



BANK OF ENGLAND
PRUDENTIAL REGULATION
AUTHORITY

Consultation Paper | CP24/18

Occasional Consultation Paper

October 2018



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Responses are requested by:

- Thursday 22 November 2018 for Chapter 2; and
- Tuesday 22 January 2019 for Chapters 3, 4, 5, 6 and 7.

Please address any comments or enquiries to:

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1 Overview

1.1 This Consultation Paper (CP) sets out proposed changes to Prudential Regulation Authority (PRA) Rulebook Parts, supervisory statements (SSs), statements of policy (SoPs) and forms.

1.2 This CP is relevant to all PRA-authorized firms.

1.3 The chapters contained in this CP, the Rulebook Parts, SSs, SoPs and forms they propose to change, and the appendices where the draft policy is set out, are listed in the table below.

Chapter	Rulebook Part/SS/SoP/Form	Appendix
2. Reporting – amendment to the Branch Return	Incoming Firms and Third Country Firms Part	1
	Branch Return Form	2
3. Ring fencing – imposition of financial penalties under section 142S of FSMA	SoP ‘The PRA’s approach to enforcement: statutory statements of policy and procedure’	3
4. Written reports by external auditors to the PRA	Auditors Part	4
	SS1/16 ‘Written reports by external auditors to the PRA’	5
5. Depositor protection – minor updates	Depositor Protection Part	6
6. Policyholder Protection Part – minor updates	Policyholder Protection Part	7
7. Reporting templates for calculating risk based levies to reflect the European Banking Authority’s (EBA) transition to FINREP taxonomy	SoP ‘Calculating risk-based levies for the Financial Services Compensation Scheme deposits class’	8

The PRA’s statutory obligations

1.4 The PRA must comply with a number of statutory and public law obligations when making rules and determining the general policy and principles by which it performs its functions. Each chapter in this CP will separately address the following obligations:

- The Financial Services and Markets Act 2000 (FSMA)¹ requires the PRA to publish a draft of the proposed rules accompanied by:
 - a cost benefit analysis;
 - an explanation of the PRA’s reasons for believing that making the proposed rules is compatible with the PRA’s duty to act in a way that advances its general objective,² insurance objective³ (if applicable), and secondary competition objective;⁴
 - an explanation of the PRA’s reasons for believing that making the proposed rules are compatible with its duty to have regard to the regulatory principles;⁵ and
 - a statement as to whether the impact of the proposed rules will be significantly different to mutuals than to other persons.⁶

¹ Section 138J of FSMA.

² Section 2B of FSMA.

³ Section 2C of FSMA.

⁴ Section 2H(1) of FSMA.

⁵ Sections 2H(2) and 3B of FSMA.

- The Prudential Regulation Committee (PRC) should have regard to aspects of the Government's economic policy as recommended by HM Treasury.⁷
- The PRA is also required by the Equality Act 2010⁸ to have due regard to the need to eliminate discrimination and to promote equality of opportunity in carrying out its policies, services and functions.

Implementation

1.5 Pending consideration of the responses to the consultation, the proposed implementation dates for the proposals are:

- Tuesday 1 January 2019 for Chapter 2;
- audits related to periods ending on 31 December 2018 or later (the reports which would be due from April 2019) for Chapter 4;
- on publication of the final policy for Chapters 3, 5, 6 and 7.

Responses and next steps

1.6 The consultation closes on

- Thursday 22 November 2018 for Chapter 2; and
- Tuesday 22 January 2019 for Chapters 3, 4, 5, 6 and 7.

1.7 The PRA invites feedback on the proposals set out in this consultation. Please address any comments or enquiries to OCP.responses@bankofengland.co.uk.

1.8 The proposals in this CP have been designed in the context of the current UK and EU regulatory framework. The PRA will keep the policy under review to assess whether any changes would be required due to changes in the UK regulatory framework, including those arising once any new arrangements with the European Union take effect.

6 Section 138K of FSMA.

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

8 Section 149.

2 Reporting – amendment to the Branch Return

2.1 All PRA-supervised firms operating in the United Kingdom which are not UK-headquartered firms (for the purposes of this chapter, ‘firms’) are required by Rule 3.2 of the Incoming Firms and Third Country Firms Part of the PRA Rulebook to submit the Branch Return Form on a semi-annual basis.

2.2 On Tuesday 10 July 2018 the PRA issued a statement on the Regulatory Reporting – banking sector webpage,⁹ requesting that firms use an updated Branch Return Form that included the accounting standard applied by them. The PRA stated that it would formalise this change through its usual consultation process.

Proposals

2.3 As indicated above, the PRA proposes to add an input field to the submission template, requiring firms to indicate the accounting standard applied by them (Cell H30 on the ‘Cover’ tab). Historically, firms have not been required to provide this information as part of the return, nor formally through other means.

2.4 The new input field is pre-populated with three options:

- (i) International Financial Reporting Standard (IFRS);
- (ii) UK Generally Accepted Accounting Principles (GAAP); and
- (iii) Home-state GAAP.

2.5 These options are intended to cover all eventualities, providing supervisors with useful information, eg when it comes to comparing across firms, or if a firm changes the accounting standard it uses.

2.6 Cell H30 itself is ‘locked,’ which means that firms are not able to enter another value manually without tampering with the template in a way that is not permitted. This would be detected either by supervision or during post-submission validation.

2.7 The proposed changes are set out in Appendix 2.

2.8 The PRA also proposes to amend Incoming Firms and Third Country Firms 4.1 to update the hyperlink to the new template.

Statutory obligations

2.9 The PRA considers that the proposals in this chapter are compatible with the PRA’s general objective to promote the safety and soundness of firms by improving the returns that firms are already required to submit. The changes would give useful context and clarity to the data submitted by firms, thus helping them better meet the PRA’s requirements.

2.10 The PRA considers that the proposed amendments do not have a material impact on effective competition.

⁹ <https://www.bankofengland.co.uk/prudential-regulation/regulatory-reporting/regulatory-reporting-banking-sector>.

2.11 Given the nature of the change, any cost (either in terms of time or monetary outlay) is likely to be negligible. The information the PRA is proposing to request will be readily available to submitting firms, with little or no work required to source it. The PRA considers the proposed change is likely to reduce the need for follow-up communications between firms and their supervisors following submission of returns.

2.12 In developing the proposals in this chapter, the PRA has had regard to the regulatory principles. Two of the principles are of particular relevance:

- (i) Regulators use their resources in the most efficient and economic way. The PRA considers that these proposals will save supervisors time in analysing the branch return as they will not need to research what accounting basis a firm is using.
- (ii) A burden which is imposed on a person should be proportionate to the benefits expected to result. The costs of providing this information should be negligible as firms know their accounting basis and will select the correct value from a drop down list.

2.13 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.

2.14 The PRA has had regard to HM Treasury's recommendations on aspects of the Government's economic policy when considering these proposals. The proposals in this chapter are not expected to have an impact on the Government's economic policy.

2.15 The PRA has considered the equality and diversity issues that may arise from the proposals in this chapter. The PRA considers that the proposals do not raise any concerns with regards to equality and diversity issues.

3 Ring-fencing – imposition of financial penalties under section 142S of FSMA

3.1 This chapter sets out the PRA’s proposal to update a SoP with respect to the imposition and amount of financial penalties for breaches by qualifying parent undertakings of ring-fenced bodies.

3.2 This chapter is relevant to qualifying parent undertakings of ring-fenced bodies.¹⁰

3.3 The PRA will be required by section 142V of FSMA (which comes into force on Tuesday 1 January 2019) to prepare and issue a SoP with respect to the:

- (i) imposition of penalties under section 142S of FSMA; and
- (ii) amount of penalties under that section.

3.4 Section 142S of FSMA empowers the PRA to impose a financial penalty (or issue a censure) on a person who is or has been a qualifying parent undertaking if the PRA is satisfied that that person has contravened a requirement of a direction given to it by the PRA as a result of section 142L(2)(d).

3.5 Section 142V(2) of FSMA stipulates that the PRA’s policy in determining what the amount of a financial penalty should be must include having regard to:

- (i) the seriousness of the contravention;
- (ii) the extent to which the contravention was deliberate or reckless; and
- (iii) whether the person on whom the penalty is to be imposed is an individual.

Proposals

3.6 In August 2018 the PRA published an updated version of its SoP ‘The Prudential Regulation Authority’s approach to enforcement: statutory statements of policy and procedure’¹¹ including its policy on the imposition and amount of financial penalties under FSMA.

3.7 The SoP on the imposition of financial penalties under FSMA already encapsulates the factors referred to in paragraph 3.5 and so the PRA proposes to apply its existing penalties policy as set out in the August 2018 SoP in relation to the imposition of financial penalties under section 142S of FSMA. The PRA considers that its current policy on financial penalties is compliant for the purposes of section 142V of FSMA, save for the addition of references to section 142S of FSMA in Chapter 2 of the SoP (‘Statement of the PRA’s policy on the imposition and amount of financial penalties under the Act’) to make it clear to qualifying parent undertakings of ring-fenced bodies that they will also be in scope.

3.8 The proposed amendments to the SoP are available in Appendix 3.

Statutory obligations

3.9 The proposal in this chapter advances the PRA’s statutory objectives by clarifying an aspect of the PRA’s enforcement regime, which is one mechanism through which the PRA addresses threats to safety

¹⁰ Under Section 142L(4) FSMA, a qualifying parent undertaking for these purposes is the parent undertaking of a ring-fenced body where it is a body corporate incorporated in the UK and with a place of business in the UK, and is not itself an authorised person.

¹¹ Available at: <https://www.bankofengland.co.uk/prudential-regulation/publication/2013/the-pra-approach-to-enforcement-statutory-statements-of-policy-and-procedure-sop>.

and soundness. The proposal clearly sets out what the PRA's approach will be to the imposition and amount of financial penalties in cases where a qualifying parent undertaking of a ring-fenced body is found to have breached a requirement of a direction given to it by the PRA.

3.10 The PRA does not consider that there will be an impact on competition as a result of the proposal to apply the existing policy on the imposition and amount of financial penalties.

3.11 The PRA considers that the proposal will have no new costs to firms. New ring-fencing provisions in FSMA will enable the PRA to give a direction to a qualifying parent undertaking of a ring-fenced body. If the qualifying parent undertaking breaches the direction given by the PRA, the PRA will have the power to impose a financial penalty on that undertaking for the breach (Section 142S of FSMA). The proposal is to apply the PRA's existing financial penalties policy in any such cases, taking exactly the same approach as currently set out in the existing SoP.

3.12 In developing the proposals in this chapter, the PRA has had regard to the regulatory principles. Two of the principles are of particular relevance:

- (i) A burden which is imposed on a person should be proportionate to the benefits expected to result. The proposal follows the principle that penalties should be proportionate to the misconduct and/or breach, by applying the existing policy. Further, the proposal clarifies the penalty framework which applies in the case of a breach.
- (ii) The regulators should exercise their functions as transparently as possible. The proposal is consistent with the PRA's transparent approach to its enforcement regime, as set out in its existing SoP. The proposal informs the industry and the wider public that the PRA will, in appropriate cases, use its existing financial penalties framework to impose penalties on relevant undertakings, and how it will do so.

3.13 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.

3.14 The PRA has had regard to HM Treasury's recommendations on aspects of the Government's economic policy when considering these proposals. The proposals in this chapter are not expected to have an impact on the Government's economic policy.

3.15 The PRA has assessed the likely equality and diversity impacts of the proposal to apply the existing financial penalties framework to breaches by qualifying parent undertakings of ring-fenced firms and does not consider that the proposal gives rise to any concerns.

4 Written reports by external auditors to the PRA

4.1 In this chapter, the PRA sets out its proposals to clarify how its policy on written reports by external auditors to the PRA applies in group situations. These changes are being proposed in light of the implementation of ring-fencing in the UK and to make clear the original intent of the policy's scope.

4.2 The proposals would make amendments to Chapter 8 of the Auditors Part of the PRA Rulebook (Auditors 8) and SS1/16 'Written reports by external auditors to the PRA'.

4.3 This chapter is relevant to the largest PRA-authorized UK banks and building societies. It is also relevant to the external auditors of those banks and building societies.

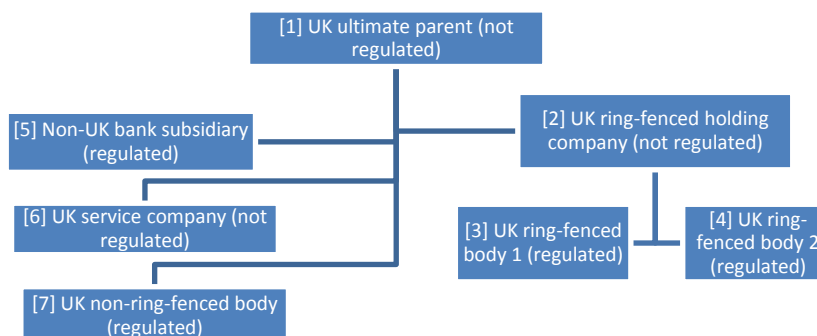
4.4 The PRA issued Policy Statement (PS) 1/16 'Engagement between external auditors and supervisors and commencing the PRA's disciplinary powers' and SS1/16 in 2016.¹² Since then, the UK banking sector has implemented ring-fencing, which is due to commence on 1 January 2019. The PRA is proposing amendments to SS1/16 and Auditors 8 to clarify – in light of changes to group structures arising from ring-fencing – the audits in respect of which it can ask questions under the rules on written reports by external auditors. In addition, the PRA is taking the opportunity to propose amendments to Auditors 8 to clarify the scope of application of the rules on written reports by external auditors to the group financial statements, in cases where a firm within scope of the policy is part of a wider group.

4.5 The proposals in this CP do not bring any new banking groups or building societies into the scope of the policy on written reports by external auditors to the PRA.

4.6 An effective auditor-supervisor relationship helps to support judgement-based supervision and helps to promote the safety and soundness of PRA-authorized firms. The purpose of the policy requiring written reports to the PRA from external auditors is to enhance the auditor-supervisor dialogue.

4.7 Banking groups often contain multiple legal entities. A schematic structure might look like Figure 1 below.

Figure 1: Example of banking group structure



¹² PS1/16, January 2016: <https://www.bankofengland.co.uk/prudential-regulation/publication/2015/engagement-between-external-auditors-and-supervisors-and-commencing-the-pras-disciplinary-powers> and SS1/16, January 2016: <https://www.bankofengland.co.uk/prudential-regulation/publication/2016/written-reports-by-external-auditors-to-the-pra-ss>

4.8 The PRA is interested in individual firms and the groups of which they are a part.¹³ The PRA may, therefore, wish to ask questions under the rules on written reports by external auditors about the audits of individual UK firms within a group (firms [3], [4] and [7] in Figure 1) as well as about the audit of the group financial statements (the consolidated financial statements of company [1] in Figure 1, which would encompass all the legal entities within the group). In light of ring-fencing the PRA may also wish to ask questions about the ring-fenced body group financial statements (the consolidated financial statements of company [2] in Figure 1).

4.9 In practice, questions related to individual firms within a group have usually been answered in a report that covers the audit of the consolidated financial statements of the ultimate parent company. While the PRA expects that the practice of asking for a report covering the group and individual firms within the group to continue, it wishes to make changes to its policy and guidance in order that they continue to accommodate changing group structures (especially in light of ring-fencing) and to ensure that the rules reflect that practice. The PRA envisages that the impact of these changes in practice will be that questions may be asked related to the audits of ring-fenced bodies.

Proposals

4.10 The PRA proposes to amend SS1/16 and Auditors 8. These amendments relate to how policy for written reports from external auditors applies in group situations.

4.11 The policy on written reports by external auditors applies to the annual report and accounts of the largest UK banks and building societies. More specifically, as set out in Auditors 8, it applies to the audited annual reports and accounts of firms that meet all the following criteria: they are UK banks or building societies, they are not subsidiaries of non-UK undertakings, and they have an individual balance sheet of more than £50 billion or are members of a group that has a consolidated balance sheet total greater than £50 billion. This chapter does not propose changing the scope of the policy on written reports by external auditors to include more banking or building society firms that are not part of groups, or to include more groups. Rather, the PRA is instead seeking to clarify the scope of the policy as it applies to in-scope groups.

Scope of application to firms that are part of groups – impact of ring-fencing

4.12 The PRA proposes to amend SS1/16 and Auditors 8.3 to clarify how its policy on written reports from external auditors applies in respect of different parts of a group.

4.13 Banks typically do not structure their businesses as standalone companies. Typically a banking group contains a number of regulated firms (both UK and overseas) and non-regulated companies and is often headed up by a company that is not PRA-regulated (as is the case, for example, in Figure 1 above). The PRA's existing rules require a report about the financial statements of each firm within the scope of the rules. In practice this obligation is fulfilled by a written report from an external auditor in respect of each banking group, or building society that has one or more firms in scope, regardless of whether the ultimate parent company is a regulated firm. That written report covers the audited consolidated financial statements of the ultimate parent company (company [1] in Figure 1), and within the reports are auditors' responses to questions dealing with particular elements of the group, whether portfolios or particular businesses. Questions could relate to aspects of the audit of the individual financial statements of any firm that is a member of a group.

¹³ See for example paragraph 87 of 'The Prudential Regulation Authority's approach to banking supervision', March 2016: <https://www.bankofengland.co.uk/prudential-regulation/publication/2016/pra-approach-documents-2016>.

4.14 Legal structures resulting from ring-fencing may contain more regulated firms than before (a number of retail and investment banks, for example) and more unregulated entities (service companies, for example). In addition, some groups may use a non-regulated ring-fenced holding company in their structure (company [2] in Figure 1). The PRA notes that parent entities of ring-fenced groups are expected to produce audited consolidated financial statements and submit these to the PRA where they would not otherwise be required by the Companies Act 2006.¹⁴ The PRA is proposing two changes to its expectations and rules to accommodate the changes groups are making as result of ring-fencing.

4.15 First, proposed updates to SS1/16 set out the expectation, consistent with existing rules, that the PRA may wish to ask questions of external auditors in relation to the financial statements of any firm in a relevant group (as noted at paragraph 4.13), which may include a ring-fenced body (firms [2] and [3] in Figure 1). The proposed update notes that the audit of the financial statements of a ring-fenced body will include, where relevant, auditing transactions between the ring-fenced body and other parts of the banking group. Without this update, it might not have been clear that such transactions were within scope of the rules on written reports from external auditors.

4.16 Second, the PRA proposes to add a new rule, 8.3(3). In the case where a group sets up a ring-fenced holding company, the rule would extend the requirement for auditors to produce a written report to include the financial statements of that ring-fenced holding company. This proposal would ensure that where a ring-fenced group produces audited consolidated financial statements, the questions agreed between the PRA and auditors could include questions about the audit of those financial statements.

4.17 The focus of the PRA's questions may change from year to year, and may change as a result of ring-fencing. However, the proposed amendments to SS1/16 and Auditors 8.3 are designed to reflect the work that external auditors will be carrying out in relation to new group structures and are not expected to result in an overall additional level of work by external auditors – rather it ensures that all the elements of a group that were previously in scope of the policy continue to be in scope, whatever the group structure.

Scope of application – group considerations

4.18 The PRA proposes to amend Auditors 8.3 to clarify the scope of application of the rules on written reports by external auditors where a firm is part of a group. This proposed change, adding rule 8.3(2), will ensure that the rules align with the PRA's original intentions for the policy and with current practice.

4.19 As noted in paragraph 4.13 above, the PRA's practice has been that the external auditor provides a report on the consolidated financial statements of the ultimate parent company of a firm to which the rules apply. The rules do not, however, clearly apply to the audit of the financial statements of the ultimate parent company of a banking group where that company is not a regulated firm. The proposed rule change brings the rules into line with existing practice – and the PRA's original intention of how the policy on written reporting by external auditors would operate.

4.20 The PRA has also taken the opportunity to make a number of editorial corrections to the rules.

The PRA's statutory obligations

4.21 The proposals in this CP do not change the overall policy set out in PS1/16. The proposals also have the objective of providing the PRA with information by which to judge the safety and soundness of the

¹⁴ Para 11.2 of SS 8/16, 'Ring-fenced Bodies (RFBs)', December 2017: <https://www.bankofengland.co.uk/prudential-regulation/publication/2016/ring-fenced-bodies-ss>.

firms it regulates, and which strengthens the reliability of information in the audited financial statements on which the PRA relies. The PRA does not anticipate that the proposals will have an impact on competition.

4.22 The PRA does not expect the proposals would have significant cost implications. The proposed amendments in response to ring-fencing will not result in significant additional costs for auditors or firms; although there may be questions focussed on particular audits within a group as a result of the amendments, the PRA does not expect to change the overall amount of work arising from the policy. The proposed amendment to Auditors 8.3 in relation to the audited financial statements of an ultimate parent company reflects existing practice and is therefore not expected to result in additional costs to firms or to their external auditors.

4.23 The benefits of the proposals are additional clarity about the scope of the policy on written reports by external auditors. The PRA therefore expects a net benefit from the proposals.

4.24 In developing the proposals in this CP, the PRA has had regard to the regulatory principles. Two of the principles are of particular relevance:

- (i) A burden which is imposed on a person should be proportionate to the benefits expected to result. The PRA's proposal is consistent with this principle because it is not expected to result in an additional burden for firms or auditors when compared to current policy and practice, and it will result in clarity of policy and PRA expectations.
- (ii) The PRA should exercise its functions as transparently as possible. The PRA has followed this principle in developing this CP, the aim of which is to give clarity about the scope of the PRA's policy and expectations as to how that policy will be implemented.

4.25 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.

4.26 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.¹⁵ The proposals in this CP clarify existing requirements and are not expected to impact the Government's economic policy.

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

¹⁵ Information about the PRC and the recommendations from HM Treasury are available on the Bank's website at <https://www.bankofengland.co.uk/about/people/prudential-regulation-committee>.

5 Depositor protection – minor updates

5.1 This chapter sets out the PRA’s proposals to revise:

- Depositor Protection 2.2(4)(f) to account for updates to the Money Laundering Regulations 2007 (‘2007 Regulations’) following from the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (‘2017 Regulations’).¹⁶
- Depositor Protection 26.1 to account for updates to the Data Protection Act (1998) following from the Data Protection Act (2018) and ‘Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC’ (General Data Protection Regulation, or ‘GDPR’). The PRA also proposes to amend the Rulebook Glossary to account for the addition of a definition of GDPR.
- Depositor Protection 44.4(2) to account for the prior deletion of Fees 3.6 (1).¹⁷
- Depositor Protection 28.3(1) to account for the detection of a typographical error.

5.2 This chapter is relevant to UK banks, building societies, and credit unions (including those operating in the European Economic Area (EEA) under a passport), overseas firms with a PRA permission to accept deposits, as well as EEA credit institutions that operate in the UK under a freedom of establishment passport.

Proposals

5.3 The PRA proposes to amend the Rulebook references to the 2007 Regulations resulting from the 2017 Regulations. The proposal would ensure that those depositors verified under the 2007 Regulations will continue to be eligible for depositor protection.

5.4 The PRA also proposes a Rulebook amendment due to out-of-date references to the Data Protection Act (1998). The amendment to Depositor Protection 26.1 ensures the Rulebook refers to the most up to date Data Protection Act (DPA) legislation, maintaining the integrity of the Rulebook and ensuring the FSCS complies with the correct DPA legislation. Given the scale of new obligations following on from recent changes to DPA legislation and the introduction of GDPR, it is important that the Rulebook is clear that the FSCS is required to comply with the most up to date legislation. This is particularly important in cases where there may be conflicting duties under old and new legislation. The PRA also proposes a revision of the Rulebook Glossary to account for the addition of a definition for GDPR. This change will make the Rulebook easier to digest for the FSCS.

5.5 The PRA also proposes a Rulebook change due to the prior deletion of Fees 3.6(1) from the Rulebook. The amendment to Depositor Protection 44.4(2) ensures the accuracy and integrity of the Rulebook and increases the clarity surrounding the methodology behind the calculation of the Deposit Guarantee Scheme (DGS) compensation costs levy and any DGS specific costs levy. This facilitates firms’ understanding of their obligations under the Rulebook and may make the calculation of DGS compensation costs levies and DGS specific costs levies more accurate and efficient. If Depositor

¹⁶ 2017 Regulations came into force June 2017.

¹⁷ Fees 3.6 (1) deleted in December 2017.

Protection 44.4(2) remains unchanged it will refer to a deleted part of the Rulebook, increasing the likelihood of difficulties in calculating and charging the levies described above.

5.6 The PRA also proposes an amendment to Depositor Protection 28.3(1) due to the detection of a typographical error in the Rulebook. The amendment ensures the accuracy and integrity of the Rulebook and increases the clarity around the powers and duties of the Financial Services Compensation Scheme (FSCS). This change will make the Rulebook easier to digest for relevant firms and the FSCS, thereby increasing the functionality of the Rulebook. Without the proposed change Depositor Protection 28.3(1) may be ambiguous as to the extent to which the FSCS has powers to act on behalf of the compensation recipient as may be required under the laws of a state or country that is not the UK or an EEA State.

5.7 The proposed rule changes described in the paragraphs above can be found in Appendix 6.

Statutory obligations

5.8 The proposals in this chapter advance the PRA's statutory objectives by maintaining the accuracy and integrity of the PRA Rulebook. The PRA does not consider that there will be an impact on competition.

5.9 The PRA considers the proposals would have no new costs to firms.

5.10 In developing the proposals in this CP, the PRA has had regard to the regulatory principles. Two of the principles are of particular relevance:

- (i) That regulators use their resources in the most efficient and economic way. These changes are necessary to ensure that the PRA Rulebook is accurate and that firms can use it efficiently.
- (ii) A burden which is imposed on a person should be proportionate to the benefits expected to result. There is no additional burden placed on firms with respect to their compliance with the Rulebook. The FSCS is required to comply with the money laundering and data protection regulations in their own right.

5.11 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.

5.12 The PRA has had regard to HM Treasury's recommendations on aspects of the Government's economic policy when considering these proposals. The proposals in this chapter are not expected to have an impact on the Government's economic policy.

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

6 Policyholder Protection Part – minor updates

6.1 This chapter sets out PRA’s proposal to amend the Policyholder Protection Part of the PRA Rulebook due to the deletion of Rule 21.42 and the detection of a typographical error regarding Fees 3.4(2)(c). The proposed amendments can be found in Appendix 7.

6.2 This amendment due to the deletion of Rule 21.42 is relevant to all insurers, while the amendment due to the typographical error is relevant to general insurers only.

Proposals

6.3 The PRA proposes an amendment to the Rulebook to take account of the deletion of Rule 21.42 and the addition of Rule 21.42A. Following the deletion of Rule 21.42, and the introduction of rule 21.42A effective from 18 December 2017, there are a number of references in the Rulebook to 21.42 that require amendment to refer to rule 21.42A. Rule 21.42A states that participant firms must provide the FSCS with a statement containing information including the insurance class to which it belongs by the end of May each year (unless the firm is exempt). Rule 21.42 made the same statement, but requested the information be provided by the end of February each year. Additionally, rule 21.42A refers to rule 21.44A where rule 21.42 did not.

6.4 The PRA also proposes an additional amendment to the Rulebook to take account of the detection of a typographical error in Annex 2, Insurance Class B1, Tariff base. This part of the Rulebook refers to a reference to Fees 3.4(2)(c) but should instead refer to Fees 3.4(2)(b). The correction of this error will maintain the integrity of the Rulebook and make it easier for relevant firms to understand how the PRA calculates relevant net premium income.

Statutory obligations

6.5 The proposals in this chapter advance the PRA’s statutory objectives by accounting for the deletion of rules and maintaining the accuracy and integrity of the PRA Rulebook. The PRA does not consider that there will be an impact on competition.

6.6 The proposed amendment would make the Rulebook easier to understand and follow for firms. Following these changes the Rulebook will more accurately reflect recent rule changes and deletions, and will ensure that firms are referred to the correct part of the Rulebook.

6.7 In developing the proposals in this CP, the PRA has had regard to the regulatory principles. Two of the principles are of particular relevance:

- (i) That regulators use their resources in the most efficient and economic way. These proposed changes are necessary to ensure that the PRA Rulebook is accurate and that firms can use it efficiently. If these changes were not made the PRA may need to dedicate resources to help firms understand inconsistencies in the Rulebook.
- (ii) A burden which is imposed on a person should be proportionate to the benefits expected to result. There is no additional burden placed on firms with respect to their compliance with the Rulebook.

6.8 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.

6.9 The PRA has had regard to HM Treasury’s recommendations on aspects of the Government’s economic policy when considering these proposals. The proposals in this chapter are not expected to have an impact on the Government’s economic policy.

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

7 Reporting templates for calculating risk-based levies to reflect the European Banking Authority's (EBA) transition to FINREP taxonomy

7.1 This chapter sets out the PRA's proposal to revise the reporting fields used to calculate Capital Requirements Regulation (575/2013) (CRR) firms' risk-based contributions to the FSCS to account for the discontinuation of reporting templates FSA001 and FSA002, and changes to FSA015.

7.2 Deposit Guarantee Scheme (DGS) members that report on FINREP F18.00 will be ranked and rated separately to other CRR firms for the calculation of the individual risk score for non-performing loans.

7.3 This chapter is relevant to all firms subject to the CRR.

Proposals

7.4 To reflect the EBA transition to the FINREP taxonomy, the PRA proposes to amend SoP 'Calculating the risk based levies for the Financial Services Compensation Scheme deposit class'. From Tuesday 1 January 2019, the previous reporting fields for FSA001, FSA002 and FSA015 are changing due to the transition to the EBA's reporting taxonomy for FINREP. These amendments are set out in Appendix 8.

7.5 These changes are necessary and consequential following the changes to, or discontinuation of, the reporting templates.

Statutory obligations

7.6 The proposal in this chapter supports the operation of the FSCS. A functioning FSCS minimises the adverse effect of the failure of a PRA-authorized person on consumers and so helps promote stability of the UK financial system as well as confidence in the UK financial system. The PRA does not consider that there will be an impact on competition.

7.7 The PRA considers the costs to firms of the transition or implementation of the proposed changes are minimal. The PRA's analysis has shown there may be some small changes in some firms' levies, but these do not disproportionately impact any firms or groups of firms. The changes will allow the FSCS to continue to levy firms transparently and comply with the Deposit Guarantee Schemes Directive (DGSD) requirements.

7.8 In developing the proposals in this CP, the PRA has had regard to the regulatory principles. Four of the principles are of particular relevance:

- (i) That regulators use their resources in the most efficient and economic way. The PRA is updating the reporting fields and calculation methodology in the SoP to align with the discontinuance of reporting requirements for FSA returns FSA001, FSA002 and FSA015 and the transition to FINREP reporting templates. This is the most efficient way for firms to provide data for the risk-based calculation and for the PRA to perform the calculation.
- (ii) A burden which is imposed on a person should be proportionate to the benefits expected to result. There is no additional burden placed on firms with respect to their reporting.
- (iii) That each regulator exercises its functions in a way that recognises differences in the nature of, and objectives of, businesses carried on by different authorised persons. The separate ranking and rating of firms that report on FINREP F18.00 takes account of differences in the size and nature of their business.

(iv) The PRA should exercise its functions as transparently as possible. The identification of the regulatory reporting fields used for the risk-based levy calculation provides transparency to firms on how their FSCS levies are determined.

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

7.10 The PRA has had regard to HM Treasury's recommendations on aspects of the Government's economic policy when considering these proposals. The proposals in this chapter are not expected to have an impact on the Government's economic policy.

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

Appendices

-
- 1 Draft Incoming Firms and Third Country Firms Instrument

 - 2 Draft Branch Return Form, available at: <http://www.bankofengland.co.uk/-/media/boe/files/prudential-regulation/regulatory-reporting/banking/branch-return-template-july-2018.xls>

 - 3 Draft update to Statement of Policy 'The PRA's approach to enforcement: statutory statements of policy and procedure'

 - 4 Draft Auditors Instrument

 - 5 Draft update to Supervisory Statement 1/16 'Written reports by external auditors to the PRA'

 - 6 Draft Depositor Protection Instrument

 - 7 Draft Policyholder Protection Instrument

 - 8 Draft update to Statement of Policy 'Calculating risk based levies for the Financial Services Compensation Scheme deposits class'

Appendix 1: Draft Incoming Firms and Third Country Firms Instrument

PRA RULEBOOK: CRR FIRMS; NON CRR FIRMS: BRANCH RULES INSTRUMENT 2018

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) (Rulemaking 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: BRANCH RULES INSTRUMENT 2018

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

Commencement

E. This instrument comes into force on 1 January 2019.

Citation

F. This instrument may be cited as the CRR Firms; Non CRR Firms: Branch Rules Instrument 2018.

By order of the Board of the Prudential Regulation Authority

[DATE]

Annex

Amendments to the Incoming Firms and Third Country Firms Part

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

...

4 FORM

4.1 The Branch Return Form can be found ~~here~~ [here](#).

...

Appendix 2: Branch Return Form

Please see below the proposed change to the Branch Return Form as described in Chapter 2 of this CP:

BANK OF ENGLAND PRUDENTIAL REGULATION AUTHORITY		Notes									
Main Details - Incoming EEA & Non-EEA Bank Branches											
FRN											
Reporting Date (DD/MM/YYYY)											
What is the name of the firm											
Functional currency of the reporting firm		Currency the Branch uses for normal reporting purposes									
		£'000									
		TOTAL	Sterling	USD	Euro	Other					
Total Assets as at reporting date		-	-	-	-						
Of which: Originated from/managed outside of UK		-	-	-	-	Total and currency breakdowns should be reported on a Sterling equivalent basis, using exchange rate at reporting date. Activity managed outside UK and booked in UK - assets that are originated or managed from outside of the UK but booked in UK.					
Total Assets originated by branch but booked outside of UK		-	-	-	-	Activity managed in UK and booked outside UK - assets that are originated or managed in the UK but booked outside of UK.					
		£'000									
		Sterling	USD	Euro	Other						
Total Liabilities as at reporting date		-	-	-	-	Total assets and total liabilities are required to balance.					
of which: Total intra group		-	-	-	-						
		Firm Notes:									
In the event of a query, the Bank of England may contact:											
Name:											
Email:											
Accounting standard used		<div style="border: 1px solid red; padding: 2px;"> IFRS UK GAAP Home state GAAP </div>									

The form is available at: <https://www.bankofengland.co.uk/-/media/boe/files/prudential-regulation/regulatory-reporting/banking/branch-return-template-july-2018.xls>.

Appendix 3: Draft update to Statement of Policy ‘The PRA’s approach to enforcement: statutory statements of policy and procedure’

This appendix outlines proposed amendments to [SoP ‘The PRA’s approach to enforcement: statutory statements of policy and procedure’](#). Underlining indicates new text and striking through indicates deleted text.

...

2 Statement of the PRA’s policy on the imposition and amount of financial penalties under the Act

Introduction and interpretation

1 This statement of policy is issued by the Prudential Regulation Authority (the ‘PRA’) in accordance with the requirements of sections 63C(1), 69(1), 142V, 192N(1) and 210(1) of the Act.¹ It sets out the PRA’s policy on the imposition and amount of penalties under sections 63A, 66, 142S, 192K and 206 of the Act.

...

3 The PRA will consider all relevant facts and circumstances of each case when determining whether to take action against a person for a penalty under section 63A, 66, 142S(2), 192K or 206 of the Act (and/or other appropriate enforcement action).

...

4 Pursuant to sections 66(3)(b), 142S(3), 192K(3) and 205 of the Act, where a person has breached the PRA’s regulatory requirements, the PRA may publish a statement of his misconduct (a ‘public censure’).

...

5 Under section 192(K)(1) of the Act, where the PRA is satisfied that a person who is or has been a qualifying parent undertaking (a ‘QPU’) has contravened:

- (a) a requirement of a direction given to that person by the PRA under section 192C of the Act; or
- (b) rules made by the PRA under section 192J of the Act;

the PRA may, under section 192K(2) and (3) of the Act, impose on that QPU or any person who was knowingly concerned in the contravention, a penalty of such amount as it considers appropriate or, alternatively, publish a public censure.

The PRA may also, under section 142(S)(2) and (3) of the Act, impose on a QPU of a ring-fenced body a penalty of such amount as it consider appropriate or, alternatively, publish a public censure.

...

Appendix 4: Draft Auditors Instrument

PRA RULEBOOK: WRITTEN REPORTS BY AUDITORS TO THE PRA INSTRUMENT 2019

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 340(3A) (Appointment: requirements as to co-operation).
- 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: Written Reports by Auditors to the PRA Instrument 2018

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

Part	Annex
Glossary	A
Auditors	B
Ring-fenced Bodies	C

Commencement

- E. This instrument comes into force on [DATE].

Citation

- F. This instrument may be cited as the PRA Rulebook: Written Reports by Auditors to the PRA Instrument 2019.

By order of the Prudential Regulation Committee
[DATE]

Annex A

Amendments to the Glossary

In the Glossary part of the PRA Rulebook insert the following new definition.

...

ring-fenced holding company

means a body corporate falling within section 192JA(2) of FSMA that is the ultimate *parent undertaking* within a *sub-consolidation group*.

...

Term	Definition source
parent undertaking	Section 420 FSMA

Annex B

Amendments to the Auditors Part

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

1 APPLICATION AND DEFINITIONS

...

1.3 In this Part, the following definitions shall apply:

annual reports and accounts

means

(1) (in relation to a company incorporated in the *UK*) ~~these terms~~ its annual accounts and reports as they are defined in section 471 of the Companies Act 2006 ~~together with the auditor's report prepared in relation to those accounts under sections 495 to 497A of the same Act;~~ or

(2) (in relation to any other body) any similar or analogous documents which it is required to prepare whether by its constitution or by the law under which it is established.

...

ultimate parent undertaking

means, in relation to a *firm*, an undertaking that:

(1) is a *parent undertaking* of the *firm*; and

(2) is not a *subsidiary undertaking* of another *undertaking*.

...

8 WRITTEN REPORTS BY AUDITORS TO THE PRA

8.1 This Chapter applies in relation to *annual reports and accounts* with an accounting reference date on or after 1 November 2016 but 8.3(2) and (3) and 8.3A apply only in relation to *annual reports and accounts* with an accounting reference date on or after 31 December 2018.

8.2 Unless otherwise stated, this Chapter applies to an auditor of a *firm* that:

(1) is a *UK bank* or *building society*;

(2) is not itself the *subsidiary undertaking* of an *undertaking* that is not an *UK undertaking*; and

...

8.3 An auditor must provide annually a written report to the *PRA* in relation to:

(1) ~~that~~ the *firm*'s audited *annual report and accounts*;

(2) where a *firm* has an *ultimate parent undertaking*, the audited *annual report and accounts* of the *ultimate parent undertaking*; and

- (3) where a firm is a *ring-fenced body* and there is a *ring-fenced holding company* in relation to the firm, the audited *annual report and accounts* of the *ring-fenced holding company*,

8.3A But an auditor is not required to report in relation to the audited *annual report and accounts* of the *firm's ultimate parent undertaking* if the auditor is not also the auditor of the *ultimate parent undertaking*.

8.4 The report in 8.3 must:

- (1) be provided within 120 days ~~of the end of~~ beginning with the relevant *accounting reference date*;
- (2) provide information about key judgment areas, including:
 - (a) matters of valuation;
 - (b) quality of earnings;
 - (c) key accounting judgments; and
 - (d) the quality of the systems and controls relevant to the preparation of ~~the a firm's~~ *annual report and accounts*; and
- (3) be prepared with due skill, care and diligence.

...

Term	Definition source
parent undertaking	Section 420 FSMA
subsidiary undertaking	Section 420 FSMA

Annex C

Amendments to the Ring-fenced Bodies 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:

...

ring-fenced holding company

~~means a body corporate falling within section 192JA(2) of FSMA that is the ultimate parent undertaking within a sub-consolidation group;~~

Appendix 5: Draft update to Supervisory Statement 1/16 ‘Written reports by external auditors to the PRA’

This appendix outlines proposed amendments to [SS1/16 ‘Written reports by external auditors to the PRA’](#). Underlining indicates new text and striking through indicates deleted text.

...

1 Introduction and purpose

1.1 This supervisory statement sets out the Prudential Regulation Authority’s (PRA) expectation of auditors in relation to the requirement to provide written reports to the PRA concerning the audit of major banks and building societies as laid out in Chapter 8 of the Auditors Part of the PRA Rulebook and should be read in conjunction with that chapter. This supervisory statement was updated in light of final policy following CP24/18 ‘Occasional Consultation Paper’. The updates take effect [for annual reports and accounts with an accounting reference date on or after 31 December 2018].

...

3.2 Auditors will use the audit work undertaken for the annual report and accounts to comply with the reporting requirements. The relevant annual report and accounts may be those produced by the ultimate parent company of a firm within scope of the policy (‘group’), those of any individual firm within scope of the policy (‘firm’) and, where relevant, those of a ring-fenced holding company.

3.2A Typically, the PRA will be concerned with the group as a whole and will ask questions related to the audited group financial statements (or elements thereof). There may also be circumstances where the PRA wishes to ask questions about the audit of the financial statements of one or more firms within a group (eg a ring-fenced body) or of a ring-fenced holding company.¹⁸ In such circumstances, the PRA might require reporting on the audit of transactions between that entity and other parts of the group, which would be eliminated on consolidation by the ultimate parent company. In some cases the transactions the PRA requires reporting on might be material in the context of the individual accounts but not in the context of the consolidated accounts, which is another reason why the reporting might need to relate specifically to the audit of a firm’s own financial statements. Where the PRA asks questions relating to the audit of particular financial statements within a group, the PRA will make this clear to external auditors.

3.2B Potentially there will be overarching questions about the adequacy of application of key accounting policies or controls and the auditors’ assessment of areas at risk of material misstatement. Other than these, all questions will be directed only at portfolios or, where appropriate, line items or account balances that in the auditor’s judgement are materially relevant to the circumstances of that firm or group (as defined by auditing standards’ reference to assessment of risk of material misstatement).

...

¹⁸ Supervisory statement 8/16 ‘Ring-fenced Bodies (RFBs)’ states that ring-fenced bodies are expected to produce audited consolidated (where relevant) financial statements and submit these to the PRA where they would not otherwise be required by the Companies Act 2006.

4 Disclosure of the report

4.1 The PRA expects that the auditor may want to share the report with the audited firm, ultimate parent company or ring-fenced holding company, particularly the audit committee, and discuss its content during both the planning phase and at the final report stage.

Appendix 6: Draft Depositor Protection Instrument

PRA RULEBOOK: CRR FIRMS, NON CRR FIRMS, NON AUTHORISED PERSONS: DEPOSITOR PROTECTION (MISCELLANEOUS AMENDMENTS) INSTRUMENT 2018

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”):
- (4) section 137G (The PRA’s general rules);
 - (5) section 137T (General supplementary powers);
 - (6) section 213 (The compensation scheme); and
 - (7) section 214 (General).
- 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, NON AUTHORISED PERSONS: DEPOSITOR PROTECTION (MISCELLANEOUS AMENDMENTS) INSTRUMENT 2018

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

Commencement

- E. This instrument comes into force on [DATE].

Citation

- F. This instrument may be cited as the PRA Rulebook: CRR Firms, Non CRR Firms, Non Authorised Persons: Depositor Protection (Miscellaneous Amendments) Instrument 2018.

By order of the Prudential Regulation Committee

[DATE]

Annex A

Amendments to the Glossary

In this Annex all text is new and is not underlined.

...

GDPR

means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC.

...

Annex B

Amendments to the Depositor Protection Part

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

...

2 ELIGIBILITY

...

2.2 ...

(4) ...

(f) a deposit the holder and any beneficial owner (as defined in regulation 63 of the Money Laundering Regulations, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2007~~17~~) of which have not, at the *compensation date* had their identity verified in accordance with:

(i) regulation 930 of the Money Laundering Regulations, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2007~~17~~;

(ii) if their identity was verified prior to 26 June 2017, regulation 9 of the Money Laundering Regulations 2007 (in which case, the term beneficial owner in (f) above shall have the meaning given in regulation 6 of the Money Laundering Regulations 2007); or

(iii) ~~(or equivalent~~ EEA~~European Economic Area~~ requirements);

...

26 CONFIDENTIALITY, INFORMATION SHARING AND CO-OPERATION

26.1 The *FSCS* must ensure the confidentiality and the protection of the data pertaining to *depositors'* accounts. The processing of such data must be carried out in accordance with the Data Protection Act ~~1998~~2018 and the GDPR.

...

28 SUBROGATION

...

28.3 (1) The *FSCS* may determine that, if it is necessary or desirable in conjunction with the exercise of the *FSCS's* powers under 28.2, that the *compensation recipient* shall be treated as having irrevocably and unconditionally appointed the chairman of the *FSCS* for the time being to be their attorney and agent and on their behalf and in their name or otherwise to do such things and execute such deeds and documents as may be required under such laws of the *UK*, another *EEA State* or any other state or ~~law~~-country to create or give effect to such assignment or transfer or otherwise give full effect to those powers.

...

44 FUNDING – REPORTING REQUIREMENTS

...

44.4 ...

(2) The *DGS compensation costs levy* and any *DGS specific costs levy* will be calculated using (where relevant) the valuation or valuations of business applicable to the previous period, multiplied by a factor of 1.10 (or if it has become a *DGS member* part way through a financial year, on the basis of the information provided to the *PRA* and used to calculate *PRA fees* for the purposes of Fees 3.6 (1) or on any other reasonable basis, making such adjustments as seem appropriate in subsequent levies once the true figures are known).

Appendix 7: Draft Policyholder Protection Instrument

PRA RULEBOOK: SOLVENCY II FIRMS, NON SOLVENCY II FIRMS, NON AUTHORISED PERSONS: POLICYHOLDER PROTECTION (MISCELLANEOUS AMENDMENTS) INSTRUMENT 2018

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”):
- (8) section 137G (The PRA’s general rules);
 - (9) section 137T (General supplementary powers);
 - (10) section 213 (The compensation scheme); and
 - (11) section 214 (General).
- 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: Solvency II Firms, Non Solvency II Firms, Non Authorised Persons: Policyholder Protection (Miscellaneous Amendments) Instrument 2018

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

Commencement

- E. This instrument comes into force on [DATE].

Citation

- F. This instrument may be cited as the PRA Rulebook: Solvency II Firms, Non Solvency II Firms, Non Authorised Persons: Policyholder Protection (Miscellaneous Amendments) Instrument 2018.

By order of the Prudential Regulation Committee

[DATE]

Annex A

Amendments to the Policyholder Protection Part

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

...

21 FSCS LEVIES

...

21.24 (1) This rule applies to the calculation of the levies of a *firm* (A) if:

...

(c) that acquisition or change takes place after the date to which, or as of which, A's most recent statement of business under 21.42A is drawn up so far as concerns the *insurance classes* covered by B's business.

(2) A must pay an additional amount equal to the levy that would have been payable by B in relation to the relevant business and relevant *insurance class* if the acquisition or change in legal status had not taken place and B had remained liable to pay levies. The amount is based on the most recent information supplied by B under 21.42A. A is included in the *insurance classes* applicable to the relevant business.

(3) This rule only applies with respect to those financial years of the *FSCS* for which A's levies are calculated on the basis of a statement of business under 21.42A drawn up to a date.

21.25 If a *participant firm's* share of a levy or an additional administrative fee under 21.42A would be so small that, in the opinion of the *FSCS*, the costs of collection would be disproportionate to the amount payable, the *FSCS* may treat the *participant firm* as if its share of the levy or additional administrative fee amounted to zero.

...

21.32 The *FSCS* must calculate a *participant firm's* share of a *specific costs levy* (subject to 21.24) by:

(1) identifying each relevant *insurance class* to which the *participant firm* belongs, using the statement of business most recently supplied under 21.42A;

...

(3) calculating, in relation to each relevant *insurance class*, the *participant firm's* tariff base (see Annex 2) as a proportion of the total tariff base of all *participant firms* in the *insurance class*, using the statement of business most recently supplied under 21.42A;

...

21.34 ...

(3) The rest of this rule only applies to a *firm* that becomes a *participant firm*, or extends its *permission*, on or after 1 April 2009:

...

(d) Where a *participant firm* is require to use a method in (c) it must notify the *FSCS* of its intention to do so by the date specified in 21.42A.

...

21.38 The *FSCS* must calculate each *participant firm's* share of a *compensation costs levy* (subject to 21.22) by:

(1) identifying each of the *insurance classes* to which each *participant firm* belongs, using the statement of business most recently supplied under 21.42A(4);

...

(3) calculating, in relation to each relevant *insurance class*, the *participant firm's* tariff base (see Annex 2) as a proportion of the total tariff base of all *participant firms* in the *insurance class*, using the statement of business most recently supplied under 21.42A;

...

21.43 If the information in 21.42A has been provided to the *PRA* under other rule obligations, a *participant firm* will be deemed to have complied with 21.42A.

...

Annex 2: Methodology for Calculation of a Participant Firm’s Levy Share

...

Insurance Class B1	General Insurance Provision
...	
Tariff base	<p>...</p> <p>Relevant net premium income is calculated in accordance with the method applicable to the <i>firm</i> for calculating ‘gross written premium for fees purposes’ in Fees 1.2 and Fees 3.4 (2) (<u>be</u>) with the following adjustments:</p> <p>...</p> <p>Eligible liabilities are calculated in accordance with the method applicable to the <i>firm</i> for calculating ‘best estimate liabilities for fees purposes’ in Fees 1.2 and Fees 3.4 (2) (<u>be</u>) with the following adjustments:-</p> <p>...</p>

...

Appendix 8: Draft update to Statement of Policy ‘Calculating risk based levies for the Financial Services Compensation Scheme deposits class’

This appendix outlines proposed amendments to [SoP ‘Calculating risk based levies for the Financial Services Compensation Scheme deposit class’](#). Underlining indicates new text and striking through indicates deleted text.

...

3 Calculating the aggregate risk score

3.1 For a DGS member that is a CRR firm,¹ the calculation of the ARS will be based on the following risk indicators:

Risk indicator	Weight
Leverage ratio	12%
Common Equity Tier 1 (CET1) Ratio	12%
Liquidity coverage ratio (LCR)	24%
Non-performing loans (NPL) ratio	18%
Risk-weighted assets/Total assets	8.5%
Return on assets (RoA)	8.5%
Unencumbered assets/covered deposits	17%
Total	100%

3.2 Each DGS member will be attributed an individual risk score (IRS) for each risk indicator (calibrated as in paragraph 3.4). The IRS for each risk indicator will then be weighted, as in the table above, to arrive at the ARS for each DGS member that is a CRR firm.

3.3 Unless otherwise specified, all calculations are performed on each DGS member on a solo-consolidated/unconsolidated basis, and terms used are as defined in the CRR.² To calculate the values of the risk indicators, the PRA will use:

- for income statement measures, the value as at (or closest to) 31 December of the preceding year (so the July 2017 levy will use data that firms report as at 31 December 2016); and
- for balance sheet measures, the average value at (or closest to) 31 December of the two preceding years (so the July 2017 levy will use data that firms report as at 31 December 2016 and 31 December 2015).

¹ A UK bank, a building society or a UK designated investment firm.

² The Capital Requirements Regulation (575/2013).

3.4 The PRA will use the following calibration scales to attribute IRSs for each risk indicator for each DGS member that is a CRR firm in each levy cycle:

(i) Leverage ratio

Bucket	≤3%	>3%
IRS	100	0

The leverage ratio will be calculated as the ratio of Tier 1 Capital to total assets,¹ until the leverage ratio as defined in the CRR is fully operational.

(ii) Common Equity Tier 1 ratio (CET1 ratio)

Bucket	≤7%	>7%
IRS	100	0

CET1 ratio will be calculated as the ratio of CET1 capital to risk-weighted assets.²

(iii) Liquidity coverage ratio (LCR)

For the purposes of a levy to be raised in 2017:

Bucket	≤90%	>90%
IRS	100	0

For all subsequent levies:

Bucket	≤100%	>100%
IRS	100	0

Where DGS members have received a waiver from the PRA from meeting liquidity requirements on a solo basis pursuant to Article 8 of the CRR, the LCR risk indicator will be calculated (and calibrated) at the level of the relevant liquidity sub-group.

(iv) Non-performing loans (NPL) ratio

Bucket (by percentile rank)	0 – 20 th	20 th – 40 th	40 th – 60 th	60 th – 80 th	80 th – 100 th
IRS	0	25	50	75	100

NPL ratio will be calculated as the ratio of non-performing loans³ to total loans.⁴

DGS members that report FINREP F18.00 will be ranked and rated separately to other CRR firms.

(v) Risk-weighted assets (RWA)⁵/total assets⁶

Bucket (by percentile rank)	0 – 20 th	20 th – 40 th	40 th – 60 th	60 th – 80 th	80 th – 100 th
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¹ Defined as the sum of fields 20A and 20B as firms are required to report in form FSA001; or row 340, column 01 of C47.00 (COREP).

² Defined as the 'total risk exposure amount', as defined in the CRR.

³ Defined as the sum of the following fields as firms are required to report in form FSA015: 11G, 11Q, 20B, 20D, 23B, 23D, 26B, 26D, 31B, 31C; or row 330, column 060 of F18.00 (FINREP).

⁴ Defined as field 32H as firms are required to report in form FSA015; or row 330, column 01, of F18.00 (FINREP).

⁵ Defined as in (1) above.

⁶ Defined as the sum of fields 20A and 20B as firms are required to report in form FSA001; or row 380, column 01 of F01.01 (FINREP).

IRS	0	25	50	75	100
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DGS members that use the internal ratings based (IRB) approach for calculating minimum own funds requirements will be ranked separately to those DGS members that use the standardised approach. In the calculation of the IRS for this risk indicator, DGS members using the standardised approach will not be rated relative to those using the IRB approach (and vice versa).

(vi) Return on assets (RoA)

Bucket (by percentile rank)	0 – 20 th	20 th – 40 th	40 th – 60 th	60 th – 80 th	80 th – 100 th
IRS	100	75	50	25	0

RoA will be calculated as the ratio of net income¹ to total assets,² and averaged over two years.

DGS members that are building societies will be ranked and rated separately to other DGS members. In the calculation of the IRS for this risk indicator, building societies will not be rated relative to banks (and vice versa).

(vii) Unencumbered assets/covered deposits

Bucket	≤1	1 – 2	>2
IRS	100	50	0

This indicator is defined as the ratio of total assets less encumbered assets³ to covered deposits.⁴

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¹ Defined as the sum of the following fields as firms are required to report in form FSA002: 2B, 7B, 23B; less the sum of the following fields as firms are required to report in form FSA002: 26B, 32B, 33B, 38B, 39B; or row 355, column 01 of F02.00 (FINREP).

² Defined as the sum of fields 20A and 20B as firms are required to report in form FSA001; or row 380, column 01 of F01.01 (FINREP).

³ As defined in the EBA guidelines on disclosure of encumbered and unencumbered assets; www.eba.europa.eu/documents/10180/741903/EBA-GL-2014-03+Guidelines+on+the+disclosure+of+asset+encumbrance.pdf/c65a7f66-9fa5-435b-b843-3476a8b58d66.

⁴ Defined as the class A tariff base, as defined in the Depositor Protection Part of the PRA Rulebook.

Annex - Statement of Policy updates

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October 2018

The PRA has updated footnotes in paragraph 3.4 to account for the discontinuation of reporting templates FSA001, FSA002 and changes to FSA015, published in Policy Statement 36/16 'Financial Statements responses to Chapter 3 of CP17/16',¹ as follows:

Indicator	Component	Previous reporting field	Revised reporting fields
Leverage Ratio	Ratio of Tier 1 Capital to total assets	20A + 20B	Row 340, column 01 of C47.00 (COREP)
NPL ratio	Non-performing loans ²	11G + 11Q + 20B + 20D + 23B + 23D + 26B + 26D + 31B + 31C	Row 330, column 060 of F18.00 (FINREP)
NPL ratio	Total loans ³	32H	Row 330, column 010 of F18.00 (FINREP)
RWA/TA	Total assets	20A + 20B	Row 380, column 01 of F01.01 (FINREP)
RoA	Net income	(2B + 7B + 23B) – (26B + 32B + 33B + 38B + 39B)	Row 355, column 01 of F02.00 (FINREP)
RoA	Total assets	20A + 20B	Row 380, column 01 of F01.01 (FINREP)

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¹ December 2016: <https://www.bankofengland.co.uk/prudential-regulation/publication/2016/financial-statements-responses-to-chapter-3-of-cp-1716>.

² The previous reporting fields will continue to be used by those firms which do not report FINREP F18.

³ The previous reporting fields will continue to be used by those firms which do not report FINREP F18.