

PRA RULEBOOK: CRR FIRMS: OPERATIONAL CONTINUITY INSTRUMENT 2021

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 2021

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

Part	Annex
Glossary	Annex A
Operational Continuity	Annex B

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 2021.

By order of the Prudential Regulation Committee

19 May 2021

Annex A

Amendments to the Glossary

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

critical functions

has the meaning in section 3(1) and (2) of the Banking Act 2009.

Annex B

Amendments to the Operational Continuity Part

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

1 APPLICATION AND DEFINITIONS

1.1 This Part applies to a *CRR firm* that receives *critical services supporting critical functions* if it fulfils any of the following conditions on 1 January of any year:

- (1) the average of the *firm's* total assets it was required to report for ~~in~~ the previous 36 months in accordance with Chapters 7 and 9 of the *Regulatory Reporting Part* of the *PRA Rulebook* exceeds £10bn;
- (2) the average of the *firm's safe custody assets* it was required to report for ~~in~~ the previous 36 months in accordance with SUP 16.14 of the *FCA Handbook* as amended from time to time exceeds £10bn; or
- (3) the average total amount of received sight deposits it was required to report for ~~in~~ the previous 36 months in accordance with the *ITS on supervisory reporting*, or that it would have had to report if the *ITS on supervisory reporting* had been in force, exceeds £350m.

...

1.5 In this Part, the following definitions shall apply:

core business lines

means business lines and associated services which represent material sources of revenue, profit or franchise value for a *firm* or for its *group*.

critical functions

~~has the meaning in section 3(1) and (2) of the Banking Act 2009.~~

critical services

means activities, functions or services performed for one or more business units of the *firm* or for the *firm* and another member of its *group*, whether by the *firm* itself, any other *group* member or a person outside the *firm's group*, the failure of which would lead to the collapse of or present a serious impediment to the performance of the *firm's critical functions* or *core business lines*.

CSD

has the meaning given in Article 2(1)(1) of *CSDR*.

CSDR

means Regulation (EU) No 909/2014 of the European Parliament and of the Council of 23 July 2014 on improving securities settlement in the European Union and on central securities depositories and amending Directives 98/26/EC and 2014/65/EU and Regulation (EU) No 236/2012.

excluded agreement

means a contract or other agreement for the provision of *critical services* to a *firm*:

- (1) which is governed by the laws of any part of the *United Kingdom*;
- (2) the parties to which are incorporated in, or formed under the law of any part of, the *United Kingdom*; and
- (3) the parties to which belong to the same *resolution group*.

excluded person

means a *payment system*, *CSD*, *third-country CSD*, *SSS* or *central counterparty*.

group provider

in relation to a *firm*, means:

- (1) a member of its *group* that provides *critical services* to it; or
- (2) the *firm* itself if one of its business units provides *critical services* to it.

ITS on supervisory reporting

Commission Implementing Regulation (EU) No 680/2014 as amended by Commission Implementing Regulation (EU) No 2016/313 laying down implementing technical standards with regard to supervisory reporting of institutions according to Regulation (EU) No 575/2013 of the European Parliament and of the Council.

payment system

has the meaning given in section 182 of the Banking Act 2009.

resolution group

has the meaning given in section 3(1) of the Banking Act 2009.

safe custody asset

has the meaning in the *FCA Handbook* as amended from time to time.

~~*ITS on supervisory reporting*~~

~~Commission Implementing Regulation (EU) No 680/2014 as amended by Commission Implementing Regulation (EU) No 2016/313 laying down implementing technical standards with regard to supervisory reporting of institutions according to Regulation (EU) No 575/2013 of the European Parliament and of the Council.~~

SSS

has the meaning given in Article 2(1)(10A) of *CSDR*.

third-country CSD

has the meaning given in Article 2(1)(2) of *CSDR*.

2 FACILITATION OF EFFECTIVE RECOVERY AND RESOLUTION PLANNING

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- 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*.

3 DETAILS OF OPERATIONAL CONTINUITY ARRANGEMENTS

- 3.1 ~~If a *firm* receives critical services from one of its business units, it must document~~ A *firm* must:
- (1) identify and document the details of the *critical services* it receives and details of the *critical services* required to deliver each of its *critical functions* and *core business lines*; and
 - (2) be able to demonstrate it can put in place ~~the~~ transition arrangements for the continuity of the *these critical services* it receives in the event of the *firm* being restructured or resolved.
- 3.2 Subject to 3.2A, if ~~If a *firm* receives *critical services* from another party, it must ensure the agreement governing the provision of these services:~~
- (1) does not permit the other party to terminate, suspend or materially alter the services or facilities or the agreement as a result of the deterioration in the financial circumstances or the resolution of the *firm* or any of its *group* members; and
 - (2) entitles the *firm* to continue to receive those services during the *firm's* resolution or restructuring as long as the *firm* fulfils its payment obligations under the agreement.
- 3.2A 3.2 does not apply in respect of an *excluded agreement* or an agreement entered into by a *firm* with an *excluded person*.
- 3.3 ~~A~~ If a *firm* receives *critical services* from another party, it must ensure that the agreement governing the provision of those *critical services* is charging structure for the *critical services* it receives is predictable, transparent and set on arm's length terms.
- 3.3A A *firm* must ensure that the charging structure for the *critical services* it receives is predictable and transparent.

...

4 GROUP ARRANGEMENTS FOR OPERATIONAL CONTINUITY

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- 4.3 A *firm* must ensure that in the event of the deterioration in the financial circumstances of another *group* member the *group provider* continues to provide ~~the~~ *critical services* to the *firm* in accordance with the agreement governing the *critical services* provision or the documentation and transition required under 3.1.

EXTERNALLY DEFINED TERMS

Term	Definition source
group	Section 421, Financial Services and Markets Act 2000