 Several respondents queried if accounts that had entered overdraft without prior agreement and on which future withdrawals had been temporarily suspended should be included in CoA arrangements. The PRA recognises that such factors might be relevant considerations in providing continuity to such accounts. Therefore the PRA has amended Depositor Protection 12.9 to enable the reporting of the maximum authorised overdraft amount on an account in the SCV or exclusions file (see Appendix 1). This will enable the authorised versus unauthorised amount of any negative balance to be determined, as well as providing further information on overdrafts to support resolution. The PRA has added supporting guidance to SS18/15 (see Appendix 2). The continuation of any restrictions on accounts post transfer in resolution would be a matter for the acquiring bank.

(1) Article 5(1)(j) and Article 5(2)(b).

(2) Article 5(2)(b).

(3) Depositor Protection 11.1.

(4) Article 5(4).

2.12 The PRA has provided additional guidance in SS18/15 (see Appendix 2) in response to firms' queries, and the PRA has implemented the rules to extend CoA systems to overdrawn accounts as proposed, subject to the minor amendments outlined above. This will ensure greater flexibility in resolution to achieve various transfer options to best support depositor protection and market confidence. It is not expected that these changes will add materially to the costs set out in CP15/15.

3 Dormant accounts

3.1 In CP15/15 the PRA set out a proposal to impose a requirement on deposit-takers to provide information to the FSCS in respect of dormant account funds transferred to a dormant account fund operator. The PRA proposes to implement the rule as planned. Some minor changes to SS18/15 (Appendix 2) have been made in response to feedback received.

Appendices

-
- 1 Depositor Protection and Dormant Account Scheme (Amendment) Instrument 2015 (PRA 2015/48)
-
- 2 Supervisory Statement — Depositor and dormant account protection (SS18/15) (see SS18/15 landing page: www.bankofengland.co.uk/pr/Pages/publications/ss/2015/ss1815update.aspx)

**PRA RULEBOOK: CRR FIRMS, NON CRR FIRMS AND NON AUTHORISED PERSONS:
DEPOSITOR PROTECTION AND
DORMANT ACCOUNT SCHEME (AMENDMENT) INSTRUMENT 2015**

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);
 - (3) section 213 (The compensation scheme);
 - (4) section 214 (General); and
 - (5) section 218A (Regulators power to require information).
- 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 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, Non CRR Firms and Non Authorised Persons: Depositor Protection (Amendment) Instrument 2015

- D. The PRA makes the rules in Annexes A and B to this instrument.

Commencement

- E. This instrument comes into force on 3 July 2015.

Citation

- F. This instrument may be cited as the PRA Rulebook: CRR Firms: Non CRR Firms: and Non Authorised Persons: Depositor Protection (Amendment) Instrument 2015.

By order of the Board of the Prudential Regulation Authority

14 May 2015.

Annex A

Amendments to the Depositor Protection Part

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

1 APPLICATION AND DEFINITIONS

...

1.4 Unless otherwise stated, in this Part, the following definitions shall apply:

...

exclusions list

~~has the meaning given in 16.2.~~

means:

- (1) up to and including 2 July 2016, a list in the form set out in Section A of Annex 3 to this Part; and
- (2) from 3 July 2016, a list in the form set out in Section B of Annex 3 to this Part.

local authority

means

- (1) in England and Wales, a local authority within the meaning of the Local Government Act 1972, the Greater London Authority, the Common Council of the City of London or the Council of the Isles of Scilly;
- (2) in Scotland, a council within the meaning of the Local Government etc. (Scotland) Act 1994;
- (3) in Northern Ireland, a district council within the meaning of The Local Government Act (Northern Ireland) 1972;
- (4) an authority equivalent to (1), (2) or (3) located in a country outside the UK.

...

public authority

includes a government, central administrative authority, provincial authority, regional authority, municipal authority or *local authority*.

...

small local authority

means a *local authority* with an annual budget of up to EUR 500,000.

...

2 ELIGIBILITY

...

2.1 This Chapter applies ~~only~~ to the *FSCS* and *firms*.

2.2 The provisions in this rule determine whether a *deposit* is an *eligible deposit*.

...

(4) The following are not *eligible deposits*:

...

(j) a *deposit* by a public authority, unless it is a small local authority;

...

2.3 A firm, must at least annually, take reasonable steps to confirm that a depositor that it has classified as a small local authority continues to be a small local authority, using the exchange rate prevailing on the 3 July immediately preceding the date on which any confirmation is undertaken.

...

9 TIME LIMITS

...

9.6 (1) From 1 June 2016 until 31 December 2023, in cases to which ~~9.3~~ 9.2 applies, where the *FSCS* cannot pay compensation within seven *business days* starting on the day following the *compensation date*, the *FSCS* shall, provided ~~the FSCS~~ it receives sufficient information, ensure that within five *business days* of receipt of a request from a *depositor*:

- (a) the *depositor* who is an individual, has access to an appropriate amount of their *covered deposits* to cover the cost of living; and
- (b) the *depositor* which is not a *large company*, or is a small local authority, has access to an appropriate amount of their *covered deposits* to cover necessary business expenses.

...

12 SINGLE CUSTOMER VIEW REQUIREMENTS

...

12.9 A *firm* must ensure that each *single customer view* and *exclusions view* contains all the information set out in the table below.

...

42.	Account balance in sterling	Account balance including any interest, at end of business on: <ul style="list-style-type: none"> • the date on which the <i>deposit</i> becomes 	Do not include any non-numeric symbols such as commas, currency symbols (e.g., £).
-----	-----------------------------	---	--

		<p>an <i>unavailable deposit</i>, or</p> <ul style="list-style-type: none"> the date of request from <i>FSCS</i> or <i>PRA</i> as applicable. <p><u>Where there is a negative balance, the amount should be preceded by a minus symbol ('-').</u></p>	<p>All balances must be rounded up to two decimal places.</p> <p>Maximum number of characters in field: 15</p>
<u>43.</u>	<u>Authorised negative balances</u>	<u>The maximum negative balance on the account authorised by the firm, in sterling.</u>	<p><u>Do not include any non-numeric symbols such as commas, currency symbols (e.g. £).</u></p> <p><u>All figures must be rounded up to two decimal places.</u></p> <p><u>If the account does not accept negative balances please insert 0.00.</u></p> <p><u>If the maximum negative balance authorised is e.g. £50, please insert 50.00, not -50.00.</u></p> <p><u>Maximum number of characters in field: 15</u></p>
43. <u>44.</u>	Currency of account	Currency in which the account is held.	<p>ISO 4217 or alternative code if ISO 4217 is unavailable</p> <p>Maximum number of characters in field: 3</p>
44. <u>45.</u>	Account balance in original currency	<p>The original balance in the original currency, including any interest at the end of business before conversion to sterling [if applicable].</p> <p><u>Where there is a negative balance, the amount should be preceded by a minus symbol ('-').</u></p>	<p>Do not include any non-numeric symbols such as commas, currency symbols (e.g., £). All balances must be rounded up to two decimal places.</p> <p>Maximum number of characters in field: 15</p>

45. <u>46.</u>	Exchange rate	The exchange rate used to calculate the sterling balance [if applicable].	Do not include any non-numeric symbols such as commas, currency symbols (e.g., £). All balances must be rounded up to nine decimal places. Maximum number of characters in field: 29
46. <u>47.</u>	Original account balance before interest	Account balance in original currency before interest accrued applied. <u>Where there is a negative balance, the amount should be preceded by a minus symbol ('-').</u>	Do not include any non-numeric symbols such as commas, currency symbols (e.g., £). All balances must be rounded up to two decimal places. Maximum number of characters in field: 15
47. <u>48.</u>	<i>Transferable eligible deposit</i>	If the file is a <i>single customer view</i> , the amount of the <i>transferable eligible deposit</i> [if applicable].	Do not include any non-numeric symbols such as commas, currency symbols (e.g., £). All balances must be rounded up to two decimal places. Maximum number of characters in field: 15
	Aggregate balance		
48. <u>49.</u>	<i>Single customer view</i> record number	Unique customer identifier.	Maximum number of characters in field: 200
49. <u>50.</u>	Aggregate balance in sterling	Aggregate balance across all accounts <u>which contain a positive balance</u> at end of business on: <ul style="list-style-type: none"> • the date the <i>deposit</i> becomes an <i>unavailable deposit</i>; or • the date of request from <i>FSCS</i> or <i>PRA</i> as applicable. 	Do not include any non-numeric symbols such as commas, currency symbols (e.g., £). All balances must be rounded up to two decimal places. Maximum number of characters in

		<u>Where an account contains a negative balance, that balance should be excluded from the calculation of the aggregate balance.</u>	field: 15
50. <u>51.</u>	Compensatable amount in sterling	The amount to be compensated subject to the limit check that must be performed by the <i>firm</i> pursuant to 11.11(2) (this could be lower than the aggregate balance across all accounts <u>which contain a positive balance</u> if this exceeds the coverage levels set out in Chapter 4). For beneficiary accounts, it may not be possible to calculate this amount and this field may be left blank.	Do not include any non-numeric symbols such as commas, currency symbols (e.g., £). All balances must be rounded up to two decimal places. Maximum number of characters in field: 15

...

13 BRRD MARKING AND CONTINUITY OF ACCESS

13.1 This Chapter does not apply to the *FSCS*, *credit unions* or *Northern Ireland credit unions*.

...

13.6 A *firm* must have systems in place that enable it to transfer any ~~eligible deposits which do not form part of the transferable eligible deposit~~ into a separate account:

(1) eligible deposits which do not form part of the transferable eligible deposits; and

(2) negative balances in accounts that may also hold eligible deposits,

into a separate account.

13.7 A *firm* must transfer any ~~eligible deposits which do not form part of the transferable eligible deposits~~ into a separate account within 48 hours of the ~~transferable eligible deposits becoming unavailable deposits~~, or upon receipt of a request of the *PRA*;

(1) eligible deposits which do not form part of the transferable eligible deposits; and

(2) negative balances in accounts that may also hold eligible deposits,

into a separate account within 48 hours of the transferable eligible deposits becoming unavailable deposits, or upon receipt of a request from the PRA.

...

16 FIRMS' DISCLOSURE OBLIGATIONS – INFORMATION SHEET AND EXCLUSIONS

...

16.2 A firm must:

- (1) prepare an 'information sheet', containing the categories of information set out in the template in Annex 1 to this Part, ~~and prepare the *exclusions list*~~ prepare an 'exclusions list' in the form set out in Annex 3 to this Part;

...

[Note: Art. 16(1), (2), (3) and (4) and Art. 19(2) of the DGSD]

...

17 FIRMS' DISCLOSURE OBLIGATIONS – STATEMENTS OF ACCOUNT

17.1 A firm must:

...

[Note: Art. 16(1) and (3) and Art. 19(2) of the DGSD]

...

50 TRANSITIONAL PROVISIONS – SINGLE CUSTOMER VIEW

...

50.2 This Chapter does not apply in relation to an *eligible deposit*:

- (1) of a *large company*;
- (2) contained in an account that is *not active*; ~~or~~
- (3) contained in an account that holds funds to which a *depositor* is not absolutely entitled; ~~or~~
- (4) of a *small local authority*.

...

52 TRANSITIONAL PROVISIONS – CLASS A TARIFF BASE CALCULATION

...

52.2 Until 1 December 2016:

- (1) the *class A tariff base* in 43.1 excludes from *covered deposits* any *eligible deposit* of a *large company* and a *small local authority*; and
- (2) in Chapter 43.2, a reference to *single customer view* is a reference to a *single customer view* compiled in accordance with the requirements in Chapter 50 and which contains the information set out in 50.11 and the definitions of *single customer view* and *SCV requirements* in 1.4 are modified accordingly.

...

ANNEX 3

EXCLUSIONS LIST (CHAPTER 16)

Section A (up to and including 2 July 2016)

...

(3) It is a deposit made by a depositor which is one of the following:

...

- pension or retirement fund¹
- public authority, other than a small local authority.

The following are deposits, categories of deposits or other instruments which will no longer be protected from 3 July 2015:

- deposits of a credit union to which the credit union itself is entitled
- deposits which can only be proven by a financial instrument² unless it is a savings product which is evidenced by a certificate of deposit made out to a named person and which exists in a Member State on 2 July 2014)
- deposits of a collective investment scheme which qualifies as a small company³
- deposits of an overseas financial services institution which qualifies as a small company⁴
- deposits of certain regulated firms (investment firms, insurance undertakings and reinsurance undertakings) which qualify as a small business or a small company⁵ – refer to the FSCS for further information on this category

For further information about exclusions, refer to the FSCS website at www.FSCS.org.uk

¹ Deposits by personal pension schemes, stakeholder pension schemes and occupational pension schemes of micro, small and medium sized enterprises are not excluded

² Listed in Section C of Annex 1 of Directive 2014/65/EU

³ Under the Companies Act 1985 or Companies Act 2006

⁴ See footnote 3

⁵ See footnote 3

Section B (from 3 July 2016)

A deposit is excluded from protection if:

(1) The holder and any beneficial owner of the deposit have never been identified in accordance with money laundering requirements. For further information, contact your bank, bank building society or credit union.

(2) The deposit arises out of transactions in connection with which there has been a criminal conviction for money laundering.

(3) It is a deposit made by a depositor which is one of the following:

- credit institution
- financial institution
- investment firm
- insurance undertaking
- reinsurance undertaking
- collective investment undertaking
- pension or retirement fund¹
- public authority, other than a small local authority.

<p>For further information about exclusions, refer to the FSCS website at www.FSCS.org.uk</p>
--

...

¹ Deposits by personal pension schemes, stakeholder pension schemes and occupational pension schemes of micro, small and medium sized enterprises are not excluded

Annex B

Amendments to the Dormant Account Scheme Part

In this Annex, new text is underlined.

...

27 INFORMATION REQUIREMENTS

27.1 This Chapter does not apply to the *FSCS*.

27.2 A *firm* must provide the *FSCS*, on request by the *FSCS* or the *PRA*, with all information relating to *dormant accounts* it has transferred to a *dormant account fund operator* which is necessary to enable the *FSCS* to prepare for the payment of compensation in accordance with this Part.