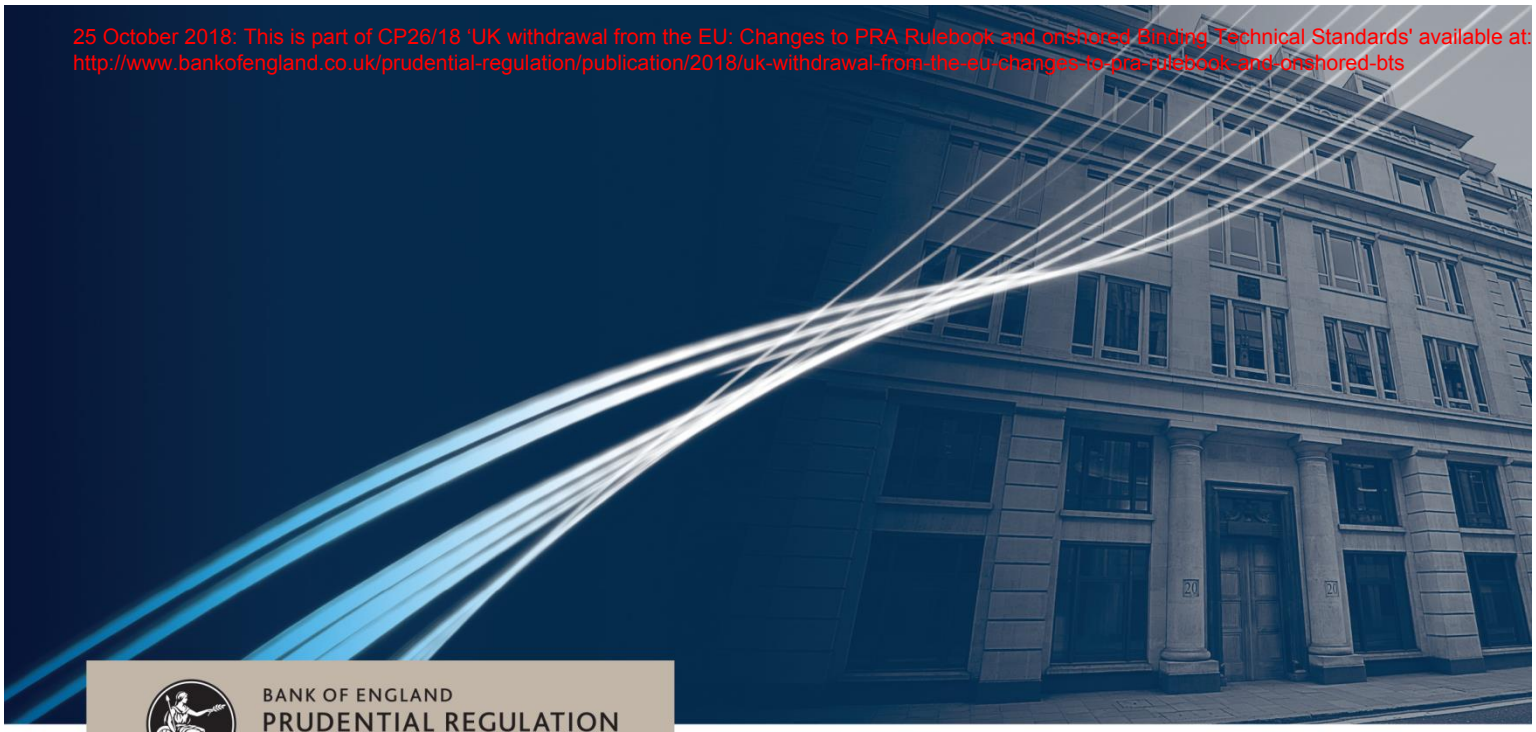

BANK OF ENGLAND
PRUDENTIAL REGULATION
AUTHORITY

Consultation Paper | CP26/18

UK withdrawal from the EU: Changes to PRA Rulebook and onshored Binding Technical Standards

October 2018

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The response will be assessed to inform our work as a regulator and central bank, both in the public interest and in the exercise of our official authority. We may use your details to contact you to clarify any aspects of your response.

The consultation paper will explain if responses will be shared with other organisations (for example, the Financial Conduct Authority). If this is the case, the other organisation will also review the responses and may also contact you to clarify aspects of your response. We will retain all responses for the period that is relevant to supporting ongoing regulatory policy developments and reviews. However, all personal data will be redacted from the responses within five years of receipt. To find out more about how we deal with your personal data, your rights or to get in touch please visit bankofengland.co.uk/legal/privacy.

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Responses are requested by Wednesday 2 January 2019.

Please address any comments or enquiries to:

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Contents

1 Overview

1.1 The UK's withdrawal from the European Union (EU) requires changes to be made to UK legislation to ensure that it remains functional. The European Union (Withdrawal) Act 2018 (the 'Act') converts directly applicable EU law (eg EU Regulations) into UK law and preserves domestic law that relates to EU membership (including domestic law that was introduced to implement EU Directives). This body of law is referred to as 'retained EU law'. The Act also provides Government ministers powers to make changes to the law so that it continues to operate effectively after the UK's withdrawal from the EU – these processes are often referred to as 'onshoring' or 'Nationalising the Acquis'[1] (NtA).[2]

1.2 This consultation paper (CP) sets out the Prudential Regulation Authority's (PRA) proposals to fix deficiencies arising from the UK's withdrawal from the EU in the PRA Rulebook, and in relation to Binding Technical Standards (BTS) within the PRA's remit that will be converted, or 'onshored', into UK law. It also sets out the PRA's proposals on how existing non-binding PRA materials, including supervisory statements (SS),[3] statements of policy (SoP), [4] and the PRA approach documents[5] should be read by firms when the UK leaves the EU. The changes proposed in this CP are amendments to ensure an operable legal framework after the UK leaves the EU.

1.3 This CP is relevant to all firms authorised and regulated by the PRA, as well as firms that are expected to have deemed permission under the 'temporary permissions regime' (TPR) or that seek to apply for PRA authorisation in future.

1.4 This CP is published as part of the Bank of England's (Bank) consultation package on amending financial services legislation under the European Union (Withdrawal) Act 2018 (the 'Act').[6] As explained in CP25/18 'The Bank of England's approach to amending financial services legislation under the European Union (Withdrawal) Act 2018' (the 'NtA approach CP'), HM Treasury intends to delegate a power, under the Act, to the financial services regulators (Financial Conduct Authority (FCA), PRA, Bank and Payment Systems Regulator (PSR))[7] giving them responsibility for fixing deficiencies in onshored BTS.[8] The delegated power can also be used by the regulators to amend deficiencies within their respective rules. Therefore, the PRA

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1 Acquis refers to the 'acquis communautaire'.

2 HM Treasury has set out its approach to onshoring EU financial services regulation in 'HM Treasury's approach to financial services legislation under the European Union (Withdrawal) Act', June 2018: https://www.gov.uk/government/publications/financial-services-legislation-under-the-eu-withdrawal-act.

3 Available at: https://www.bankofengland.co.uk/news/prudential-regulation?NewsTypes=65d34b0d42784c6bb1dd302c1ed63653&Taxonomies=65a33f20fd5241d58bd01d5fb54bded8&Direction=Latest%27.

4 Available at: https://www.bankofengland.co.uk/news/prudential-regulation?NewsTypes=65d34b0d42784c6bb1dd302c1ed63653&Taxonomies=7d299a7477874858849990ea23f885c0&Direction=Latest%27.

5 Available at: https://www.bankofengland.co.uk/news?NewsTypes=65d34b0d42784c6bb1dd302c1ed63653&Taxonomies=973f7bc68fd74abca30287f8a0a15fa3&Direction=Latest.

6 The full Bank consultation package comprises:
- a joint Bank and PRA CP25/18 on the overall approach, setting out the Bank's general approach to fixing deficiencies in rules and onshored BTS, and setting out its expectations on how EU Guidelines and Recommendations should be interpreted http://www.bankofengland.co.uk/paper/2018/the-boes-approach-to-amending-financial-services-legislation-under-the-eu-withdrawal-act-2018;
- this PRA CP26/18 on changes to PRA rules and changes to onshored BTS within the PRA's remit;
- a Bank CP on changes to Financial Market Infrastructure (FMI) rules and onshored BTS within the remit of the Bank as FMI supervisor http://www.bankofengland.co.uk/paper/2018/uk-withdrawal-from-the-eu-changes-to-fmi-rules-and-onshored-binding-technical-standards; and
- a Bank CP on changes to onshored BTS within the remit of the Bank as resolution authority http://www.bankofengland.co.uk/paper/2018/uk-withdrawal-from-the-eu-boes-approach-to-resolution-sop-and-onshored-binding-technical-standards.

7 'The Financial Regulators' Powers (Technical Standards etc.) (Amendment etc.) (EU Exit) Regulations 2018' draft SI (the 'Regulations'). https://www.legislation.gov.uk/ukdsi/2018/9780111171394/contents.

8 In addition to the power to address deficiencies, the Regulations also delegate to the regulators (FCA, PRA, Bank and PSR) an ongoing power to make and maintain BTS. These powers cannot be exercised until after the UK has left the EU.

intends to make 'EU Exit Instruments' where appropriate, to prevent, remedy or mitigate any failure of the onshored BTS within the PRA's remit or PRA rules to operate effectively, or any other deficiency in these BTS or PRA rules arising from the UK's withdrawal from the EU.

1.5 As set out in the NtA approach CP, HM Treasury is responsible for addressing deficiencies in EU regulations that are onshored under the Act, apart from BTS. HM Treasury is also responsible for addressing deficiencies in primary and secondary UK financial services legislation that arise as a result of the UK's withdrawal from the EU. The changes proposed to the PRA Rulebook and onshored BTS in this CP are consistent with changes that HM Treasury proposes to make to relevant legislation, and should be read in conjunction with those changes. This CP focuses on changes where the PRA proposes to depart from the general approach described in Chapter 3 of the NtA approach CP (in particular, where the PRA proposes to depart from the general principle of treating the EU and its Member States[9] as 'third countries'[10]), or where the PRA considers that an explanation would be appropriate to make clear the rationale for the changes. This CP and the NtA approach CP should be read together.

1.6 The power delegated to the PRA under the Act can only be used to fix 'deficiencies' that arise as a result of the UK's withdrawal from the EU. Therefore the PRA cannot use the power as the basis for policy changes unrelated to the UK's withdrawal from the EU. Because the PRA is proposing to use the delegated power for the changes proposed in this CP, the format and content of this CP has different elements compared to a usual PRA consultation on PRA rules under the Financial Services and Markets Act 2000 (FSMA). In particular, FSMA requirements to undertake a cost benefit analysis and the duty to have regard to certain regulatory principles do not apply to the exercise of the delegated power under the Act. However, the PRA has chosen to consult stakeholders, and will continue to do so as far as possible, to help inform the changes to onshored BTS and the PRA Rulebook.

1.7 In this CP, the PRA is consulting on changes to onshored BTS that the PRA will be responsible for under the Schedule to the 'The Financial Regulators' Powers (Technical Standards etc.) (Amendment etc.) (EU Exit) Regulations 2018' draft Statutory Instrument (SI) (the 'Regulations').[11] A full list of the onshored BTS in the PRA's remit being consulted on in this CP is included in Appendix 5. The responsibility for some onshored BTS is shared between the FCA and PRA ('joint BTS'). Where this is the case, the approach is that one regulator will take the lead in proposing amendments, in close consultation with the other relevant regulator, based on which regulator's remit and objectives are most relevant to the joint BTS. For example, the majority of Capital Requirements Regulation (575/2013) (CRR), Capital Requirements Directive (CRD),[12] and Financial Conglomerates Directive (FICOD)[13] BTS are shared with the FCA as they apply to populations of firms covered by both regulators.

1.8 Under the Regulations, regulators have the option to retain the joint BTS as joint, or 'divide' them so that, for example, there is a PRA version of the onshored BTS for PRA-regulated firms and an FCA version for FCA-regulated firms. With the exception of one European Market Infrastructure Regulation (648/2012) (EMIR) BTS,[14] all of the joint PRA/FCA

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9 References in this CP to the EU and/or its Member States include, as appropriate, the European Economic Area (EEA) States of Norway, Iceland and Liechtenstein.

10 'Third country' is defined in relation to each piece of EU legislation but is broadly any non-EEA jurisdiction. On exit those definitions will be altered to any non-UK jurisdiction.

11 Laid in Parliament on the 16 July 2018: https://www.legislation.gov.uk/ukdsi/2018/9780111171394.

12 Directive 2013/36/EU.

13 Directive 2002/87/EC.

14 Commission Delegated Regulation (EU) 2016/2251 – BTS on OTC derivatives, central counterparties and trade repositories with regard to regulatory technical standards for risk-mitigation techniques for OTC derivative contracts not cleared by a central counterparty.

BTS covered in this CP are proposed to be divided. This allows separate provision to be made for PRA-regulated and FCA-regulated firms (and where relevant their parent undertakings), and aligns with the operational independence of the regulators. It follows a similar model to the separate rulebooks maintained by each regulator. Following the division, the PRA and FCA propose to make an identical set of amendments to their part of each onshored BTS. However, to avoid duplication, the detail of the proposed changes to the relevant BTS will only be set out in one of the PRA's or FCA's consultation packages. This consultation includes the proposed changes to the joint PRA/FCA BTS that relate to the Bank Recovery and Resolution Directive (BRRD),[15] CRD, CRR and FICOD. The FCA will include the proposed changes to the joint PRA/FCA BTS that relate to the Markets in Financial Instruments Directive (MiFID)[16] in a forthcoming consultation paper. Firms authorised and regulated by the PRA can provide feedback on the proposed changes to the joint MiFID BTS to the PRA.

1.9 As set out in the NtA approach CP, the changes proposed in this CP would take effect at 11:00pm on Friday 29 March 2019 ('exit day')[17] only in the event that there is no Implementation Period.[18] If the draft Withdrawal Agreement agreed between the UK and EU is ratified and the Implementation Period commences on Friday 29 March 2019, the proposed changes would not take effect until after the end of the Implementation Period. Further modifications to the PRA Rulebook and onshored BTS may be required to reflect any agreement that is reached between the UK and EU on their future relationship.

1.10 HM Treasury has committed[19] to give the financial services regulators a temporary transitional power to enable firms to adjust to changes made as a result of onshoring. As set out in the NtA approach CP, the PRA is considering exercising the temporary transitional power in a broad way to delay the application of onshoring changes that will alter the regulatory standards that apply to firms, in the event that there is no Implementation Period. However, the PRA is not proposing to delay certain specific changes – these are highlighted in both the NtA approach CP and this CP. The PRA is considering further the duration of transitional relief provided.

1.11 The PRA proposes in this CP only to make changes to PRA rules and onshored BTS that were applied before Sunday 1 July 2018.[20] The changes proposed in this CP are based on draft SIs (or relevant explanatory policy materials) that have been published by HM Treasury or laid before Parliament before publication of this CP. Further amendments will be required in due course. The PRA will propose further changes to the PRA Rulebook and onshored BTS after relevant SIs which reflect Government's policy in relation to these issues have been published.

1.12 For example, this CP does not propose changes to BTS and the PRA Rulebook that would follow from future Government SIs that are expected to cover areas such as accounting, audit, state aid, the Securitisation Regulation,[21] the EU-Swiss General Insurance Agreement, and the treatment of Gibraltar.

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15 Directive 2014/59/EU.
16 Directive 2014/65/EU.
17 As defined in the Act.
18 A draft Withdrawal Agreement was agreed between the UK and EU March 2018: http://www.gov.uk/government/publications/draft-withdrawal-agreement-19-march-2018. The draft Withdrawal Agreement provides for an implementation period ending on Thursday 31 December 2020 (the 'Implementation Period').
19 'HM Treasury's approach to financial services legislation under the European Union (Withdrawal) Act', June 2018: https://www.gov.uk/government/publications/financial-services-legislation-under-the-eu-withdrawal-act.
20 The draft Regulations that were laid before Parliament included BTS that were in force on 1 July 2018. Any BTS that come into force after this date will be considered in later CPs.
21 Regulation (EU) 2017/2402.

1.13 The rest of this document is structured as follows:

- Chapter 2 is relevant to all PRA-regulated firms and explains how existing PRA non-binding materials should be interpreted after exit day.
- Chapter 3 is relevant to all PRA-regulated firms and sets out the PRA's proposed approach to reporting and disclosure requirements.
- Chapter 4 sets out proposals relating to PRA-regulated banks, building societies and designated investment firms.
- Chapter 5 sets out proposals relating to PRA-regulated insurers.
- Chapter 6 sets out proposals relating to credit unions.
- Chapter 7 sets out proposals relating to firms in the TPR.
- Chapter 8 sets out proposals relating to Financial Services Compensation Scheme (FSCS) coverage.
- Chapter 9 sets out the PRA's obligations under the Regulations.

1.14 The appendices to this CP consist of:

- Appendix 1: Draft SS 'Non-binding PRA materials: the Prudential Regulation Authority's approach after the UK's exit from the EU'.
- Appendix 2: Draft SS 'Approach to interpreting reporting and disclosure requirements after the UK's exit from the EU'.
- Appendix 3: Draft update to SS18/15 'Depositor and dormant account protection'.
- Appendix 4: Draft PRA Rulebook EU Exit Instrument.
- Appendix 5: List of onshored BTS in the PRA's remit and Draft BTS EU Exit Instruments.

Responses and next steps

1.15 This consultation closes on Wednesday 2 January 2019. The PRA invites feedback on the proposals set out in this consultation. Please address any comments or enquiries to CP26_18@bankofengland.co.uk.

1.16 Responses to this CP will be shared with the FCA.

2 Interpreting PRA approach documents, PRA Supervisory Statements, and PRA Statements of Policy

2.1 This chapter is relevant to all firms and explains how existing PRA non-binding materials, that will continue to have effect after exit day, should be interpreted. The draft SS in Appendix 1 sets out the PRA's proposed expectations on how the following non-binding materials should be read when the UK leaves the EU:

- the PRA approach documents;
- all PRA SSs as at exit day;
- all PRA SoPs as at exit day; and
- any other guidance (including Financial Services Authority guidance previously adopted by the PRA) that is in force.

2.2 The draft SS sets out that the PRA will not be making detailed amendments to these materials ahead of the UK's withdrawal from the EU. Firms would be expected to continue to apply them to the extent they remain relevant in light of the UK's withdrawal from the EU. The draft SS states that firms should interpret these materials in the context of the UK's exit from the EU, the changes made to related legislation and the proposed amendments to the PRA Rulebook and onshored BTS under the Act, and any relevant transitional relief. The draft SS highlights key legislative changes which will be relevant to firms when interpreting these materials.

2.3 While the PRA is not generally making detailed amendments to SSs, the PRA proposes to update SS18/15 'Depositor and dormant account protection'. This is due to the complexity of changes being made to the PRA rules that this SS relates to, which mean that it may be difficult for firms to interpret the existing SS correctly in light of those changes. Further information on these proposed rule changes can be found in Chapter 8 of this CP.

2.4 Reporting and disclosure requirements are covered in a separate SS.

3 Approach to reporting and disclosure requirements

3.1 This chapter covers the PRA's proposals on reporting and disclosure requirements (and any instructions for completing them) in the PRA Rulebook, published on the PRA website, and in onshored CRR and Solvency II[22] BTS. This is relevant to all PRA-regulated firms.

3.2 As set out in Chapter 4 of the NtA approach CP, the PRA is considering exercising the temporary transitional power in a broad way to delay the application of onshoring changes that will alter the regulatory standards that apply to firms. Proposals in this chapter should be considered in light of that proposal.

3.3 The PRA does not propose to make line-by-line changes to reporting or disclosure requirements at this stage. Instead, the PRA proposes to set out in a new SS the approach it expects firms to take after the UK's withdrawal from the EU to cases where reporting and disclosure fields or definitions relate to the EU.

3.4 Regulatory reporting requirements provide data for supervisors to monitor the risks faced by firms, and Pillar 3 disclosures encourage market discipline. Reporting and disclosure requirements therefore support the PRA's primary objective of ensuring the safety and soundness of firms, and it will be important to ensure that these continue to be effective after the UK's withdrawal from the EU. Due to the volume of reporting and disclosure requirements, and the costs to firms and the PRA of changing reporting templates, the PRA is not proposing, on exit day, to make line-by-line changes to these requirements. Instead, the PRA considers that the proposed approach set out in this chapter and in the draft SS in Appendix 2 is a proportionate way to ensure that reporting and disclosure requirements continue to be effective. The PRA's proposed approach provides clarity for firms on how they should be complying with reporting and disclosure requirements, without imposing additional implementation costs by making changes to templates on exit day.

3.5 The draft SS (Appendix 2) is structured as follows:

- Chapter 1 provides a brief overview of the purpose of the SS;
- Chapter 2 sets out the PRA's proposed approach to interpreting EU references in reporting and disclosure requirements; and
- Chapters 3, 4 and 5 set out the PRA's proposed approach to specific reporting and disclosure requirements: Chapter 3 deals with requirements in CRR BTS; Chapter 4 deals with reporting and disclosure requirements in Solvency II BTS; and Chapter 5 deals with reporting and disclosure requirements in the PRA Rulebook.

3.6 The effect of the approach set out in the draft SS is to retain, in most cases, the current reporting and disclosure definitions. In some cases, minor changes are required to reflect the UK's withdrawal from the EU. But firms should bear in mind that even where current definitions are maintained, the information that needs to be provided in the relevant reporting and disclosure templates may, subject to transitional relief being granted via the temporary transitional power, need to change because of changes in the underlying regulatory requirements arising from the UK's withdrawal from the EU. For example, changes to the capital treatment of exposures to the EU or its Member States may result in different data needing to be reported.

22 Directive 2009/138/EC.

3.7 The approach proposed here aligns with the approach the FCA proposes to take to CRR BTS relating to reporting and disclosure, as set out in the FCA consultation paper CP18/28.[23]

23 'Brexit: proposed changes to the Handbook and Binding Technical Standards – first consultation', October 2018: https://www.fca.org.uk/publications/consultation-papers/cp18-28-brexit-proposed-changes-handbook-bts-first-consultation#header.

4 Proposals relating to PRA-regulated banks, building societies and designated investment firms

4.1 This chapter covers the PRA's proposals on prudential rules for banks, building societies and designated investment firms in the PRA Rulebook.

4.2 As set out in Chapter 4 of the NtA approach CP, the PRA is considering exercising the temporary transitional power in a broad way to delay the application of onshoring changes that will alter the regulatory standards that apply to firms. Proposals in this chapter would need to be considered in light of the proposed use of the power to delay onshoring changes relating to PRA-regulated banks, building societies and designated investment firms. However, the PRA does not expect to use the power to delay certain onshoring changes relating to contractual recognition of bail-in and stay in resolution because of the importance of these rules in executing resolution.

4.3 The majority of proposed changes to PRA rules relevant to banks, building societies and designated investment firms reflect changes expected to be made by the CRR SI[24] published on Tuesday 21 August 2018 and the Bank Recovery and Resolution Directive (BRRD) SI[25] laid on Tuesday 23 October 2018. Also of relevance to some firms are changes relating to the EMIR SI,[26] Central Securities Depositories Regulation (CSDR) SI,[27] and the HM Treasury policy notes on Ring-fencing[28] and the Financial Conglomerates Directive (FiCOD)[29] published on Monday 22 October 2018. The changes in the CRR and BRRD SIs are explained in the policy notes[30] published by HM Treasury alongside the published SIs. Most of these changes follow the general approach set out in the NtA approach CP where it is assumed that European Economic Area (EEA) states would be treated as 'third country' by the UK and the EU would treat the UK as a 'third country'.

i) Contractual recognition of bail-in and stay in resolution

4.4 This section is relevant to all firms to which the Contractual Recognition of Bail-In Part and Stay in Resolution Part of the PRA Rulebook apply. The proposed changes to PRA rules on Contractual Recognition of Bail-In are set out in Appendix 4. The FCA will be consulting on the changes to its rules on Contractual Recognition of Bail-In[31] in a forthcoming consultation paper. This section sets out two proposals in relation to these PRA rules.

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24 'Capital Requirements (Amendment) (EU Exit) Regulations 2018' draft SI: https://www.gov.uk/government/publications/draft-capital-requirements-amendment-eu-exit-regulations-2018.

25 'The Bank Recovery and Resolution and Miscellaneous Provisions (Amendment) (EU Exit) Regulations 2018' SI: http://www.legislation.gov.uk/ukdsi/2018/9780111173732.

26 https://www.gov.uk/government/publications/draft-over-the-counter-derivatives-central-counterparties-and-trade-repositories-amendment-etc-and-transitional-provision-eu-exit-regulations?utm_source=a29be6e2-b719-404d-86f1-78f6ef865e1a&utm_medium=email&utm_campaign=govuk-notifications&utm_content=immediate.

27 https://www.gov.uk/government/publications/draft-central-securities-depositories-amendment-eu-exit-regulations-2018?utm_source=af6e83e8-5a54-4d41-a66e-e4789f5dae77&utm_medium=email&utm_campaign=govuk-notifications&utm_content=immediate.

28 https://www.gov.uk/government/publications/draft-ring-fenced-bodies-amendment-eu-exit-regulations-2018/ring-fenced-bodies-amendment-eu-exit-regulations-2018-explanatory-information.

29 https://www.gov.uk/government/publications/draft-financial-conglomerates-and-other-financial-groups-amendment-eu-exit-regulations-2018/draft-financial-conglomerates-and-other-financial-groups-amendment-eu-exit-regulations-2018-explanatory-information.

30 Capital Requirements (Amendment) (EU Exit) Regulations 2018: explanatory information, August 2018: https://www.gov.uk/government/publications/draft-capital-requirements-amendment-eu-exit-regulations-2018/capital-requirements-amendment-eu-exit-regulations-2018-explanatory-information. BRRD explanatory information: https://www.gov.uk/government/publications/draft-bank-recovery-and-resolution-and-miscellaneous-provisions-amendment-eu-exit-regulations-2018/the-bank-recovery-and-resolution-and-miscellaneous-provisions-amendment-eu-exit-regulations-2018-explanatory-information.

31 IFPRU 11.6. https://www.handbook.fca.org.uk/handbook/IFPRU/11/6.html%3Fdate%3D2016-06-30.

Contractual Recognition of Bail-In

4.5 The existing PRA rules on the contractual recognition of bail-in aim to ensure the effectiveness of resolution. The rules require firms to include in third country law contracts governing certain liabilities a term by which the creditor or party to the agreement recognises that the liability may be written down or converted by the Bank as the UK resolution authority. The rules require firms to comply with the requirement in respect of liabilities created or materially amended after Thursday 31 December 2015 (or after Thursday 19 February 2015 for liabilities under debt instruments).

4.6 The PRA proposes to amend Rule 2.1 of the Contractual Recognition of Bail-In Part of the PRA Rulebook, so that the requirement does not apply in respect of EEA law[32] governed liabilities that were created before exit day. To support cross-border resolution, firms would be required to comply with the contractual recognition of bail-in requirement in respect of new or materially amended EEA law governed liabilities created after exit day. Firms' existing stock of EEA law governed liabilities at exit day would not need to be updated under the proposed rule amendment.

4.7 The PRA considers that this proposal is consistent with taking a proportionate approach and does not create an unnecessary burden on firms. This proposal avoids the potential costs for firms of renegotiating existing EEA law governed liabilities to include the contractual recognition of bail-in term, unless they are materially amended after exit day.

4.8 The PRA estimates that the resultant risk of not requiring firms to renegotiate existing EEA law governed liabilities to the resolvability of firms is low. Consistent with international standards, the BRRD provides resolution authorities in EU states with the statutory power to recognise a resolution action taken by a third country. The PRA further assesses that the amount of EEA law governed instruments, eligible to count towards the minimum requirement for own funds and eligible liabilities (MREL) is relatively low.

4.9 It is nevertheless possible that a particular firm could have existing EEA law governed liabilities or instruments which might constitute a substantive impediment to resolution. In this circumstance, the Bank may use its power of direction to direct the firm to endeavour to re-negotiate liabilities or instruments it may have issued, for the purpose of ensuring that any decision by the Bank to write-down or convert the liability or instrument concerned would have effect under the law which governs that liability or instrument.[33]

Use of temporary transitional power

4.10 The contractual recognition of bail-in requirement is important to support an orderly resolution. The PRA does not propose to grant transitional relief in respect of liabilities that are intended to count towards a firm's MREL. Therefore EEA law governed liabilities, other than phase two liabilities,[34] that are issued or materially amended after exit day and that are subject to the PRA's Contractual Recognition of Bail-In rules, would not be subject to the temporary transitional power and would be required to include a contractual recognition term.

4.11 The PRA does propose to use the temporary transitional power to delay the obligation to include a contractual recognition of bail-in term in new or materially amended EEA law governed phase two liabilities after exit day.

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32 In this Chapter, the reference to EEA law is as it would be after exit day and does not cover UK-law.
33 See section 3A of the Banking Act 2009.
34 Phase two liabilities means an unsecured liability that is not a debt instrument (as defined in the PRA Rulebook).

4.12 As firms already have in place the procedures and governance to comply with the existing Contractual Recognition of Bail-In rules, the PRA considers that its proposed use of transitional powers strikes the right balance between the potential risk to the resolvability of firms and the expected costs for firms.

Stay in Resolution

4.13 The PRA rules on Stay in Resolution aim to ensure that a firm's entry in resolution does not, by itself, trigger contractual early termination rights or other rights under a contract that are normally triggered by a default. The PRA rules require firms to include in new financial arrangements (or materially amended existing financial arrangements) which are governed by third country law, a contractual recognition term under which the counterparty agrees to restrictions on their early termination and security enforcement rights similar to those that would apply if the financial arrangement were governed by the laws of any part of the UK.

4.14 The PRA's proposal relates to obligations under EEA law governed financial arrangements, as set out in the Stay in Resolution Part of the PRA Rulebook. The PRA proposes not to amend its Stay in Resolution rules and clarifies that firms would be required to comply with these rules in respect of new EEA law governed financial arrangements (or existing financial arrangements materially amended) after exit day. The existing stock of financial arrangements governed by EEA law at exit day would not need to be updated under the PRA Stay in Resolution rules.

4.15 The PRA considers that this proposal is consistent with taking a proportionate approach and does not create an unnecessary burden on firms. This proposal avoids the potential costs for firms of renegotiating existing EEA law governed financial arrangements to include the appropriate contractual recognition term, unless they are materially amended after exit day.

4.16 The PRA estimates that the resultant risk of not requiring firms to renegotiate existing EEA law governed financial arrangements to the resolvability of firms is low. Consistent with international standards, the BRRD provides resolution authorities in EU states with the statutory power to recognise a resolution action taken by a third country. The PRA also assesses that amount of EEA law governed financial arrangements, in scope of the PRA's Stay in Resolution rules, is low.

4.17 It is nevertheless possible that a particular firm could have existing EEA law governed financial arrangements which might constitute a substantive impediment to resolution. In this circumstance, the Bank may use its power of direction to direct the relevant firm to remove the impediment, for example by requiring the firm to include a contractual recognition term in existing financial arrangements.[35]

Use of temporary transitional power

4.18 The PRA does not propose to use the temporary transitional power in respect of the Stay in Resolution rules given their importance to support an orderly resolution. As firms already have in place the procedures and governance to comply with the existing Stay in Resolution rules, the PRA considers that its proposed approach strikes the right balance between the potential risk to the resolvability of firms and the expected costs for firms.

35 See section 3A of the Banking Act 2009.

ii) Regulatory technical standards for risk-mitigation techniques for OTC derivative contracts not cleared by a central counterparty (bilateral margining RTS)

4.19 This section is relevant to all firms for which the Regulatory Technical Standard (RTS) on risk mitigation techniques for Over the Counter (OTC) derivative contracts not cleared by a central counterparty apply. The bilateral margining RTS[36] imposes risk management obligations on firms for non-cleared OTC derivative transactions. These obligations apply to firms individually. However, in practice compliance with some obligations of the RTS is achieved through the terms of a bilateral contract between counterparties.

4.20 The PRA proposes to apply HM Treasury's general approach of treating EU Member States as third countries for its proposed changes to the bilateral margining RTS. This approach to onshoring might require repapering of bilateral agreements, as well as changes to the arrangements counterparties have in place in respect of collateral for these derivative transactions. The PRA welcomes feedback on the effects of this approach, especially as to the significance of any potential adverse effects, and on the costs of implementing these changes.

4.21 In line with HM Treasury's general approach, the PRA proposes in particular to amend:

- The range of eligible collateral in Articles 4 and 5 of the RTS. In particular:
    - EU Member State government debt securities would cease to be eligible on the same basis as UK government equivalent instruments under Article 4(c) to (d). These securities may be eligible as third country debt securities under 4(j) to (l) but this would depend on the credit quality assessment under Article 6. A similar limitation would also apply to other EU issued instruments.
    - eligibility criteria for units or shares in Undertakings for Collective Investment in Transferable Securities (UCITS) is also adjusted. Following the general approach, eligibility criteria would be linked to the UK UCITS.[37]
- The range of credit institutions where cash collected as initial margin can be maintained under Article 19(e) of the RTS. References in Article 19(e) of the RTS to credit institutions which are authorised in accordance with CRD (or authorised in a third country whose supervisory and regulatory arrangements have been found to be equivalent) will be replaced with references to credit institutions authorised by the PRA to carry on the regulated activity of accepting deposits (or authorised in a third country whose supervisory and regulatory arrangements have been found to be equivalent). This may pose issues where credit institutions that currently provide services to UK counterparties subject to the initial margin requirements are based in EU Member States other than the UK.
- The covered bond exemption in Article 30 of the RTS. Under Article 30 of the RTS, counterparties may currently, where certain conditions are met, in their risk management procedures provide the following in relation to OTC derivative contracts concluded in connection with covered bonds: (i) variation margin is not posted by the covered bond issuer or cover pool but is collected from its counterparty in cash and returned to its counterparty when due; and (ii) initial margin is not posted or collected (the 'covered

36 COMMISSION DELEGATED REGULATION (EU) 2016/2251 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council on OTC derivatives, central counterparties and trade repositories with regard to regulatory technical standards for risk-mitigation techniques for OTC derivative contracts not cleared by a central counterparty.

37 https://www.gov.uk/government/publications/draft-eu-exit-sis-for-investment-funds-and-their-managers.

bond exemption'). The conditions include, among others, that the covered bond to which the OTC derivative contract is associated meets certain requirements in Article 129 of the CRR. Article 129 of the CRR currently relates to covered bonds issued by credit institutions with a registered office in the EU only, but will be onshored in such a way that it will relate instead to covered bonds issued by credit institutions with a registered office in the UK.

- Onshored references to UCITS and alternative investment fund managers in Articles 28, 29 and 39 of the RTS in connection with calculations of initial margin thresholds. When calculating these thresholds, UCITS and alternative investment funds managed by alternative investment fund managers authorised or registered in accordance with Directive 2011/61/EU are currently considered as distinct entities where certain conditions are met. The onshored provisions will refer to UK UCITS and to Alternative Investment Funds (AIFs) managed by Alternative Investment Fund Managers (AIFMs)authorised or registered in accordance with the UK's Alternative Investment Fund Managers Regulations 2013. This is aligned with the onshored limbs of the definition of 'financial counterparty' that relate to UK UCITS and AIFs managed by AIFMs authorised or registered in accordance with the UK's Alternative Investment Fund Managers Regulations 2013.

4.22 The PRA recognises that the general approach may have an impact on bilateral agreements, operational or financial arrangements, or cross-border agreements. The PRA is seeking feedback on the challenges applying the general approach may cause to bilateral agreements, operational or financial arrangements, or cross-border agreements (including firms' views on how they may approach them). For example, where firms currently transact across jurisdictions, they may in practice apply the 'higher of' or 'more restrictive' requirements to their risk margining arrangements. This ensures both counterparties meet their respective obligations. As such, it is possible that some of the proposed changes can be implemented under existing practices.

4.23 As discussed in the Bank CP on changes to Financial Market Infrastructure (FMI) rules and onshored BTS,[38] HM Treasury is proposing to provide for a temporary regime for certain intragroup exemptions in the onshored EMIR. A consequence of this is the deletion of derogations in respect of certain intragroup transactions in Articles 36 and 37 of the bilateral margining BTS.

4.24 The bilateral margin RTS contains a number of phase-in provisions (including initial margin under Article 36, and the application of the requirements to single-stock equity options under Article 38). As a matter of law, these provisions are not onshored under the Act. As such, they do not form part of the onshored domestic legislation. However, note that the Bank set out on Wednesday 27 June 2018[39] that firms should plan on the assumption that requirements arising from new EU legislation that comes into effect during an Implementation Period lasting until 31 December 2020 would apply to them.

38 http://www.bankofengland.co.uk/paper/2018/uk-withdrawal-from-the-eu-changes-to-fmi-rules-and-onshored-binding-technical-standards.

39 'Bank of England's approach to financial services legislation under the European Union (Withdrawal) Act': https://www.bankofengland.co.uk/news/2018/june/boes-approach-to-financial-services-legislation-under-the-eu-withdrawal-act.

iii) Ring-fenced banks

4.25 As set out by HM Treasury in its policy note,[40] ring-fenced bodies (RFBs) would be permitted to continue operating through a branch or a subsidiary in the EEA immediately after exit day. This is a proportionate approach given the proximity to the ring-fencing regime coming into effect and the significant work firms have undertaken to be ready by the 1 January 2019 deadline. The outcome of the independent statutory review of ring-fencing due to commence in 2020/2021 may serve as an appropriate point to reconsider this stance.

4.26 The PRA proposes to amend Rule 16.3 of the Ring-fenced Bodies Part of the PRA Rulebook in line with the Government's general approach of treating the EU as a third country. The proposed changes would require that RFBs using non-UK central counterparties (CCPs) or central securities depositories (CSDs) would need to ensure comparable outcomes in respect of account segregation to those specified for UK-based CCPs and CSDs. This aligns with the principle that, after exit, comparative references such as these should, where possible, be to the relevant UK regime, rather than the future EU regime. Given that the relevant EU and UK regimes for account segregation will be the same at exit, the PRA does not expect this change to affect firms' choice of CCP or CSD accounts at exit.

4.27 These changes are set out in the draft PRA Rulebook EU (Exit) Instrument in Appendix 4.

iv) Other BTS

4.28 A list of BTS within the PRA's remit, and the related BTS EU Exit Instruments that are being consulted on in this CP, are set out in Appendix 5.

4.29 Where a CRD IV/CRR BTS is in the joint remit of the PRA and FCA, the FCA is consulting on its portion of each split BTS in their CP18/28 published on Wednesday 10 October 2018.[41] FCA firms are requested to make reference to the amendments to relevant joint BTS made in this CP. For the shared BRRD BTS in this CP, the FCA intends to consult on these in its upcoming CP due for publication later in the Autumn and will direct stakeholders to the amendments in this CP.

4.30 A number of CRD BTS[42] within the joint remit of the PRA and FCA will need to be deleted in their entirety, as they will be redundant after exit. This applies, for example, to provisions covering passporting, exchange of information between supervisory authorities, joint decision processes on institution-specific prudential requirements, and the functioning of colleges.

40 https://www.gov.uk/government/publications/draft-ring-fenced-bodies-amendment-eu-exit-regulations-2018?utm_source=3959ebdd-2651-4987-a4a9-036fa0d50408&utm_medium=email&utm_campaign=govuk-notifications&utm_content=immediate.

41 https://www.fca.org.uk/publications/consultation-papers/cp18-28-brexit-proposed-changes-handbook-bts-first-consultation.

42 BTS come in two forms, Regulatory Technical Standards (RTS) and Implementing Technical Standards (ITS).

5 Proposals relating to PRA-regulated insurers

5.1 This chapter covers the PRA's proposals on prudential rules relating to insurers in the PRA Rulebook. The majority of changes made to PRA rules in the draft PRA Rulebook EU Exit Instrument are consequential to changes expected to be made by the draft Solvency II[43] SI[44] published on Thursday 11 October. As such these changes should be viewed in light of that SI and the Explanatory Memorandum[45] published by HM Treasury alongside it. The majority of these follow the general approach whereby it is assumed that each EU and EEA state would be treated as a 'third country' by the UK, and the EU would treat the UK as a 'third country'.

5.2 As set out in Chapter 4 of the NtA approach CP, the PRA is considering exercising the transitional powers in a broad way to delay the application of onshoring changes that will alter the regulatory standards that apply to firms. Under the PRA's proposed approach to the exercise of the transitional power, the below changes in relation to location of branch assets and location of admissible assets would be delayed for the duration of the transitional relief.

i) Location of branch assets

5.3 Current third country branch undertakings, except Swiss general insurers, are required to keep assets up to the branch Solvency Capital Requirement (SCR) within the EEA, of which assets up to the branch Minimum Capital Requirement (MCR) must be kept in the UK.

5.4 The PRA proposes that assets up to the branch SCR are required to be kept in the UK. The PRA does not consider the proposal unduly burdensome for firms and does not consider there to be sufficient justification to diverge from the Government's general approach of treating the EEA as a third country. The proposal would not lead to additional capital requirements if the home supervisor treats assets in the UK as available to absorb losses of the firm as no additional assets would be needed to meet whole-firm requirements. The risk-adjusted return on assets in the UK should be similar to the risk-adjusted return on assets held in the EEA so there is not expected to be significant cost impact to holding UK assets rather than EEA assets.

ii) Non-Directive firms: location of admissible assets

5.5 Currently non-Directive firms[46] are permitted to hold admissible assets in the EEA to meet their sterling denominated technical provisions. Admissible assets meeting technical provisions denominated in currency other than sterling, must be held in the EEA or in the country of that currency. There are no localisation requirements for business carried on by a UK firm outside the EEA.

5.6 The PRA proposes that admissible assets being held to meet sterling denominated technical provisions of business written in the UK, be located in the UK after exit. The PRA proposes to follow the Government's general approach of treating the EEA as a third country in this context because it does not consider that there would be sufficient justification to allow firms to hold assets to meet sterling denominated technical provisions in the EEA, but not in other third countries. The proposed changes will still allow firms to hold assets in the EEA to meet any outstanding euro-denominated liabilities and there will be no localisation of asset requirements for business written outside the UK after exit.

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43 Directive 2009/138/EC.
44 https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/747552/181010_Solvency_2_draft_SI.pdf
45 https://www.gov.uk/government/publications/draft-solvency-ii-and-insurance-amendment-etc-eu-exit-regulations-2018/solvency-ii-and-insurance-amendments-eu-exit-regulations-2018-explanatory-information.
46 Non-directive insurer means a firm with Part 4A permission to effect contracts of insurance or carry out contracts of insurance other than: (1) a UK Solvency II firm; and (2) a third country branch undertaking.

5.7 These changes are set out in the draft PRA Rulebook EU Exit Instrument in Appendix 4.

iii) Other BTS

5.8 A list of BTS within the PRA's remit, and the related BTS EU Exit Instruments that are being consulted on in this CP, are set out in Appendix 5.

5.9 A number of onshored BTS relevant to insurers will need to be deleted, as these BTS will be redundant after exit day. This includes BTS covering exchange of information between supervisory authorities and joint decision processes.

6 Proposals relating to credit unions

6.1 This chapter covers the PRA's proposals on prudential rules relating to credit unions in the PRA Rulebook.

6.2 As set out in Chapter 4 of the NtA approach CP, the PRA is considering exercising the temporary transitional power in a broad way to delay the application of onshoring changes that will alter the regulatory standards that apply to firms. Under the PRA's proposed approach to the exercise of the power, the change below to requirements for credit unions' exposures to EEA credit institutions would be delayed for the duration of the transitional relief.

Requirements for credit unions' exposures to EEA credit institutions

6.3 The PRA proposes to substitute all references to 'an EEA state' in Chapter 6 of the Credit Unions Part of the PRA Rulebook with 'the UK'.

6.4 Currently, credit unions may only place funds with UK or other EEA credit institutions. Normally required terms are that a deposit or investment shall be repayable within at most 12 months from the date on which it is made. Credit unions that comply with specific requirements as to capital and governance may instead invest for a maximum of five years.

6.5 The PRA is aware that 55 credit unions currently have deposits and investments with non-UK (EEA) providers. All but one of these EEA providers has confirmed that they intend to apply for authorisation in the UK following its exit from the EU. Therefore it seems likely that credit unions which have placed funds with these institutions will be able to keep them there (albeit that the funds may be transferred to a different entity of the same banking group).

6.6 The PRA does not propose to depart from the Government's general approach of treating the EEA as a third country in this context. The PRA requests to be advised of any firm-specific impacts.

7 Proposals relating to firms in the temporary permissions regime (TPR)

7.1 This chapter covers the PRA's proposals on prudential rules relating to firms in the UK TPR.

7.2 Government has laid the EEA Passport Rights (Amendment, etc., and Transitional Provisions) (EU Exit) Regulations 2018 (the 'TPR SI') under the Act.[47] This SI repeals the rights EEA firms have to passport under EU Directives and Regulations. The PRA is proposing to amend its Rulebook accordingly. The definitions of 'incoming EEA firm', 'incoming firm' and 'incoming Treaty firm' would become redundant and be deleted. Any exceptions to the application of Parts in the PRA Rulebook relating to these definitions would no longer apply.

7.3 The TPR SI also sets out a 'temporary permissions regime' (TPR) for EEA firms currently operating in the UK. The aim of the TPR is to allow firms that currently access the UK market via the EU passporting regime to continue to operate in the UK for a limited period after withdrawal while they seek authorisation from UK regulators. A firm which is authorised to carry on regulated activities in the UK through Freedom of Establishment (FOE) or Freedom of Services (FOS) passporting can obtain a deemed Part 4A permission to carry on those activities for a maximum of three years (subject to HM Treasury's power to extend the duration of the regime by increments of 12 months).

7.4 As a consequence, EEA firms operating in the UK under the FOE or FOS passport that enter TPR will become, and be treated as, third country firms. For firms in TPR with a branch in the UK, the PRA expects these firms to comply with the same rules that apply to other third country branches. For cross-border service providers in TPR with no UK branch , a more limited set of rules will apply. These will include rules that could apply, as currently written, to a PRA-authorised third country firm without a UK branch. These include rules in the Fundamental Rules, Auditors, Change in Control, Close Links, Fees, General Provisions, Information Gathering, Interpretation, Notifications and Use of Skilled Persons Parts, SM&CR requirements, and FSCS rules with adjustments as set out in Chapter 8 of this CP.

7.5 The PRA and FCA will have the same powers in relation to TPR firms as if they were Part 4A authorised firms. These firms will be subject to the same obligations and supervisory framework as if they were Part 4A authorised firms. However, some of the rules that TPR firms will need to comply with for the first time will need to be amended to ensure that they are effective and operable.

Rule changes to ensure operability after withdrawal

7.6 PRA Rulebook changes particularly relevant to the firms in TPR include adjustments to the definition of non-Directive insurer and those related to the applicability of the Senior Manager and Certification Regime (SM&CR) to firms without a branch in the UK.

Insurance undertakings – non-Directive insurers

7.7 On entering the TPR, insurers currently operating in the UK under a FOS passport would fall under the definition of a non-Directive insurer. The PRA does not consider PRA non-Directive insurer rules to be effective or easily operable for firms entering TPR since they are based on a Solvency I regime and the insurers in question are currently operating under a

47 https://www.gov.uk/government/publications/temporary-permissions-regime-for-firms.

Solvency II regime. The PRA therefore proposes to amend the definition of non-Directive insurer so it does not capture these firms.

Senior Managers and Certification Regime (SM&CR) requirements

7.8 In order to ensure appropriate and proportionate accountability, the PRA proposes to apply the SM&CR to firms in the TPR. In particular, the PRA proposes to apply the SM&CR rules for UK branches of third country firms (third country branches) to firms in the TPR including, with appropriate modifications, to cross-border service providers without a UK branch.

7.9 The PRA proposes that all firms in the TPR (including cross-border service providers) will be required to have one or more individuals approved to perform the Head of Overseas Branch (Senior Management Function (SMF) 19) function in the Senior Management Functions 7/ Insurance – Senior Management Functions 6 Parts of the PRA Rulebook ('Provisional SMF19'). In some circumstances the PRA Rulebook requires third country branches also to have persons approved to perform other PRA SMFs (eg Chief Risk function (SMF4) or With-Profits Actuary function (SMF20a)). Where those circumstances arise for firms in the TPR (including cross-border service providers), the PRA proposes that they will be required to have persons approved to perform the relevant additional senior management functions.

7.10 For firms in the TPR, the TPR SI gives discretion to the PRA (with the FCA's consent) to treat as approved an individual whose SMF application has been submitted. These 'deemed approvals' are to be conferred by the PRA giving notice to the firm and may last for up to three years from exit day.[48] Where a firm has submitted a Part 4A permission application accompanied by the relevant SMF application(s) prior to exit day, the PRA can decide whether to treat the individuals as approved with effect from exit day. To facilitate the process for seeking deemed approvals where a firm has not applied prior to exit day, the PRA proposes to direct firms in the TPR to use a specific form for SMF approval applications. The form would be an adapted version of Short Form A and would include a short Statement of Responsibilities. Using the information provided in this application, the PRA would decide whether to give a notice conferring deemed approval.

7.11 The PRA proposes to provide firms in TPR with a period of up to 12 weeks from exit day in which to obtain deemed (or full) approval for individuals who require it. During that period, a function performed by a person who could be given a deemed approval would not be treated as an SMF. This transitional period would end when the PRA gives a deemed approval notice, or determines the SMF application, or 12 weeks from exit day, whichever is earlier.

7.12 The PRA also proposes to apply the Certification Regime, and Regulatory References to cross-border service providers without a UK branch which enter into the TPR (as well as to branches in the TPR). The PRA is considering using its temporary transitional power to provide for transitional relief for firms without a UK branch in relation to Certification Regime, Conduct, and Regulatory References requirements.

Approach to use of temporary transitional power for incoming EEA branches

7.13 If there is no Implementation Period, EEA firms operating in the UK under the FOS or FOE passport that enter TPR will become, and be treated as, third country firms.

7.14 Firms entering the TPR may find it challenging to comply immediately after exit day with some requirements in PRA rules that will apply to them for the first time. Therefore, at this

48 Subject to HM Treasury's power to extend the duration of the regime by increments of 12 months

stage, the PRA is considering the use of possible transitional relief in relation to certain aspects of the following third country branch requirements:

- Branch Solvency and Minimum Capital Requirements for insurance branches (but the PRA would expect them to comply with branch security deposit requirements);
- PRA remuneration rules where they go beyond minimum CRD IV[49] requirements;
- certain reporting obligations where they involve the segregation of branch data and the reporting and review of this data where this is not already required; and
- certain composite rules for insurance branches.

7.15 The PRA welcomes comments on any particular aspects of the UK third country regime and any particular obligations in the PRA Rulebook with which readers consider EEA firms would find it particularly challenging to comply from exit day.

49 Capital Requirements Directive (2013/36/EU) (CRD) and Capital Requirements Regulation (575/2013) (CRR) – jointly 'CRD IV'.

8 Proposals relating to FSCS protection

8.1 This chapter sets out proposed changes to PRA rules on the protection provided by the FSCS to depositors and insurance policyholders in light of the UK's withdrawal from the EU.[50] It also includes proposals to amend SS18/15 'Depositor and dormant account protection'.

8.2 After-exit, the PRA expects that EEA firms that were previously passporting into the UK will become authorised under FSMA (with Part 4A permissions granted by the PRA, or deemed under the TPR). These firms will be members of the FSCS and will need to comply with the Depositor Protection Part and the Policyholder Protection Part of the PRA Rulebook.

8.3 This chapter is relevant to:

- depositors of deposit-takers and policyholders of insurers that operate cross-border between the UK and EEA;
- UK banks, building societies and credit unions (including those operating in the 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 FOE passport;
- UK insurers (including those operating in the EEA under a passport), EEA insurers that operate in the UK under a passport, Channel Islands insurers and Isle of Man insurers with FSMA authorisation and risks or commitments situated in the UK, Channel Islands or Isle of Man, and firms that have assumed responsibility for liabilities from the foregoing insurers (successors);
- the Society of Lloyd's; and
- the Financial Services Compensation Scheme Limited, as scheme manager.

8.4 Government has announced the intention to provide, if necessary, future legislation to ensure that contractual obligations, such as insurance contracts, which would not be covered by the TPR, can continue to be met.[51] The proposals in this chapter take account of the published proposals for the TPR[52] but do not take account of any future legislation. The PRA's proposed approach to the TPR is set out in Chapter 7 of this CP.

8.5 The PRA does not propose to grant transitional relief under the temporary transitional power in respect of proposals in this chapter. This includes changes to the FSCS rules in the Depositor Protection Part and Policyholder Protection Part in the PRA Rulebook (Appendix 4) and changes to SS18/15 (Appendix 3). Therefore, the changes would apply in full from exit day in the event that there is no Implementation Period agreed.[53]

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50 The PRA is responsible for the rules that provide FSCS protection for depositors and policyholders ('PRA classes'). The FCA is responsible for the rules that determine FSCS protection for FCA classes of regulated activities, including investment provision, investment intermediation, insurance intermediation, debt management and home finance intermediation. The FCA intends to consult on its proposed rule changes to FSCS protection of FCA classes in due course.

51 'Financial Services Update: Written statement - HCWS382', December 2017: https://www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Commons/2017-12-20/HCWS382/.

52 'EEA Passport Rights (Amendment, etc., and Transitional Provisions) (EU Exit) Regulations 2018' draft SI.

53 Similarly, the PRA does not propose to use the temporary transitional power in relation to the Dormant Account Scheme, FSCS Management Expenses Levy Limit and Base Costs, and Management Expenses in Respect of Relevant Schemes Parts of the PRA Rulebook if no Implementation Period is agreed.

8.6 As described in the NtA approach CP, if an Implementation Period is agreed, existing FSCS (and EEA deposit guarantee scheme) protection will continue during that period and the proposals in this chapter would not take effect.

Summary of proposals

8.7 The proposals in this chapter follow the general approach of treating EEA States as 'third countries' as set out in the NtA approach CP, but the PRA proposes to continue to provide FSCS protection for policyholders that have existing insurance policies at exit day, provided that the insurer continues to be a 'relevant person' under Part XV FSMA after exit day.

8.8 The policy proposals included in this chapter are:

- that from exit day, FSCS depositor protection would only protect depositors with eligible deposits held by UK establishments of firms with Part 4A permissions to accept deposits;[54]
- to provide rules and expectations for firms regarding notification and disclosure to depositors about changes to their depositor protection;
- that for insurance policies issued[55] after exit day by insurers in the TPR, the scope of FSCS protection would be narrowed to exclude policies covering EEA risks;
- that for insurance policies issued after exit day by other insurers with Part 4A permissions, the scope of FSCS protection would be narrowed to protect policyholders with policies covering UK risks written from UK establishments of such insurers;[56]
- that for insurance policies issued before exit day, the existing FSCS protection for policyholders with EEA and UK risks would be continued until the risks are run off, as long as the insurer remains a 'relevant person' under FSMA;
- that the PRA's current policy would be continued, to maintain existing FSCS protection for policyholders with insured events arising prior to the transfer of insurance liabilities out of the UK in case of 'successors'[57] that are not 'relevant persons' under FSMA; and
- to remove references in rules that are no longer appropriate following the UK's withdrawal from the EU.

8.9 As set out in Chapter 4 of the NtA approach CP, the PRA does not propose to use the temporary transitional power in relation to FSCS protection. Proposals in this chapter would apply immediately upon exit.

8.10 The proposals in this chapter do not address FSCS protection for depositors or policyholders in respect of inbound passporting firms from Gibraltar or UK firms passporting into Gibraltar. Readers should not draw conclusions as to future FSCS protection in relation to Gibraltar from current PRA rules or these proposed changes. As described in Chapter 1 of this

54 Including deemed Part 4A permission to accept deposits under the 'EEA Passport Rights (Amendment, etc., and Transitional Provisions) (EU Exit) Regulations 2018' draft SI.
55 For purposes of the Policyholder Protection Part of the PRA Rulebook, "issued" includes a re-issuance of a policy or a renewal.
56 Policies issued by 'relevant persons' under FSMA after exit day through an establishment in the UK, the Channel Islands or the Isle of Man, where the risk is situated in the UK, the Channel Islands or the Isle of Man will also be eligible for protection.
57 Rule 11.1 of the Policyholder Protection Part in the PRA Rulebook.

CP, the PRA will consult on further changes to address issues related to Gibraltar after relevant SIs have been published by Government. This will include changes to the PRA Rulebook to address FSCS issues related to Gibraltar.

8.11 The PRA published CP24/18 'Occasional Consultation Paper' (the 'OCP')[58] on Monday 22 October 2018 which proposed minor changes to certain rules in the Depositor Protection and Policyholder Protection Parts of the PRA Rulebook. These changes include amendments to rules 2.2(4)(f) and 28.3 in the Depositor Protection Part, changes to which are also being consulted on in the attached instrument. These proposals have not been included in the instrument associated with this CP because this CP proposes only to make changes to PRA rules that applied before Sunday 1 July 2018. Accordingly, readers should also refer to the OCP.

Structure of this chapter

8.12 This chapter is structured as follows:

(i) Depositor protection: sets out proposals relating to the FSCS protection of depositors after exit; and

(ii) Policyholder protection: sets out proposals relating to the FSCS protection of policyholders after exit that will differ depending upon when policies were issued relative to exit day.

1.12 Draft rules are set out in Appendix 4 and a draft update to SS18/15 is set out in Appendix 3.

(i) Depositor protection

8.13 Depositor protection in the EEA (including the UK) is currently governed by the Deposit Guarantee Schemes Directive (DGSD).[59] Protection is harmonised among EU Member States and responsibility for providing protection is on a home-state basis. This means that in the event of default, the UK industry (through the FSCS) funds the compensation of eligible deposits held by UK deposit-takers' UK establishments as well as deposits held by their passported branches elsewhere in the EEA. Similarly, deposit guarantee schemes in EEA Member States protect deposits held by EEA banks' branches in the UK.

8.14 When the UK leaves the EU, it will no longer be subject to the interconnected depositor protection provided by EU Member States pursuant to the DGSD, and changes to the UK's deposit guarantee scheme, the FSCS, will be necessary.

8.15 The proposals below will be implemented through changes to the Depositor Protection Part of the PRA Rulebook and an update to SS18/15.

Scope

8.16 The PRA proposes to change its rules to provide that from exit day, FSCS depositor protection would only protect depositors with eligible deposits held by UK establishments of firms with FSMA Part 4A permissions to accept deposits.

8.17 This proposal is consistent with the UK's current treatment of third country firms and the general approach set out in the NtA approach CP. It would ensure that the FSCS provides

58 https://www.bankofengland.co.uk/prudential-regulation/publication/2018/occasional-consultation-paper.
59 Directive 2014/49/EU.

protection to all eligible deposits held by UK establishments of authorised deposit-takers regardless of whether deposits are held by a UK branch or UK subsidiary.

Deposits held by UK establishments of EEA firms

8.18 Firms that currently hold deposits in the UK through a passported branch or a freedom of services passport will be eligible to apply to establish a third country branch in the UK and receive a FSMA Part 4A permission to accept deposits.[60] But, given that it may not be possible for such branches to be established and permissions granted immediately upon the UK's exit, HM Treasury has proposed the TPR[61] as set out in Chapter 7 of this CP. Firms in the TPR will be deemed to have Part 4A permission in relation to regulated activities that were previously passported. In this chapter, references to Part 4A permission include both granted and deemed Part 4A permission.

8.19 Firms with an establishment in the UK that obtain Part 4A permission to accept deposits automatically become members of the FSCS and are required to comply with the PRA's depositor protection rules (including the UK's Single Customer View (SCV) requirements).[62] Protection for eligible deposits held by these UK branches would be provided by the FSCS. This means that when the UK becomes a third country, depositor protection will not be dependent on decisions made by the home EEA Member States for those branches.

8.20 Because the DGSD and BRRD[63] will no longer be applicable to the UK, the ranking of deposits held by UK branches of EEA deposit-takers may be lower in the EEA Member States' creditor hierarchy than at present. This could result in greater losses for depositors to the extent deposits exceed the covered amount. It could also result in reduced recoveries for the FSCS in the insolvency of an EEA deposit-taker, thereby increasing the financial burden on the UK industry that funds the FSCS. The PRA's approach to authorising international banks to operate in the UK takes into account the exposure of the FSCS.[64]

Deposits held by UK firms' branches in the EEA

8.21 The PRA proposes to amend its rules such that depositors' deposits held by UK firms' branches in the EEA will no longer be protected by the FSCS. This is consistent with the existing position for branches of UK firms that are located in third countries. Under the DGSD, EEA States will need to consider whether to require that these branches join their deposit guarantee scheme. Where EEA States require branches to join, depositor protection would shift from the FSCS to that EEA deposit guarantee scheme. Depending upon the actions of EEA States and the scope of depositor protection in each EEA State, some depositors could lose protection.

8.22 As a result of the interaction between the removal of FSCS protection, the creditor hierarchy in the Insolvency Act 1986, and the Banking Act 2009 definition of deposits that are exempt from the bail-in tool,[65] deposits held by UK firms' EEA branches (and the relevant EEA deposit guarantee schemes that obtain assignments of rights) will drop in the UK's creditor hierarchy and will no longer be automatically exempt from the Bank's application of the bail-in tool.

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60 Subject to SS1/18 'International banks: the Prudential Regulation Authority's approach to branch authorisation and supervision' March 2018: https://www.bankofengland.co.uk/prudential-regulation/publication/2018/international-banks-pras-approach-to-branch-authorisation-and-supervision-ss.
61 Under the 'EEA Passport Rights (Amendment, etc., and Transitional Provisions) (EU Exit) Regulations 2018' draft SI.
62 The SCV is an electronic file prepared by a firm that contains aggregated information on each depositor. It is designed to facilitate the transmission of information to the FSCS in order to enable fast pay-out in the case a deposit-taker fails.
63 Directive 2014/59/EU.
64 See SS1/18 referenced above.
65 'The Bank Recovery and Resolution and Miscellaneous Provisions (Amendment) (EU Exit) Regulations 2018' draft SI.

Customer notification and disclosure

8.23 The Depositor Protection Part of the PRA Rulebook includes various requirements on firms to ensure depositors are informed about their protection and the particular scheme that is responsible for protection in the event of failure.[66] This information must be provided at the time of account opening and at least annually. It also must be highlighted in branches, on websites, and via posters and stickers. In addition, firms must confirm that deposits are eligible deposits on depositors' statements of account.

8.24 The PRA proposes that these requirements will apply immediately from exit day to EEA firms that have Part 4A permission to accept deposits upon exit day, in relation to deposits held at UK establishments.

Deposits held by UK establishments of EEA firms

New customer disclosure and acknowledgements

8.25 Depositor Protection 16[67] requires firms to maintain up-to-date information sheets and exclusions lists in prescribed form, to provide these to an intending depositor, and to obtain an acknowledgment of receipt from the intending depositor, before entering into a contract on deposit-taking. The information sheet will need to be updated to reflect the new provider of depositor protection. The PRA also proposes to amend the exclusions list. The PRA proposes that these rules will apply immediately to EEA firms which have Part 4A permission upon exit day.

8.26 The PRA also proposes to clarify that Depositor Protection 16 applies only in relation to deposits held by firms' UK establishments.

Disclosure to existing depositors

8.27 Depositor Protection 17.1(3) requires firms to provide the prescribed information sheet and exclusions list to depositors at least annually. The PRA proposes that all EEA firms that have Part 4A permission with effect from exit day will be required to provide this updated information to depositors within two months beginning on the day after exit day. This is to ensure that depositors are promptly made aware of any changes to their depositor protection. Compliance with this requirement will also count for the purposes of the annual obligation.

8.28 The PRA also proposes to clarify that Depositor Protection 17 applies only in relation to deposits held by firms' UK establishments.

Posters and stickers

8.29 EEA firms that have Part 4A permission upon exit day would immediately be required to display updated posters and stickers in the prescribed form. The rules concerning the content of these posters and stickers are proposed to be amended to reflect the removal of passporting by EEA firms into the UK and the changes in the provider of depositor protection proposed in this chapter.

8.30 The PRA proposes to update SS18/15 to include an expectation that firms do not make this change until the day following exit day.

66 See Chapters 16, 17 and 23 of the Depositor Protection Part of the PRA Rulebook.
67 See also Article 16 of the DGSD.

Training

8.31 The PRA proposes to update SS18/15 to include an expectation that UK establishments of EEA firms train customer-facing staff that depositor protection has shifted to the FSCS so that staff are equipped to answer questions from customers by the day following exit day.

Deposits held by UK firms' branches in the EEA

8.32 The PRA proposes to require UK firms that have branches in the EEA and whose depositors will no longer be protected by the FSCS following exit day to notify affected depositors within one month beginning on the day following exit day.

Single Customer View (SCV)

8.33 Since 31 December 2010, the SCV rules have been used to operationalise faster payout and to help ensure that the FSCS could pay out the majority of eligible deposits within a target of seven calendar days.

8.34 The PRA proposes that EEA firms that have Part 4A permission to accept deposits upon exit day will be required to comply immediately with the PRA rules on SCV in respect of deposits held by UK establishments. For example, firms will be subject to the requirements to provide an SCV file to the FSCS within three months of authorisation and within 24 hours of a request.[68]

Levies

8.35 As a result of falling within the scope of the FSCS, EEA firms that have Part 4A permission with effect from exit day will be required to pay FSCS levies. The PRA intends to use its powers under FSMA for the purposes of the FSCS levy rules. A subsequent consultation will address this.[69] Depositor Protection 44.2 requires firms to provide a statement of the total amount of business which it conducts. The PRA proposes to include an expectation in SS18/15 that firms with a Part 4A permission with effect from exit day should provide the required information to the FSCS by Wednesday 1 May 2019. The required information in Depositor Protection 41.6(1) (which applies to firms that become new Deposit Guarantee Scheme (DGS) members between 1 January and 31 March, by virtue of Depositor Protection 44.3) is the projected valuation of business/deposits held prior to 31 December that would have been FSCS eligible deposits if the firms had been DGS members at that time.

ii) Policyholder protection

8.36 The FSCS provides broad protection to policyholders in the event that insurers experience financial difficulties. Currently, the FSCS protects policyholders of UK firms (including policyholders of UK firms passporting out to the EEA) as well as incoming passporting insurers (depending upon the location of the insured risk). These firms are currently members of the FSCS and are required to pay FSCS levies.

8.37 When the UK is no longer an EU Member State and passporting ceases, changes to the UK's policyholder protection scheme are required in order to be consistent with how the UK currently treats non-EEA third country firms and insurance risks, and the general approach set out in the NtA approach CP.

8.38 These proposals will be implemented through amendments to the Policyholder Protection Part of the PRA Rulebook.

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68 See Depositor Protection 12, 14.2 and 15.2.
69 This consultation will also address levies payable made under the Dormant Account Scheme Part

Insurance policies issued prior to exit day

8.39 The PRA proposes to maintain existing FSCS protection for insurance policies issued prior to exit day such that existing FSCS protected policies maintain protection until risks are run off, as long as the insurer remains a 'relevant person' under FSMA. This will maintain protection for protected policies issued prior to exit day by both EEA branches of outbound UK firms as well as inbound EEA firms, so long as the firms remain 'relevant persons' under FSMA after exit day.

8.40 This proposal recognises that policyholders may have factored FSCS protection into their purchase decision and may struggle to replace existing policies with similar protection if there was a sudden cessation in FSCS protection on exit day.

Insurance policies issued after exit day

8.41 The PRA proposes that for insurance policies issued after exit day, the scope of FSCS protection would be narrowed to protect policyholders with policies covering UK risks written from UK establishments of insurers with FSMA Part 4A permission. This proposal is consistent with the UK's current treatment of third country firms and third country risks, the general approach set out in the NtA approach CP, as well as the PRA's authorisation approach which will require that all incoming EEA firms with establishments in the UK will require Part 4A permissions.

8.42 Therefore, the FSCS will no longer protect policies written after exit day by establishments outside the UK (including outbound branches of UK firms),[70] or policies written after exit day that cover EEA risks. However, for inbound EEA firms that have not yet set up a UK establishment but that have deemed Part 4A permissions to effect and/or carry out insurance business, the PRA proposes to continue to provide protection to policyholders of those firms in respect of policies insuring UK risks issued after exit day. This will ensure that there is no difference in FSCS protection for policyholders while a firm is in the process of establishing a branch in the UK, provided the firm has a Part 4A permission prior to issuing the policies.

8.43 The PRA does not currently require insurers to notify customers of FSCS protection. The PRA does not propose to create new notification requirements. However, insurers should take note of FCA Handbook COBS 13.3.1(2)(b), ICOBS 3.1.3R and 6.4.4R, and ensure documentation provided to policyholders is accurate.

Transfer of insurance policies to successors

8.44 Where a UK insurer or an inbound EEA insurer operating in the UK via passporting rights transfers its insurance liabilities to an insurer without UK authorisation, existing PRA rules provide FSCS protection only to claims in relation to acts or omissions ('insured events') that arose before the transfer to the 'successor'.

8.45 The PRA proposes not to change this existing policy.[71] In the context of the UK's withdrawal from the EU, FSCS protection will continue to be available for eligible policyholders with insured events arising prior to the transfer of their insurance liabilities out of the UK, in cases where the 'successors' are not 'relevant persons' under FSMA. This means that policyholders of firms or 'successors' which are not 'relevant persons' in the UK retain the

70 Protection will continue in the case of policies written by establishments in the Channel Islands and Isle of Man, provided the firms have FSMA Part 4A permissions.

71 Statement of Policy 'Policyholder protection', April 2015: https://www.bankofengland.co.uk/prudential-regulation/publication/2015/policyholder-protection-sop.

benefit of FSCS protection for insured events arising prior to the point of transfer, but not in respect of any subsequent events arising after the point of transfer.

8.46 Unless the court were to grant a waiver from the requirement to notify all transferring policyholders on a FSMA Part VII transfer, the PRA and FCA can expect all transferring policyholders to be notified of any impact that the Part VII transfer may have on their FSCS protection, as part of the Part VII notification process.

Levies

8.47 EEA firms that have Part 4A permission with effect from exit day will continue to be required to pay FSCS levies. The PRA intends to use its powers under FSMA for the purposes of the FSCS levy rules. A subsequent consultation will address this.

9 The PRA's obligations under the Regulations

9.1 HM Treasury has delegated a power, under Section 8 of the Act, to the PRA to make changes to PRA rules and relevant BTS. As such, similar restrictions that apply to the power in Section 8 of the Act also apply to the PRA's delegated power. Different constraints will exist in relation to the temporary transitional power as highlighted in Chapter 4 of the NtA approach CP.

9.2 In accordance with those restrictions, the PRA considers that all changes proposed to Rules and BTS in this CP are appropriate to prevent, remedy or mitigate any:

(a) failure of the relevant PRA rules or BTS to operate effectively; or

(b) other deficiency in the relevant PRA rules or BTS, arising from theUK's withdrawal from the EU.

9.3 The types of changes that fall within the scope of 'deficiency' are listed in Section 8(2) of the Act. This list is exhaustive, ie all amendments must address deficiencies of these types or make consequential, supplementary, transitory or transitional provision in connection with them.

9.4 The PRA also confirms that the proposed Rule and BTS changes made under the Act do not:

(a) impose or increase taxation or fees;

(b) make retrospective provision;

(c) create a criminal offence which is capable of leading to imprisonment of more than two years;

(d) establish a public authority;

(e) implement the Article 50 Withdrawal Agreement;

(f) result in the transfer of a function of an EU authority to a UK authority;

(g) confer any power to legislate by means of orders, rules, regulations or any other subordinate instrument; or

(h) amend any legislation other than the relevant PRA rules or BTS.

Equality and diversity

9.5 The PRA has performed an assessment of the policy proposals and does not consider that the proposals give rise to equality and diversity implications.

Appendices

1	Draft Supervisory Statement – Non-binding PRA materials: the Prudential Regulation Authority's approach after exit from the EU
2	Draft Supervisory Statement - Approach to interpreting reporting and disclosure requirements after the UK's exit from the EU
3	Draft update to Supervisory Statement 18/15 'Depositor and dormant account protection'
4	Draft PRA Rulebook EU Exit instrument
5	List of BTS in the PRA's remit and Draft BTS EU Exit instruments

Appendix 1: Draft Supervisory Statement 'Non-binding PRA materials: The PRA's approach after the UK's withdrawal from the EU'

1 Introduction

1.1 HM Treasury set out its intention to ensure that the UK continues to have a functioning financial services regulatory regime regardless of the outcome of negotiations with the EU.[1] This approach is to ensure that EU-derived laws and rules that are currently in place in the UK will continue to apply at the point of exit to the extent that they remain operable in a UK regime. Changes will only be made to those laws or rules that would otherwise not operate appropriately. This provides continuity and certainty for firms as the UK leaves the EU.

1.2 This supervisory statement (SS) elaborates on how firms should interpret existing non-binding PRA regulatory and supervisory materials in light of the UK's exit from the EU. This includes the PRA's existing approach documents, statements of policy (SoPs), and SSs – these are collectively referred to as the PRA's 'non-binding materials'.

1.3 This SS is relevant to all PRA-regulated firms operating, or intending to operate, in the UK. The PRA may issue further expectations in relation to this topic.

1.4 Setting out the PRA's approach to its non-binding materials after the UK's withdrawal from the EU helps provide certainty to firms. Except for SS18/15 'Depositor and dormant account protection', the PRA is not proposing to make line-by-line amendments to its non-binding materials at this stage to reflect the UK's withdrawal from the EU.

2 Supervisory expectations for firms on the UK's exit from the EU

2.1 Alongside PRA rules, the PRA also issues supervisory approach documents,[2] SoPs,[3] and SSs.[4]

- The supervisory approach documents set out information on the PRA's supervisory practices including its approach to the supervision of different types of firms.

- SoPs are the formal documents in which the PRA details its policy on a particular matter. SoPs usually set out the PRA's approach to exercising powers conferred by the Financial Services and Markets Act 2000 ('FSMA'). They do not contain the PRA's expectations, which are set out in supervisory statements.

- Supervisory statements set flexible frameworks for firms, incorporating new and existing expectations. They focus on the PRA's expectations and are aimed at facilitating firm and supervisory judgement in determining whether they meet those expectations. They do not set absolute requirements – these are contained in rules.

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1 https://www.gov.uk/government/publications/financial-services-legislation-under-the-eu-withdrawal-act.
2 Available at: https://www.bankofengland.co.uk/prudential-regulation/publication/2016/pra-approach-documents-2016.
3 Available at: https://www.bankofengland.co.uk/news/prudential-regulation?NewsTypes=65d34b0d42784c6bb1dd302c1ed63653&Taxonomies=7d299a7477874858849990ea23f885c0&Direction=Latest%27.
4 Available at: https://www.bankofengland.co.uk/news/prudential-regulation?NewsTypes=65d34b0d42784c6bb1dd302c1ed63653&Taxonomies=65a33f20fd5241d58bd01d5fb54bded8&Direction=Latest%27.

2.2 In general, the PRA is not intending to make line-by-line amendments to non-binding materials ahead of the UK's withdrawal from the EU. However, firms should read and interpret these materials in light of the UK's withdrawal from the EU, as well as the amendments that have been made to related legislation under the European Union (Withdrawal) Act 2018 (the 'Act'). This includes changes to the PRA Rulebook and Binding Technical Standards, under the Act. In particular, firms should take into account the key changes to legislation outlined in Chapter 3 of this SS. For example, SSs that set out the PRA expectations for firms in relation to European joint decision processes would no longer be relevant under the assumption that the UK would no longer participate in these processes. Firms should also interpret these materials in light of the use of any relevant transitional relief.

3 Relevant legislative changes

3.1 There are various key changes being made to legislation that firms should consider when interpreting existing PRA non-binding materials. A non-exhaustive list of these changes is set out below.

- Passporting under EU financial services legislation will no longer be available after exit. Therefore, any reference to passporting, or processes associated with passporting, are redundant.

- Functions carried on by EU authorities that exist solely to support the EU single market will be redundant and will therefore be deleted. Other roles and responsibilities that are currently being carried out by EU authorities are being reallocated to the most appropriate UK authority, to the extent that they remain relevant when the UK has left the EU. For example, HM Treasury is proposing to transfer to the PRA the European Insurance and Occupational Pensions Authority (EIOPA) function of declaring an 'Exceptional Adverse Situation'. Firms should interpret references to EU functions with reference to the new UK authority taking on that function.

- The treatment of EU firms and assets for the purposes of capital and liquidity requirements will, in most cases, be aligned with the treatment of third countries' firms and assets. Therefore, references to preferential treatment of EU assets are no longer relevant and firms should have reference to the third country treatment of those assets.

- Where capital or liquidity consolidation was only required at the EEA level previously, this will be required at the UK level after exit. (For insurance groups, firm-specific consolidation waivers remain available.) Therefore, firms should interpret any reference to the EEA consolidated group, to the UK consolidated group.

Appendix 2: Draft Supervisory Statement 'PRA approach to interpreting reporting and disclosure requirements after the UK's withdrawal from the EU'

1 Introduction

1.1 This supervisory statement (SS) sets out the approach the Prudential Regulation Authority (PRA) expects firms to take when interpreting EU-based references found in reporting and disclosure requirements after the UK's withdrawal from the EU. The PRA has not made line-by-line changes to reporting or disclosure requirements as a result of the UK's withdrawal from the EU, as it would not have been proportionate to do so. Instead, the PRA expects firms to interpret EU references in those requirements in accordance with this SS.

1.2 Chapter 2 outlines a general approach on this issue, which is in line with the approach taken more widely when making changes to retained EU law under the European Union (Withdrawal) Act 2018.[1] Chapters 3, 4 and 5 detail an expected approach on certain more specific issues. In any instance where the approach set out in Chapters 3, 4 and 5 conflicts with the approach set out in Chapter 2, the approach set out in Chapters 3, 4 and 5 should take priority.

1.3 The appendix to this SS outlines which European Binding Technical Standards (BTS) and which parts of the PRA Rulebook are in scope of this guidance.

2 General approach

2.1 Table A sets out the various different types of EU-based references, and a default approach to how these should be interpreted.

Table A: General approach to interpretation of EU-based references

Type of reference	Default interpretation
Reference to EU regulation	This should be read as a reference to the nationalised version of the regulation.
Reference to EU directive	This should be read as a reference to the UK legislation; PRA or Financial Conduct Authority (FCA) rules; or the UK, PRA or FCA processes that give effect to the directive, as amended on EU withdrawal. In some cases firms may also find it helpful to refer to the text of the EU directive as it stands on the date of UK withdrawal from the EU, to provide additional context.
Reference to EU technical standard	This should be read as a reference to the nationalised version of the technical standard.
Stand-alone reference to the European Union or EU (ie not in relation to legislation); or the European Economic Area or EEA	This should be read as a reference to the UK, except where otherwise noted below.

1 These processes are often known as onshoring or Nationalising the Acquis (NtA)

Type of reference	Default interpretation
Reference to Member State, Member States or home Member State	This should be read as a reference to the UK, except where otherwise noted below.
Reference to third country	This should be read as a reference to a non-UK country.
Reference to Euros	Where Euro is given as an example of a currency, and the same treatment is applied to other currencies (eg US dollars), no change in interpretation is required. Any reference to a threshold set in Euros will continue to apply. In any other case, further details can be found in Chapters 3, 4 and 5 of this SS of how this should be interpreted.
Reference to definition based on Capital Requirements Regulation (575/2013) (CRR) or Solvency II requirements	In some cases, reporting definitions are written to mirror text in level one legislation (either in addition to, or instead of, including a direct reference to the legislation). Where this happens, institutions should also refer to the relevant nationalised legislation to ensure they are interpreting the reporting requirements properly. Where this differs to the text in the technical standard, the definition in the relevant nationalised legislation should take priority. Example occurrence: The CRR Common Reporting (COREP) templates on Liquidity Coverage Ratio (Annexes XXIV and XXV of ITS 680/2014) use definitions based on the definitions set out in the Liquidity Commission Delegated Regulation. In most cases, the article reference is provided, but in some cases this is implicit. Firms should ensure their reporting aligns to the nationalised version of the Liquidity Commission Delegated Regulation.
Reference to a specific accounting standard as endorsed by the EU (eg International Financial Reporting Standards (IFRS) 9)	This should be read as a reference to the implementation of the corresponding accounting standard that is in place in the UK after exit day.
Reference to statistical definitions set out by European bodies outside of legislation (eg by the European Central Bank (ECB), Eurostat or European Commission), or to non-binding materials such as guidelines or Q&As produced by the European Banking Authority (EBA) or the European Insurance and Occupational Pensions Authority (EIOPA)	These should be read as a reference to the definitions or materials as they stand at the date of UK withdrawal from the EU. Example occurrences: References in CRR Financial Reporting (FINREP) templates and instructions to statistical definitions set out in the ECB BSI regulation.[2] References in CRR FINREP templates and instructions to the Small and Medium-sized Enterprise (SME) definition set out in the Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises.[3] References in CRR COREP instructions to the definition of ISO code 3166-1-alpha-2 set out in Eurostat's 'Balance of Payments Vademecum'.[4]

2 https://www.ecb.europa.eu/ecb/legal/pdf/02013r1071-20131127-en.pdf.
3 https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32003H0361.
4 http://ec.europa.eu/eurostat/documents/39118/40189/BOP+Vademecum+-+December+2016/a5e89ad8-254b-485d-a9cd-521885c616e4.

Type of reference	Default interpretation
References to lists or information produced by European bodies	This should be read as a reference to the equivalent list or information produced by a UK body after EU withdrawal. Example occurrences: The CRR ITS on Disclosure for Own Funds (ITS 1423/2013) refers to the EBA list of capital instruments qualifying as Common Equity Tier (CET)1, as set out in CRR article 26(3). These references should be read as a reference to the corresponding list produced by the PRA. The CRR COREP instructions for C17.01 and C17.02 (Annexes I and II of ITS 680/2014) contain references to supervisory disclosures published on the EBA website, and the gross domestic product at market prices data published by Eurostat. These references should be read as a reference to the corresponding disclosure produced by the PRA,[5] and the corresponding data published by the Office for National Statistics. The instructions for Solvency II templates S06.02, S08.01, S30.02, S30.04, S31.01 and S31.02 include a list of credit rating agencies as registered or certified by the European Securities and Markets Authority (ESMA). This should be read as a reference to the list of credit rating agencies as registered or certified within the UK.

Reference to 'freedom to provide services'	On the basis that UK firms will no longer write business under the Freedom to Provide Services in the EU after exit:
	• Any data relating to business performed through freedom to provide services will be a nil entry after EU withdrawal.
	  ○ Example occurrences: S04.01 and S04.02 Solvency II templates.
	• Any references to the country where the freedom to provide services notification was made for the purposes of identifying the location where a contract is entered into should be disregarded.
	  ○ Example occurrences: S05.02, S12.02 and S17.02 Solvency II templates.

3 Approach to specific cases: Reporting and disclosure requirements based on the CRR

3.1 Table B considers specific cases where CRR reporting and disclosure requirements include EU-based references, and sets out an expected approach in each instance.

Table B: Approach to interpretation of specific EU-based references in reporting and disclosure requirements based on the CRR

Reference	Template title	Legislative reference	Interpretation
Geographical splits with different treatment of EU/EEA countries	CRR IP losses (C15)	ITS 680/2014; Annexes VI and VII	The current reporting requirements relating to geographical split continue to apply. In other words, reporting should consist of a total template, one template for each national market in the EU or UK to which the institution is exposed, and one template for aggregated data for all national markets outside the EU/UK.
Row and column labels referring to EU	Leverage ratio disclosures	ITS 2016/200, Annex I	Firms have an option to either retain the reference to the EU or remove this from the row labels.
Euro conversion rate	GSII indicator reporting	ITS 1030/2014, Annex	Firms should continue to include the Euro conversion rate within their disclosures.

5 This can be found on the Regulatory reporting – banking sector page in the prudential regulation section of the Bank of England website: www.bankofengland.co.uk/prudential-regulation/regulatory-reporting/regulatory-reporting-banking-sector.

Reference	Template title	Legislative reference	Interpretation
Reference to Member State obligations	COREP C12.00, row 150 COREP C13.00, row 420	ITS 680/2014, Annexes I and II	The reference to '…Member States shall ensure that the competent authorities impose…' should be read as '…the competent authority shall impose…'
Conservation buffer due to macro-prudential or systemic risk identified at the level of a Member State	COREP C04.00, row 760, C06.02, column 440	ITS 680/2014, Annexes I and II	The reference to '…conservation buffer due to macro-prudential or systemic risk identified at the level of a Member State…' should be read as '…conservation buffer due to enhanced prudential measures…'
References to Capital Requirements Directive (2013/36/EU) (CRD) Article 140(4) within counter-cyclical capital buffer disclosure requirements	CCyB disclosures	ITS 2015/1555, Annexes I and II	References in Part II of Annex II to exposures 'defined in accordance with Article 140(4)(a) of Directive 2013/36/EU' shall be read as references to 'all exposure classes (other than those referred to in points (a) to (f) of CRR Article 112) that are subject to the own funds requirements for credit risk under Part Three, Title II of that Regulation'. References in Part II of Annex II to exposures 'defined in accordance with Article 140(4)(b) of Directive 2013/36/EU' shall be read, where the exposure is held in the trading book, as references to 'all exposure classes (other than those referred to in points (a) to (f) of CRR Article 112) that are subject to the own funds requirements for specific risk under Part Three, Title IV, Chapter 2 of that Regulation or incremental default and migration risk under Part Three, Title IV, Chapter 5 of that Regulation'. References in Part II of Annex II to exposures 'defined in accordance with Article 140(4)(c) of Directive 2013/36/EU' shall be read, where the exposure is a securitisation as references to 'all exposure classes (other than those referred to in points (a) to (f) of CRR Article 112) that are subject to the own funds requirements under Part Three, Title II, Chapter 5 of that Regulation'. References to relevant credit exposures defined in accordance to Article 140(4) of Directive 2013/36/EU are to be read in line with the instructions above.
EU references contained within the definitions of benchmarking portfolios and corresponding reporting instructions	Benchmarking templates	2016/2070, all annexes	The definitions of the benchmarking portfolios should remain unchanged. For the avoidance of doubt, this means that any references to codes assigned by the EBA; to Euros; to Central European Time (CET); and to European OTC options should remain as they are.
Reference to joint decisions	Benchmarking template C105.01	2016/2070 Annexes III and IV	Firms should report whether a joint decision, made prior to the date of EU withdrawal, continues to apply in relation to the use of the IRB approach for exposures included in the benchmarking portfolios.

4 Approach to specific cases: Reporting and disclosure requirements based on Solvency II

4.1 Table C considers specific cases where Solvency II reporting and disclosure requirements include EU-based references, and sets out an expected approach in each instance.

Table C: Approach to interpretation of specific EU-based references in reporting and disclosure requirements based on Solvency II

Reference	Template title	Legislative reference	Interpretation
Geographical splits with different treatment of EU/EEA countries	S04.01, S04.02, S12.02, S17.02	ITS 2015/2450, Annexes I and II	The current reporting requirements relating to geographical split continue to apply. References to the EEA should be read as a reference to the EEA plus the UK, and references to non-EEA should be read as a reference to all non-EEA countries excluding the UK.
References to repealed legislation	S22.04, S22.05	ITS 2015/2450, Annexes I and II	Some Solvency II reporting and disclosure templates contain references to repealed legislation (Directive 2002/83/EC and Directive 2005/68/EC). Firms should continue to refer to this as at the date of last application.
References to repealed CRD legislation	S23.01	ITS 2015/2450, Annexes I, II and III ITS 2015/2452, Annexes I, II and III	References to 'credit institutions authorised in accordance with Directive 2006/48/EC' should be read as a reference to PRA-regulated credit institutions.
Method for allocating identifying code	Multiple templates	ITS 2015/2450, Annexes I, II and III	The instructions for assigning identifying codes distinguish between entities in the EEA and those outside the EEA. Firms should continue to use the same identifying codes as they have used previously.
Method for allocating code to be used for Issuer Country	S06.02, S06.03, S11.01	ITS 2015/2450, Annexes I, II and III	Firms should continue to use the code 'EU' for European Union Institutions.

5 Approach to specific cases: reporting and disclosure requirements set out in PRA Rulebook requirements

5.1 Table D considers specific cases where templates within the PRA Rulebook reporting and disclosure requirements include EU-based references, and sets out an expected approach in each instance.

5.2 The Appendix lists the PRA parts and subsections in scope of this guidance.

Table D: Approach to interpretation of specific EU-based references in reporting and disclosure requirements set out in PRA rules

Reference	Template title	Rulebook reference	Interpretation
Geographical splits with different treatment of EU/EEA countries	FSA016	CRR Firms; Regulatory Reporting Part	The reporting requirements for this template remain unchanged. Row 2 should report investments relating to UK and EEA countries, and row 3 should report investments related to all countries except the UK and EEA countries.
Row and column labels referring to EU	FSA083	CRR Firms; Reporting Leverage Ratio Part	No changes required to the current template; the references to 'EU' in the row and column labels should remain unchanged.
Reference to EEA branches	Branch Return	Non-CRR Firms; Incoming and Third Country Firms Part; Branch Return	The reporting requirement in row 9 of the Lending section remains unchanged.
Conservation buffer due to macro-prudential or systemic risk identified at the level of a Member State	PRA101, PRA102, PRA103	CRR Firms; Regulatory Reporting Part; Capital +	The reference to '…conservation buffer due to macro-prudential or systemic risk identified at the level of a Member State…' in the templates should be read as '…conservation buffer due to enhanced prudential measures…'

Appendix: Scope

The PRA expects firms to apply the approach set out in this SS to the Annexes of the following European Binding Technical Standards (as amended up until the date of UK withdrawal from the EU):

Firms	Title	Reference
CRR Firms	Supervisory reporting of institutions according to Regulation (EU) No 575/2013 of the European Parliament and of the Council	ITS 680/2014
CRR Firms	Disclosure of own funds requirements for institutions according to Regulation (EU) No 575/2013 of the European Parliament and of the Council	ITS 1423/2013
CRR Firms	Disclosure of the leverage ratio for institutions, according to Regulation (EU) No 575/2013 of the European Parliament and of the Council	ITS 2016/200
CRR Firms	Uniform formats and date for the disclosure of the values used to identify global systemically important institutions according to Regulation (EU) No 575/2013 of the European Parliament and of the Council	ITS 1030/2014
CRR Firms	Disclosure of information in relation to the compliance of institutions with the requirement for a countercyclical capital buffer in accordance with Article 440	RTS 2015/1555
CRR Firms	Disclosure of encumbered and unencumbered assets	RTS 2017/2295
CRR Firms	Templates, definitions and IT-solutions to be used by institutions when reporting to the European Banking Authority and to competent authorities in accordance with Article 78(2) of Directive 2013/36/EU of the European Parliament and of the Council	ITS 2016/2070
SII Firms	Templates for the submission of information to the supervisory authorities according to Directive 2009/138/EC of the European Parliament and of the Council	ITS 2015/2450
SII Firms	Procedures, formats and templates of the solvency and financial condition report in accordance with Directive 2009/138/EC of the European Parliament and of the Council	ITS 2015/2452
SII SPVs	Procedures for supervisory approval to establish special purpose vehicles, for the cooperation and exchange of information between supervisory authorities regarding special purpose vehicles as well as to set out formats and templates for information to be reported by special purpose vehicles in accordance with Directive 2009/138/EC of the European Parliament and of the Council	ITS 2015/462

The PRA expects firms to apply the approach set out in this SS to templates contained within the following parts, and sub-sections, of the PRA Rulebook:

Firms	Rulebook part	Sections
CRR Firms	Regulatory Reporting	All
CRR Firms	Reporting Leverage Ratio	All
CRR Firms	Reporting Pillar 2	All
Non-CRR Firms	Credit Unions	19 Regulatory Reporting for Credit Unions
Non-CRR Firms	Incoming Firms and Third Country Firms	3 Branch Return 4 Form
Non-SII Firms	Friendly Society – Reporting	All
Non-SII Firms	Insurance Company – Reporting	All
SII Firms	Reporting	All
SII Firms	Third Country Branches	9 Reporting

Appendix 3: Draft update to Supervisory Statement 18/15 'Depositor and dormant account protection'

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

…

2 Eligibility

…

2.2 Regarding Depositor Protection 1.3A ~~2.2(2)~~, a firm ~~can use sort codes to show~~ must confirm in SCV field 39 that a deposit has been assigned to a UK establishment ~~or a branch in another EEA state~~.

2.3 The definition of deposit in the Depositor Protection Part includes savings products evidenced by a certificate of deposit made out to a named person and which exists in the UK or a Member State on 2 July 2014. For the avoidance of doubt, the PRA expects the certificate itself to have existed on 2 July 2014 (not merely the product).

…

3 Disclosure

3.1 This chapter sets out the PRA's expectations of how firms will disclose information about the relevant deposit guarantee scheme and is intended to be read together with the rules contained in Chapters 16, 17, 18, 19, 20, 21, 22 and 23 of the Depositor Protection Part of the PRA Rulebook. The PRA's expectations regarding the disclosure requirements in respect of the change in the deposit protection limit are set out in Chapter 12. The PRA's expectations regarding the disclosure requirements in respect of the UK's withdrawal from the EU are set out in Chapter 13.

…

Application

3.3 The general principle is that rules in Chapters 16 and 17 of the Depositor Protection Part apply both per depositor and per account. For example, under Chapter 16, in respect of each account to be opened and each intending depositor on that account, firms must provide an information sheet to, and obtain acknowledgement of receipt from, the intending depositor before entering into each deposit-taking contract with that intending depositor. For the avoidance of doubt, the requirement to provide the information sheet to, and obtain acknowledgement from, a particular intending depositor (including for a joint account) is engaged where that intending depositor is entering into a deposit-taking contract and that deposit will be held by the firm in its UK establishment.

…

Information sheet and the acknowledgement of receipt

3.9 Depositor Protection 16.2(3) states that a firm must obtain an acknowledgement of receipt of the information sheet from each intending depositor before entering into a contract on deposit-taking where that deposit will be held by the firm in its UK establishment. In order to meet this requirement, prior to the contract being entered into, firms should obtain one of the following:

(a) the intending depositor's signature on the information sheet. In this case, the PRA considers it good practice for firms to provide the depositor with a copy of the information sheet;

(b) the intending depositor's signature on an acknowledgement contained in a separate document to the information sheet (which would allow the depositor to retain the information sheet for their reference);

(c) the intending depositor's acknowledgement in a separate 'tick box' in the account opening documentation; or

(d) the intending depositor's express acknowledgement over the telephone.

…

Other references to the DGS

3.27 The PRA expects firms to update or, where appropriate pursuant to Depositor Protection 18.1, delete any existing references to the DGS in advertising materials, where changes in PRA rules mean the information is either no longer accurate or permitted. Refer to Chapter 12 in respect of changes to the deposit protection limit. Refer to Chapter 13 in respect of the UK's withdrawal from the EU.

…

4 Marking eligible deposits and accounts and transitional issues

4.1 This chapter sets out the PRA's expectations of how firms will mark eligible deposits and accounts ~~and meet recast Deposit Guarantee Schemes Directive (DGSD) information requirements,~~ and is intended to be read together with Chapters 11 and 13 of the Depositor Protection Part.

Requirement to mark eligible deposits

4.2 Depositor Protection 11.1 sets out that a firm must mark eligible deposits in a way that allows for immediate identification of such deposits ~~as required by Article 5(4) of the recast DGSD~~. The PRA considers that firms can meet this requirement in a number of ways, including but not limited to:

(a) marking eligible (and/or ineligible) deposits ~~under the recast DGSD~~ at core systems level (ie flagging at account level);

(b) a separate file showing eligible (and/or ineligible) deposits; or

(c) using the Single Customer View (SCV) file and exclusions file.

…

4.8 If firms wish to use option 4.2(c) to meet the marking requirement, the PRA expects that firms, by 3 July 2015, have updated their SCV files to remove all ineligible deposits and include newly eligible deposits ~~under the recast DGSD~~ (including the eligible deposits of large corporates and small local authorities). Such an approach is not a requirement under the PRA transitional rules, but is an option for firms to use to meet Depositor Protection 11.1. Alternatively, the PRA considers it acceptable for firms to use a combination of options. For example, options 4.2(a) and 4.2(b) could be used for newly eligible deposits such as large corporate deposits and option 4.2(c) for all other eligible deposits. The requirements around the timing and content of SCV and exclusions file production remains as specified in the relevant rules.

…

Requirement to mark eligible accounts

4.12 Depositor Protection 13.2 sets out that a firm must mark accounts which hold:

(i) eligible deposits of natural persons and micro, small and medium-sized enterprises (SMEs); and

(ii) such deposits that would be eligible if they had not been made (ie are held in an account) at a branch of the firm located outside of the ~~EEA~~ UK.

…

~~Recast DGSD i~~Information requirements during transition period

4.19 Depositor Protection 11 sets out a number of information requirements firms are expected to meet ~~in line with recast DGSD requirements~~. Depositor Protection 11.3 and 11.4 require that firms upon receipt of a request must be able to provide the FSCS with the aggregated amounts of eligible deposits of each and every depositor. Depositor Protection 11.5 and 11.6 require that a firm upon receipt of a request must be able to provide the FSCS with all information necessary to enable the FSCS to prepare for the payment of compensation and that they must provide this information to the FSCS to enable the FSCS to pay compensation within the applicable time period.

…

4.22 ~~The PRA would expect the information provided to the FSCS to specify which deposits are accepted in branches outside the United Kingdom~~ Deleted.

…

7 Calculation of levies

…

7.4 For deposit-takers newly within scope of the FSCS following the UK's withdrawal from the EU, refer to Chapter 13.

8 Single Customer View

…

Country where account is domiciled

8.21 Field 39 in Depositor Protection 12.9 requires firms to provide information in the SCV or exclusions file on the location of the branch where the account is held. This may be different to the country where the depositor has their address. ~~For example, a firm with EEA branches may indicate that an account is held with a branch in Spain. A firm with only UK branches~~ After the UK's withdrawal from the EU, deposits are only eligible if they are held by a DGS member through its UK establishment. Firms should indicate that the deposits are held in the United Kingdom using ISO 3166-1 ('GBR').

…

13 UK withdrawal from the EU

13.1 This chapter sets out the PRA's expectations around changes to the Depositor Protection Part as a result of the UK's withdrawal from the EU.

13.2 From exit day,[n] the scope of FSCS protection has been amended to protect eligible deposits held by deposit-takers with FSMA Part 4A permission to accept deposits, only where those deposits are held by UK establishments of such firms.

13.3 Due to the importance of depositor protection, the PRA is requiring new DGS members (firms that on exit day are granted, or deemed to have, Part 4A permission to accept deposits) to comply with the Depositor Protection Part immediately upon exit day.

Single Customer View

13.4 Depositor Protection Chapter 12 requires DGS members (including new DGS members) to be able to provide SCV and exclusions view files within 24 hours of a request by the PRA or FSCS, or within 24 hours of deposits becoming unavailable. It also requires firms to provide the FSCS with SCV and exclusions view files within three months of being granted or deemed a Part 4A permission to accept deposits.

13.5 Firms with existing Part 4A permissions prior to exit will need to revise their SCV systems to exclude deposits that are no longer eligible, namely deposits held by UK firms' branches located in the EEA.

13.6 Chapter 8 of this SS provides further expectations regarding SCV.

Informing depositors

13.7 Chapter 3 of this SS provides expectations regarding customer disclosure. The following expectations are specific to the UK's withdrawal from the EU.

Deposits held by UK establishments
New customer disclosure and acknowledgements

n Exit day is defined in the European Union (Withdrawal) Act 2018 as 11:00pm 29 March 2019.

13.8 Depositor Protection 16 requires all DGS members (including new DGS members as of exit day) to provide up-to-date information sheets and exclusions lists in prescribed form to intending depositors and to obtain an acknowledgment of receipt from the intending depositor, before entering into a contract on deposit-taking.

13.9 A new exclusions list has been included in Annex 3 of the Depositor Protection Part.

13.10 As noted in paragraphs 3.3 and 3.9, Depositor Protection 16 applies when the deposit is held by the firm in its UK establishment.

Disclosure to existing depositors

13.11 Depositor Protection 17.3 requires new DGS members to provide a revised information sheet and exclusions list to existing depositors with deposits held in the UK establishment within two months after exit day.

13.12 The provision of the information sheet and exclusion list required by Depositor Protection 17.3 will also count for the purposes of the obligation under Depositor Protection 17.1 to provide that information annually, and accordingly will 'reset' the annual obligation.

13.13 Depositor Protection 17.1(3) applies when the deposit is held by the firm in its UK establishment.

Posters and stickers

13.14 The Depositor Protection Part requires firms to display posters and stickers which refer to FSCS protection to be displayed in branches and on websites. The PRA expects new DGS members to remove previous posters and stickers (that referred to coverage by home DGSs) and meet the requirements in respect of the updated materials reflecting FSCS coverage on the day following exit day.[n]

Staff Training

13.15 The PRA expects new DGS members to train customer facing staff to answer questions from customers about the fact that the FSCS is now providing depositor protection for deposits held by the DGS member at its UK establishment.

Deposits held by UK firms' EEA branches

13.16 From exit day, deposits held by UK firms' establishments outside the UK will not be protected by the FSCS.

Information about removal of FSCS protection

13.17 Depositor Protection 20.2 requires UK firms with establishments in the EEA, whose deposits will no longer be protected by the FSCS following exit day to notify affected depositors within one month beginning on the day following exit day. Firms should not send these notifications before exit day.

Other references

13.18 The PRA expects both UK firms with establishments in the EEA and new DGS members to update all relevant references to depositor protection to reflect the new scope of protection.

[n] Updated templates for the posters and stickers are available on the FSCS's website: www.fscs.org.uk.

Levies

13.19 As a result of falling within the scope of the FSCS, EEA firms that have Part 4A permission with effect from exit day will be required to pay FSCS levies. For purposes of Depositor Protection 44.2, new DGS members should provide the required information to the FSCS by Wednesday 1 May 2019. The required information in Depositor Protection 41.6(1) (which applies to firms which become new DGS members between 1 January and 31 March by virtue of Depositor Protection 44.3) is the projected value of business/deposits held on the prior 31 December that would have been FSCS eligible deposits if the firms had been DGS members at that time.