BANK OF ENGLAND
PRUDENTIAL REGULATION AUTHORITY

Publication

Consultation Paper | CP19/21

Domestic Liquidity Sub-Groups

September 2021

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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.

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Responses are requested by 5pm on Tuesday 12 October 2021.

This consultation paper's proposals are similar to those on which the PRA already consulted in CP5/21 and relate to a permission that the PRA expects only a limited number of firms will seek to use. As a result, the PRA considers a two-week consultation period to be sufficient. The PRA also considers a short consultation period to be needed to ensure sufficient time for firms to apply for, and for the PRA to process, DoLSub permissions before Saturday 1 January 2022.

In light of current measures to help prevent the spread of COVID-19, please address any comments or enquiries by email to: CP19_21@bankofengland.co.uk.

Alternatively, please address any comments or enquiries to:

Andrew Linn
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1 Overview

1.1 This Consultation Paper (CP) sets out the Prudential Regulation Authority's (PRA) proposed rules in respect of the application of prudential liquidity requirements to Domestic Liquidity Sub-Groups (DoLSubs). It also includes proposed revisions to the PRA's approach to granting a DoLSub permission.

1.2 Where certain conditions are met on the availability, distribution, management, and monitoring of liquidity, the Capital Requirements Regulation (CRR) allows the PRA to waive the application of liquidity requirements at the level of an individual firm and to permit a firm to form a DoLSub. Those requirements include the liquidity coverage ratio (LCR), and liquidity risk management, monitoring, reporting, and disclosure. Where a DoLSub permission is granted, PRA requirements apply at the level of a DoLSub on the basis of the consolidated situation of its members, rather than applying to member firms individually. This reflects the ability of some firms to manage their liquidity jointly with other entities, as if they were a single entity. HM Treasury will revoke this provision from Saturday 1 January 2022.[2]

1.3 This CP sets out the PRA's proposal following its further consideration of the conditions for DoLSubs. This CP would result in changes to the Liquidity (CRR) Part of the PRA Rulebook (Appendix 1) and the Statement of Policy (SoP) 'Liquidity and funding permissions' (Appendix 2).[3]

1.4 This consultation is relevant to PRA-authorised UK banks, PRA-designated UK investment firms, and building societies (hereafter known as 'firms'). It is also relevant to UK financial or mixed financial holding companies that are the immediate parent undertakings of firms that may be included in a DoLSub. It is not relevant to credit unions.

1.5 The purpose of the proposed rules on DoLSubs in this CP is to ensure that liquidity requirements are sufficiently prudent and proportionate when applied at the level of a DoLSub where certain conditions are met.

1.6 The PRA considered the interaction between its primary and secondary objectives and the 'have regards', including in relation to international standards, relative standing of the UK, and finance for the real economy. Overall the PRA considers the proposals in this paper to be necessary and appropriate to enhance the proportionality of the PRA's regulatory regime, while maintaining firms' safety and soundness.

1.7 The PRA expects that some firms will incur legal and administrative costs as a result of the proposals contained in this CP, but expects these costs to be proportionate given the benefits of the DoLSub permission and the benefits to safety and soundness arising from the revised framework.

Background

1.8 In CP5/21, 'Implementation of Basel standards', the PRA set out proposed rules to implement international standards through a new PRA Rulebook (CRR) instrument.[4] CP5/21 included rules specifying the levels of application of prudential requirements, implementing the LCR and the Net Stable Funding Ratio (NSFR), and a new 'Liquidity and funding permissions' SoP setting out the factors the PRA proposed to consider when assessing permission applications.

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2 CRR Article 8.
3 Near final SoP published July 2021: 'Liquidity and funding permissions'.
4 February 2021: CP5/21 'Implementation of Basel standards'.

1.9 In PS17/21, the PRA provided feedback on the responses received to CP5/21, and set out near-final rule instruments, SoPs, Supervisory Statements (SS) and reporting templates and instructions, including covering the LCR and NSFR. However, in light of the responses on levels of application, the PRA decided to consider further the conditions under which a DoLSub may be granted. This CP sets out the PRA's revised proposals clarifying its approach to DoLSubs.

Summary of proposals

1.10 This CP proposes to:

(a) permit the inclusion in a DoLSub of firms that are subsidiaries of a common immediate UK qualifying parent undertaking that is not a bank or PRA-designated investment firm (referred to in this CP as a 'sibling DoLSub'); and

(b) revise the conditions to qualify for a DoLSub permission and the factors that the PRA will take into account when considering DoLSub applications.

Implementation

1.11 The PRA proposes that the implementation date for the changes resulting from this CP would be Saturday 1 January 2022, with finalisation of the rules taking place in November 2021.

1.12 In CP5/21 the PRA stated that it was working with HM Treasury on transitional provisions to ensure that DoLSub permissions in existence before Saturday 1 January 2022, that disapply LCR requirements at an individual level, could continue to have effect after that date. In PS17/21, the PRA did not publish final rules on DoLSubs, as at that time the PRA had not finalised its policy on DoLSubs. HM Treasury did not implement a savings provision for LCR DoLSub permissions that are currently in-force or would enter into force before Saturday 1 January 2022.

1.13 The PRA expects firms to apply formally for LCR and NSFR DoLSub permissions at the earliest opportunity after the publication of final rules. All applications will be assessed under the final revised framework, and permissions will take effect from Saturday 1 January 2022. The PRA expects that the information submitted under CRR by firms currently with a DoLSub permission will likely remain relevant, at least in part, for applications received under the final revised framework.

1.14 The PRA intends to accept information about firms' prospective applications before publishing final rules in order to ensure that applications can be processed in sufficient time prior to Saturday 1 January 2022. By making these information requests the PRA does not intend to pre-determine the outcome of the final policy or limit requests for further information once the final policy is made.

Responses and next steps

1.15 This consultation closes on Tuesday 12 October 2021. The PRA invites feedback on the proposals set out in this consultation. The PRA would also welcome firms' views on whether there are any significant practical implications of the proposed approach to DoLSubs that the PRA has not identified. Please address any comments or enquiries to [CP19_21@bankofengland.co.uk].

1.16 References related to the UK's membership of the EU in the SoP covered by this CP have been updated as part of these proposals to reflect the UK's withdrawal from the EU. Unless otherwise

stated, any remaining references to EU or EU-derived legislation refer to the version of that legislation which forms part of retained EU law.[5]

5 For further information please see: Transitioning to post-exit rules and standards.

2 Proposals

Applying liquidity requirements at the level of domestic liquidity sub-groups

CRR Article 8

2.1 This chapter sets out the PRA's proposals in relation to the application of liquidity requirements at the level of a DoLSub.

2.2 PRA rules generally apply liquidity requirements at the level of an individual firm and its consolidated group. This helps to ensure the safety and soundness of an individual firm and guards against it being adversely affected by its membership of a wider group or sub-group. The PRA also considers it important that liquidity requirements are applied proportionately in cases where two or more firms manage their liquidity jointly, as if they were a single entity. Accordingly, where certain conditions are met, the PRA proposes to permit firms to apply for permission to apply prudential liquidity requirements at the level of a DoLSub, rather than to each of its individual members.[6]

2.3 The Basel standards apply to internationally active banks on a consolidated basis and on a sub-consolidated basis within a banking group; and on an individual basis.[7] Basel standards do not prescribe a methodology for the application of requirements on a sub-consolidated basis, including where standards are generally applied at the level of individual firms. This is left for supervisors to specify.

2.4 In CP5/21 the PRA proposed to replicate in PRA rules the level of application requirements of the CRR, including those in relation to DoLSubs, and to set out in a 'Liquidity and funding permissions' SoP the criteria against which DoLSub applications would be assessed. The PRA proposed new requirements specific to the NSFR that would allow the scope of a DoLSub permission to include the NSFR. These proposals would have allowed firms to form a DoLSub only between a parent institution and its subsidiaries, and only where every member of the DoLSub was an institution to which the Liquidity Part of the PRA Rulebook applied on an individual basis. This would have precluded the formation of sibling DoLSubs.

2.5 PS17/21 highlighted comments from two respondents noting that under the PRA's proposed rules, firms would be unable to apply for a DoLSub waiver if the entities in the proposed DoLSub have an intermediate holding company parent. One respondent considered the PRA's proposed approach not to give sufficient regard to the variety of business models and group structures that firms may have. Another respondent considered that the proposed approach to DoLSubs gave insufficient regard to the costs of implementation compared to the prudential benefit.

2.6 In light of these responses, the PRA stated in PS17/21 that it intended to further consider the conditions under which a DoLSub may be granted and clarify its proposed approach to DoLSubs at the earliest opportunity.

2.7 The PRA has considered the responses further. The PRA recognises that its original proposal would not permit sibling DoLSubs to be formed. As a result, relative to firms that qualify to form a DoLSub, the proposed approach could have entailed additional costs for the management,

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6 This would apply in PRA rules and SoP to the LCR and NSFR a framework similar to that currently applied to the LCR by the on-shored CRR and PRA SS.

7 Basel standards SCO10.1, 10.3, and Footnote 2.

monitoring, and reporting of liquidity for firms with a financial or mixed financial holding company immediate parent, as the requirements would have applied to each firm on an individual basis rather than at the level of a DoLSub. However, the PRA considers the risks to safety and soundness to be relatively greater in the case of a sibling DoLSub, as the immediate parent undertaking – a financial or mixed financial holding company – would not generally be subject to PRA rules, including any DoLSub requirements, and would also not be subject to the PRA's general prudential requirements on an individual basis.[8]

2.8 After considering the responses, the PRA has decided to modify its original proposal by instead proposing to:

- permit firms to form a DoLSub without requiring their immediate parent undertaking to be a bank or a PRA-designated investment firm that is included in the DoLSub; and

- enhance the conditions for qualifying for a DoLSub permission to ensure the free flow of liquidity and funding within a DoLSub, including to address the additional risks where firms' immediate parent undertaking is a holding company that is not subject to solo liquidity requirements and is not included within the DoLSub.

2.9 The PRA considers that these proposals would enhance the proportionality of the liquidity and funding risk framework by allowing groups with a wider range of structures to benefit from the DoLSub permission. It would also help to ensure the safety and soundness of firms in a DoLSub irrespective of the legal form of their immediate parent undertaking. Furthermore, increasing the alignment between the DoLSub permission and firms' ability to manage liquidity and funding risk jointly, rather than linking it merely to their legal form, facilitates effective competition between firms operating through different group structures.

Conditions for forming a DoLSub

2.10 In CP5/21, the PRA proposed to introduce a new 'Liquidity and funding permissions' SoP, which set out the factors that the PRA proposed to consider when assessing applications for permissions, including applications for a DoLSub. The PRA proposed to introduce a number of factors specific to the formation of a DoLSub for the NSFR, relating to:

- the management of funding by the proposed sub-group;

- the management of funding risk at sub-group level; and

- the funding requirements met by members of the proposed sub-group upon application for the permission.

2.11 The PRA proposes also to enhance the conditions for granting a DoLSub to:

- improve the consistency and clarity of the PRA's approach to granting a DoLSub, by converting the factors that the PRA currently 'may consider' when assessing firms' DoLSub applications into

8 Under section 192V of FSMA, the PRA's rule-making power in relation to approved or designated holding companies can be exercised where necessary or expedient to secure the application of consolidated or sub-consolidated requirements. This does not extend to requirements that apply on a solo basis. The PRA has general powers of direction over qualifying parent undertakings under section 192C of FSMA.

conditions that are expected to be met for the PRA to grant DoLSub permissions and on an ongoing basis;

- strengthen governance and accountability for DoLSubs by: including an expectation for clear individual accountability for the DoLSub's effective functioning; setting expectations for the provision of a conflicts of interest framework; and expecting there to be sufficient evidence of effective processes and procedures relating to governance and control;

- mitigate risks to the free transfer of funds between DoLSub entities by requiring sufficient monitoring and oversight of the DoLSub in the case of all proposed structures and by specifying that the qualifying parent undertaking in a sibling DoLSub must be in a core-UK large exposures group[9], and party to the multilateral, cross currency and unlimited loan facility agreements in place with the members of the DoLSub; and

- ensure the PRA is satisfied that DoLSubs and the entities within them can be supervised effectively, taking into account the nature, scale, and complexity of the proposed DoLSubs.

2.12 The PRA also proposes to add a new section 3A to the 'Liquidity and funding permissions' SoP, which would replicate section 4 of the version of that SoP consulted on as part of CP5/21, and make amendments to revise the factors that the PRA 'may consider': to reflect their proposed framing as conditions; to delete factors that are no longer needed; to amend the information that firms are required to submit in support of a DoLSub application; and to reflect the potential existence of sibling DoLSubs.

2.13 The PRA also proposes to clarify in the SoP that it may request entities in a DoLSub to continue to provide reporting on a solo basis, where necessary, to ensure the effective supervision of the members of a DoLSub.

2.14 The PRA considers that these proposals address risks it has identified in relation to governance and accountability, effective supervision, the exercise of PRA powers, and the free movement of funds within DoLSubs. The PRA considers that the proposals advance the PRA's safety and soundness objective by ensuring that the PRA only grants a DoLSub permission where it is satisfied that these risks have been adequately mitigated. The PRA considers that this would be an effective approach to addressing such risks, and would be more proportionate than the alternative of restricting the types of group structure that can benefit from a DoLSub. The proposals also enhance the transparency of the PRA's approach to granting a DoLSub permission.

2.15 In CP5/21, the PRA proposed to permit firms to include a Financial Conduct Authority (FCA) solo-regulated firm in a DoLSub, where certain conditions were met. This is consistent with the CRR, which does not prevent FCA solo-regulated subsidiaries from being members of a DoLSub. From Saturday 1 January 2022, FCA solo-regulated firms will be subject to the Investment Firms Prudential Regime, rather than the prudential requirements of the CRR. Following consideration of the changes HM Treasury has made to the CRR, the changes the PRA intends to make to rules in the Liquidity (CRR) Part of the PRA Rulebook, and the application of the Investment Firms Prudential Regime, the PRA proposes to align the potential membership of DoLSubs with the revised scope of application of

9 A core UK Group permission permits the PRA to give prior approval for a firm to assign a 0% risk weight to certain intragroup exposures, which meet the criteria in CRR Article 113(6).

CRR. As a result, the proposed approach would not enable FCA solo-regulated firms to be included in a DoLSub.

2.16 The PRA considers that the proposals in this CP could result in additional costs for firms, but does not expect those costs to be material relative to the benefits that a DoLSub affords, because of the extent to which firms may leverage existing processes, procedures, and documentation, and because the costs are largely non-recurring. The PRA considers that the benefits of a DoLSub, arising from reduced reporting requirements, lower liquidity and funding requirements, reduced complexity, and increased operational efficiencies and flexibility, to be significant. In aggregate, the PRA considers that the proposals in this CP have net positive benefits.

3 The PRA's statutory obligations

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

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

(i) **a cost benefit analysis**;

(ii) **compatibility with the PRA's objectives:** an explanation of the PRA's reasons for considering that making the proposed rules is compatible with the PRA's duty to act in a way that advances its general objective,[10] insurance objective[11] (if applicable), and secondary competition objective;[12]

(iii) **FSMA regulatory principles:** an explanation of the ways in which having regard to the regulatory principles has affected the proposed rules;[13]

(iv) **CRR rules:** in addition to the above, FSMA requires the PRA to 'have regard' to several further matters when making CRR rules.[14] It also requires the PRA to explain how the new 'have regards' have affected its proposed rules.[15] Furthermore, when making CRR rules, the PRA is required to 'consider, and consult the Treasury about, the likely effect of the rules on relevant equivalence decisions';[16]

(v) **impact on mutuals:** a statement as to whether the impact of the proposed rules will be significantly different to mutuals than to other persons;[17]

(vi) **HM Treasury recommendation letter:** the Prudential Regulation Committee (PRC) should have regard to aspects of the Government's economic policy as recommended by HM Treasury; [18] and

(vii) **equality and diversity:** the PRA is also required by the Equality Act 2010[19] to have due regard to the need to eliminate discrimination and to promote equality of opportunity in carrying out its policies, services, and functions.

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

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10 Section 2B of FSMA.
11 Section 2C of FSMA.
12 Section 2H(1) of FSMA.
13 Sections 2H(2) and 3B of FSMA.
14 Section 144C(1) of FSMA. Part 9D FSMA (s144) defines CRR rules as PRA general rules related to either (i) provisions of the UK CRR revoked by HMT or (ii) 'CRR Basel standards' (as defined under s4 of the FS Act 2021). CRR rules also include rules made under section 192XA, which gives powers to the PRA to make rules in relation to specific matters and applying to financial holding companies and mixed financial holding companies that are approved or designated by the PRA ('Holdco rules').
15 Section 144D of FSMA.
16 Section 144C(3) of FSMA.
17 Section 138K of FSMA.
18 Section 30B of the Bank of England Act 1998.
19 Section 149.

matters listed in paragraph 3.2, including an explanation of the ways in which having regard to these matters has affected the proposals. Where have regards have not been explicitly considered in this chapter, it is because the PRA has considered them not to be relevant to the proposals.

Impact on mutuals

3.4 The PRA considers that the impact of the proposed rule changes on mutuals is lower than for other types of firm, as no mutual firm operates a DoLSub and mutual societies do not have holding companies as their parent undertaking.

Equality and diversity

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

PRA objectives and 'have regards'

Applying liquidity requirements at the level of domestic liquidity sub-groups

3.6 The proposals in this CP would allow a DoLSub permission to be granted regardless of whether firms' immediate parent undertaking were a bank or PRA-designated investment firm or a financial or mixed financial holding company, provided the relevant conditions are met. This would allow a wider range of groups potentially to benefit from the DoLSub permission. The proposals also clarify and strengthen the factors that the PRA will consider when assessing DoLSub applications by framing them as conditions, which would improve consistency.

PRA objectives

3.7 The proposed changes advance the PRA's primary objective of safety and soundness by increasing the efficiency with which firms can comply with PRA liquidity and funding requirements. The proposed approach advances safety and soundness by ensuring that the PRA would only grant a DoLSub permission where it is satisfied that the risks to safety and soundness associated with sibling DoLSubs have been adequately mitigated.

3.8 The proposed changes advance the PRA's secondary competition objective by allowing a wider range of groups potentially to benefit from the DoLSub permission. This facilitates competition, as it would allow firms operating via different structures to compete on a level playing field with one another in respect of the permissions from which they may benefit.

3.9 The PRA considers that its proposed approach would result in a framework that is proportionate, helps to promote firms' safety and soundness, facilitate effective competition, ensure accountability, and to enhance the transparency with which the PRA carries out its functions.

Have regards

3.10 **The principle that a burden or restriction which is imposed on a person should be proportionate to the benefits which are expected to result from the imposition of that burden**: The PRA's liquidity and funding requirements can result in significant administrative and reporting costs for firms when applied on an individual basis. The PRA considers that permitting the formation of DoLSubs irrespective of the legal form of a firm's parent undertaking would help to ensure the proportionality of the PRA's approach to the application of liquidity and funding requirements by enabling groups with a wider range of group structures to reduce these costs by obtaining a DoLSub permission. The PRA considers that revising the SoP to address the risks that could arise as a result of recognition of DoLSubs from different group structures is more proportionate than limiting the types of group that could apply for a DoLSub permission.

3.11 **The principle that the PRA should exercise its functions transparently:** The PRA considers that the proposals in this CP enhance the extent to which the PRA exercises its functions transparently,

by revising the 'Liquidity and funding Permissions' SoP to clarify further the conditions for a DoLSub permission. This would help to provide greater transparency on the PRA's assessment process for DoLSub applications.

3.12 **The responsibilities of the senior management of PRA-authorised persons in relation to compliance with requirements imposed by the PRA**: The PRA considers that the proposals in this CP emphasise the responsibilities of the senior management of PRA-authorised persons in relation to compliance with requirements imposed by the PRA. This is achieved by specifying a condition for a DoLSub permission under which the PRA considers that the proposed DoLSub is consistent with the principle of individual accountability under the Senior Managers & Certification Regime.

3.13 **The desirability, of the PRA exercising its functions in a way that recognises differences in the nature of businesses carried on by different persons**: The PRA considers that the proposals in this CP reflect this regulatory principle by setting out a DoLSub framework that allows firms with a greater variety of group structures – that reflect firms' varied business models – to apply for a DoLSub.

3.14 **The need to use the resources of the PRA in the most efficient and economic way:** Neutrality to the types of group that may form a DoLSub could result in additional firms applying for the DoLSub permission than would otherwise be the case. Such applications would require PRA resource to process. However, the PRA considers that enhancing the clarity of the factors that the PRA will consider when assessing applications will improve consistency of applications and ameliorate the impact of a larger number of applications.

3.15 **The desirability of sustainable growth in the economy of the UK**: The PRA's proposals have not been materially changed as a result of this 'have regard' as the PRA expects the impact of its proposed approach to be directionally positive on medium to long-term economic growth, as it would help to enable firms to manage their liquidity and funding more efficiently. However, the PRA does not expect the impact of the proposal on UK sustainable growth to be material.

3.16 **Finance for the real economy:** The proposals in this CP would allow a larger set of firms to benefit from the efficiencies and reduced costs afforded by the DoLSub permission. As a result, the PRA considers that the proposed rule change would support finance in the real economy. The materiality of this impact is unclear but the PRA expects it would not be material.

3.17 **Relative standing of the UK:** The PRA considers that the approach proposed in this CP would potentially improve the standing of the UK, as it would enable a broader range of group structures to be potentially benefit from a DoLSub permission.

3.18 **International standards:** Consideration of this have regard did not materially change the proposal as Basel standards specify prudential requirements must apply at sub-consolidated or individual level but do not specify a methodology for application at sub-consolidated level.[20]

3.19 **Competitiveness:** In developing its proposals, the PRA considered the DoLSub framework applicable in the EU, which sets out the conditions for waiving the application of liquidity requirements at the level of individual firm and the latitude available to EU supervisors to define the process and for supervisory judgement.[21] Consideration of competitiveness influenced the PRA's

20 Basel Framework SCO 10.3.
21 CRR Article 8.

judgment that it would be reasonable to address additional risks from DoLSubs with different group structures provided the conditions applied helped to ensure the safety and soundness of firms.

3.20 **Transparency**: The PRA considers that revising the SoP to reframe the factors the PRA would evaluate when reviewing a DoLSub condition, would help to improve transparency by improving the clarity and consistency of the assessment process for DoLSub applications.

3.21 **Innovation:** The PRA considers that the proposals in this CP reflect this principle by improving the efficiency with which funding raised by firms through new and innovative methods can be used to the benefit of other entities within those groups.

3.22 **Growth:** The PRA considers that the Growth recommendation is relevant to the proposal, but has not materially changed the proposal because although the PRA considers the likely impact of its DoLSub proposals on sustainable economic growth in the UK in the medium and long term to be potentially positive, it is unlikely to be material.

3.23 **Climate change:** The PRA has considered the Government's commitment to achieve a net-zero economy by 2050 and has not identified any impacts from the updated DoLSub framework.

Cost benefit analysis

3.24 The PRA does not consider it practicable to develop a quantitative estimate of the direct cost to firms of the proposals set out in this paper for firms. The PRA considers that these costs are most likely to arise from one-off revisions to existing documentation and processes, which would entail costs that arise from the resources and time necessary to revise such documentation and processes. Firms may also incur legal costs where loan facility agreements and/or capital support deeds need to be revised or established. The PRA expects these costs would not be material because firms may leverage existing processes and documentation, and they are largely non-recurring.

3.25 The benefits of a DoLSub, arising from reduced reporting requirements, lower funding and liquidity requirements, reduced complexity, and increased operational efficiencies and flexibility, are significant. Permitting a wider range of groups to form DoLSubs allows a larger set of firms to avail of these benefits. The PRA also considers that improving the clarity of the PRA’s approach to granting DoLSubs will result in reduced compliance costs for firms when applying for, or renewing, a DoLSub.

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1 Draft DoLSub instrument

PRA RULEBOOK (CRR NO. 2) INSTRUMENT 2021

Powers exercised

A. The Prudential Regulation Authority ("PRA") makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (the "Act"):

(1) section 137G (the PRA's general rules);

(2) section 137T (General supplementary powers);

(3) section 144G(1) (Disapplication or modification of CRR rules); and

(4) section 144H(1) and (2) (Relationship with the CRR).

B. The rule-making powers referred to above are specified for the purpose of section 138G(2) (Rule-making instrument) of the Act.

C. The PRA makes the direction set out in 2.3A of Annex B Liquidity (CRR) Part under Regulation 40(2)(a) of the Capital Requirements Regulations 2013.

Pre-conditions to making

D. In accordance with sections 144C(3) and 144E of the Act the PRA consulted the Treasury about the likely effect of the rules on relevant equivalence decisions within the meaning of section 144C(4) of the Act.

E. In accordance with section 138J(1)(a) of the Act (consultation by the PRA), the PRA consulted the Financial Conduct Authority.

F. The PRA published a draft of the proposed rules in accordance with section 138J(1)(b) of the Act, accompanied by the information listed in section 138J(2) and the explanation referred to in section 144D of the Act insofar as that section is applicable to the rules.

G. The PRA had regard to representations made.

PRA Rulebook (CRR No. 2) Instrument 2021

H. The PRA makes the PRA rules in the Annexes to this instrument.

CRR Firms: Part	Annex
Glossary	A
Liquidity (CRR)	B
Internal Liquidity Adequacy Assessment	C

Notes

I. In the Annex to this instrument, the “notes” (indicated by “[Note:]”) are included for the convenience of readers but do not form part of the legislative text.

Commencement

J. This instrument comes into force on 1 January 2022.

Citation

K. This instrument may be cited as the PRA Rulebook (CRR No. 2) Instrument 2021.

By order of the Prudential Regulation Committee

[DATE]

ANNEX A

Amendments to the Glossary

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

…

domestic liquidity sub-group

the *firms* supervised by the *PRA* for liquidity purposes as if they formed a single entity as a result of a permission granted to those *firms* under 2.2 of the Liquidity (CRR) Part of the *PRA* Rulebook ~~Article 8(2) of the CRR~~.

…

ANNEX B

Liquidity (CRR) Part

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

1 APPLICATION AND DEFINITIONS

…

1.2 In the *Liquidity Parts*, the following definitions shall apply:

…

immediate parent undertaking

means a parent undertaking within the meaning of section 1162 of the Companies Act 2006 disregarding for this purpose section 1162(5) of that Act.

…

2 LEVEL OF APPLICATION

Application of requirements on an individual basis

2.1 An institution shall comply with the *Liquidity Parts* on an individual basis.

[Note: This rule sets out Article 6(4) of the *CRR* as it applies to the *Liquidity Parts*]

~~[Note: Rules for domestic liquidity sub-groups to be finalised]~~

Domestic liquidity sub-groups

2.2 An institution may apply to the *PRA* for a permission that:

(a) disapplies the requirement in 2.1 in full or in part; and

(b) provides for the requirements in the *Liquidity Parts* to apply:

(i) on a consolidated basis or a sub-consolidated basis in relation to the institution and all or some of its subsidiary institutions; or

(ii) to the institution and one or more other institutions that are subsidiaries of the same *qualifying parent undertaking* as the institution,

as a single liquidity sub-group, with such modifications as may be specified in the permission.

[Note: This rule corresponds to Article 8(1) of the *CRR* as it applied immediately before revocation by the *Treasury* and sets out an equivalent provision to the second paragraph of Article 11(4) of the *CRR* as it applies to the *Liquidity Parts*]

[Note: This is a permission under section 144G of *FSMA* to which Part 8 of the *Capital Requirements Regulations* applies]

2.3 For the purpose of 2.2(b)(ii), the *qualifying parent undertaking* must be the *immediate parent undertaking* of one or more of the institutions referred to in 2.2(b)(ii).

2.3A If more than one institution subject to the *Liquidity Parts* is to be included in a *domestic liquidity sub-group*, the *PRA* directs that the application for permission must be made jointly by each such institution.

[Note: This is a direction under regulation 40(2) of the *Capital Requirements Regulations*]

…

ANNEX C

Amendments to the Internal Liquidity Adequacy Assessment Part

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

…

14 APPLICATION OF THIS PART ON AN INDIVIDUAL OR DOMESTIC LIQUIDITY SUB-GROUP BASIS AND A CONSOLIDATED BASIS

14.1 (1) This Part applies to a *firm* on an individual basis unless (2) applies.

(2) ~~Where the *PRA* has waived in full the application of Part Six of the CRR to a *firm* and to all or some of its subsidiaries pursuant to a permission granted under Article 8(2) of the CRR, a *firm* must comply with this Part at the level of its *domestic liquidity sub-group*.~~ A *firm* must comply with this Part at the level of its *domestic liquidity sub-group* where the PRA has granted the firm permission under 2.2 of the Liquidity (CRR) Part of the *PRA* Rulebook.

[Note: This rule corresponds to Article 8(5) of the *CRR* as it applied immediately before revocation by the *Treasury*]

(3) (1) and (2) apply to a *firm* whether or not this Part applies to the *firm* on a *consolidated basis*.

~~Note: Art 8(5) of the CRR and Art 109(1) of the CRD~~

…

Externally defined terms

Term	Definition source
Treasury	Schedule 1, Interpretation Act 1978

2 Draft amendments to Statement of Policy 'Liquidity and funding permissions'

3A Liquidity (CRR) Rule 2.2: Liquidity sub-groups

3A.1 The PRA may grant waivers under this rule where the following conditions are met:

(i) to the satisfaction of the PRA, that the parent institution on a consolidated basis or the subsidiary institution on a sub-consolidated basis, where 2.2(b)(i) of the Liquidity (CRR) Part applies (or one of the institutions or the qualifying parent undertaking where 2.2(b)(ii) of the Liquidity (CRR) Part applies), monitors and has oversight at all times over the liquidity positions of all institutions within the group or sub-group which are subject to the waiver and ensures a sufficient level of liquidity for all these institutions;

(ii) the institutions (and the qualifying parent undertaking where 2.2(b)(ii) of the Liquidity (CRR) Part applies) have entered into contracts that, to the satisfaction of the PRA, provide for the free movement of funds between them to ensure they are able to meet their individual and joint obligations as they become due;

(iii) the members of the proposed DoLSub are either:

(a) all defined as 'ring-fenced bodies' under FSMA, s.142A; or

(b) all not defined as 'ring-fenced bodies' under FSMA.

(iv) all proposed DoLSub members are in the same UK consolidation group;

(v) the members of the DoLSub (and the qualifying parent undertaking where 2.2(b)(ii) of the Liquidity (CRR) Part applies) are members of the same core UK group;

(vi) where members of the DoLSub are ring-fenced bodies, those ring-fenced bodies meet paragraphs 5.13 to 5.17 of PRA Supervisory Statement 8/16;[22]

(vii) there is an unlimited, cross-currency, multilateral facility between all members of the proposed DoLSub (and the qualifying parent undertaking where 2.2(b)(ii) of the Liquidity (CRR) Part applies);

(viii) liquidity and/or funding risks (as applicable) are managed on the basis of the members of the proposed DoLSub;

(ix) the PRA has identified no cause for material concern about the management of liquidity and/or funding risks (as appropriate) within DoLSub members, including their governance and control arrangements, processes, and procedures;

(x) all proposed DoLSub members meet their liquidity and/or funding requirements (as applicable) at the time of their application;

22 https://www.bankofengland.co.uk/-/media/boe/files/prudential-regulation/supervisory-statement/2017/ss816update2.pdf.

(xi) the PRA considers that the formation of the proposed DoLSub would not materially adversely affect the ability of the PRA to supervise entities under the DoLSub arrangement;

(xii) the PRA considers that the proposed DoLSub is consistent with the principle of individual accountability under the Senior Managers & Certification Regime and, in the case of a DoLSub where 2.2(b)(ii) of the Liquidity (CRR) Part applies, clearly identifies a Senior Management Function (SMF) individual who would have responsibility for the effective functioning of the DoLSub, such as through the appointment of an SMF 7 within the qualifying parent undertaking;

(xiii) the PRA considers that there are appropriate policies, processes, and procedures to ensure the timely identification and resolution of conflicts of interest and disputes, relating to the provision of funding under the Loan Facility Agreement between the members of the DoLSub (and the members of the DoLSub and the qualifying parent undertaking where 2.2(b)(ii) of the Liquidity (CRR) Part applies); and

(xiv) the PRA considers that the proposed DoLSub is commensurate with the nature, scale, and complexity of the business conducted by the members of the DoLSub.

3A.2 The PRA will have regard to whether there is a material prudential benefit gained from the formation of the proposed DoLSub.

3A.3 Applicants should provide the PRA with the following information as part of their application for permission under this rule:

(xv) names of the members of the proposed DoLSub (and the qualifying parent undertaking where 2.2(b)(ii) of the Liquidity (CRR) Part applies);

(xvi) regulatory classification of the entities (ie credit institution, institution, qualifying parent undertaking);

(xvii) country of incorporation of the entities;

(xviii) a group structure chart showing the position of the members of the proposed DoLSub within the applicant's wider group;

(xix) an explanation of the reason for the application and the intended outcome of the permission;

(xx) a list of all material affiliates not included in the DoLSub with an assessment of the liquidity risks posed to the DoLSub;

(xxi) the name of the entity within which the treasury, liquidity, or funding management function for the DoLSub will sit;

(xxii) a declaration from the applicant firm that all proposed DoLSub members meet their liquidity and/or funding requirements (as applicable) at the time of their application;

(xxiii) full details and an explanation (including procedural documentation) of how DoLSub liquidity risks are managed, including:

(a) internal liquidity policy;

(b) details of the limits, methods, and systems used to manage and monitor liquidity;

(c) a copy of the stress testing procedures and the results of carrying out those procedures; and

(d) a copy of the contingency funding plan(s) which relate to the entities that would comprise the DoLSub (and the qualifying parent undertaking where 2.2(b)(ii) of the Liquidity (CRR) Part applies);

(xxiv) full details and an explanation (including procedural documentation) of how DoLSub funding risks are managed, including:

(e) internal funding policy;

(f) details of the limits, methods, and systems used to manage and monitor funding risks; and

(g) details of the policies, processes, and procedures that ensure the timely identification and resolution of conflicts of interest and disputes, relating to the provision of funding between the members of the DoLSub (and the members of the DoLSub and the qualifying parent undertaking where 2.2(b)(ii) of the Liquidity (CRR) Part applies), in accordance with the Loan Facility Agreement;

(xxv) where the firm is applying for a waiver of the LCR requirements:

(h) a completed LCR liquidity return on a sterling-equivalent basis for the solo institutions that would be in the DoLSub; and

(i) a completed LCR liquidity return on a sterling-equivalent basis for the proposed DoLSub.

(xxvi) where the firm is applying for a waiver of the NSFR requirements:

(j) a completed NSFR funding return on a sterling-equivalent basis for the solo institutions that would be in the DoLSub; and

(k) a completed NSFR funding return on a sterling-equivalent basis for the proposed DoLSub.

(xxvii) legally binding, two-way (ie cross committed) multi-currency loan facilities between the members of the proposed DoLSub (and the qualifying parent undertaking where 2.2(b)(ii) of the Liquidity (CRR) Part applies), such that funds would be able to flow freely between all those firms;

(xxviii) a declaration from the firms (and the qualifying parent undertaking where 2.2(b)(ii) of the Liquidity (CRR) Part applies) that there are no current or foreseen material, practical, or legal impediments of the contracts referred to in bullet point (xiii);

(xxix) a declaration stating whether the applicants (and the qualifying parent undertaking where 2.2(b)(ii) of the Liquidity (CRR) Part applies) are part of a core UK Group and thus exempt from large exposure limits and related restrictions on the flow of liquidity and funding.

3A.4 The PRA expects the loan agreement referred to in paragraph 3A.3(xiii), above:

(xxx) is an enforceable contract for a two-way, unsecured, revolving loan facility, callable in all currencies that are significant in the businesses of the members of the proposed DoLSub. The obligation of each party to the loan agreement to lend may be limited to its available liquidity resources. 'Available liquidity resources' means in this context:

(l) those of the lending entity's liquidity resources that comprise cleared, immediately accessible funds or those of its assets, rights, facilities, or other resources that it, using its best efforts, is capable of converting to be cleared, immediately accessible funds such that they may be transferred to and received by the borrowing entity in accordance with paragraph 3A.4(xiii)(a) below.

(m) This definition excludes (i) those of its liquidity resources that the lending entity has calculated it is likely will be needed to meet its liabilities to entities other than those in the prospective DoLSub falling due in the 24-hour period following receipt of a request to borrow from the borrowing entity; (ii) those of its liquidity resources that the lending entity has already agreed to lend to entities in the DoLSub other than the borrowing entity in the 24-hour period following receipt of a request to borrow from the borrowing entity; and (iii) such portion of its liquidity resources which, if lent, would cause the lending entity to become balance sheet insolvent in the same sense as in the Insolvency Act 1986, s.123(2).

(xxxi) does not require the lending entity to lend if it reasonably believes that after making the loan, if made in full, it would expect to the extent approved in advance by the PRA to:

(n) be in breach of its capital resources requirement; or

(o) run a significant risk that it would not be able to pay its debts as they fall due.

(xxxii) requires the lending entity to notify the PRA promptly upon receipt of a request to make such a loan;

(xxxiii) consists of liquidity support undertakings made between all members of the DoLSub (and the qualifying parent undertaking where 2.2(b)(ii) of the Liquidity (CRR) Part applies), thereby creating a 'cat's cradle' configuration of commitments. Where an applicant entity considers that another type of arrangement is more appropriate (given its group structure), the burden lies on the applicant to show that the proposed structure poses no undue risk in comparison with the 'cat's cradle' arrangement. In particular, the applicant firm will need to demonstrate how available liquidity could be moved within the proposed DoLSub if, for whatever reason, the primary lending entity (ie the 'hub') were to be unable to provide funding. In any event, the entirety of the undertaking(s) comprising the loan facility agreement should be contained in a single document;

(xxxiv) contains no conditions on the availability of the loan facility to a borrowing entity, or on a drawdown by a borrowing entity, except that:

(p) any borrowing entity that is an institution continues to be a member of the DoLSub; and

(q) the borrowing entity is solvent – meaning that no 'insolvent event' has occurred in respect of the borrowing entity. An 'insolvency event' occurs when: (i) an order (including a bank insolvency order or bank administration order as defined in the Banking Act 2009, s.94 and s.141, respectively) is made, or an effective resolution passed for the liquidation or winding-up of the relevant entity; or (ii) a receiver, administrator, trustee, bank liquidator, bank administrator, or other similar official shall be appointed in relation to the whole of the relevant entity.

(xxxv) is governed by English, Scottish, or Northern Irish law;

(xxxvi) contains a 'jurisdiction clause' providing that disputes arising from the agreement are to fall within the exclusive jurisdiction of the courts of the country of the governing law, save that the borrowing entity may choose the jurisdiction of the courts of the lending entity's country of incorporation or head office (if different);

(xxxvii) contains an 'entire agreement' clause;

(xxxviii) contains no terms that limit the enforceability of the agreement by reference to representations, warranties, conditions precedent, or events of default (other than insolvency of the borrowing entity);

(xxxix) contains no clause stipulating the recoverability of damages arising from an inability of the borrowing entity to repay, due to the non-provision of funds under the loan facility agreement, but should contain no liquidated damages or limitation clauses (ie no pre-estimates of, or limits on, damages recoverable for breach of the agreement);

(xl) contains a clause stating that:

(r) the purpose of the lending facility is to provide a borrowing entity with liquidity in a range of circumstances;

(s) the lending facility has been provided both to meet the funding needs of the borrowing entity and in connection with the Liquidity (CRR) 2.2 permission, which has enabled the borrowing and lending entities' DoLSub to fund itself on a more efficient basis;

(t) the facility may be drawn down by a borrowing entity either on its own initiative or in response to a request, requirement, or direction from the PRA; and

(u) the circumstances in which the facility may be used include those in which a borrowing entity is unable to access funding from other sources on normal market terms or at all, and that in such circumstances, damages will not be an adequate remedy for the lending entity's failure to lend money to the borrowing entity under the facility (ie for the lending entity's breach of the agreement).

(xli) contains a clause stating that all parties to the agreement recognise that the purposes of the agreement include the protection of consumers and wider market stability;

(xlii) contains clauses providing that:

(v) liquidity support should be provided by a lending entity to a borrowing entity as cash in cleared, immediately accessible funds within 24 hours of the borrowing entity requesting the loan – it should be provided by the end of the same business day if the borrowing entity makes a request before noon; otherwise it should be provided by noon the following business day; and

(w) the loaned funds may be used by the borrowing entity for its general corporate purposes.

(xliii) contains a clause providing that the following provisions apply in respect of an entity ceasing to be a party to the loan facility agreement:

(x) any member of the DoLSub (and the qualifying parent undertaking where 2.2(b)(ii) of the Liquidity (CRR) Part applies) may cease to be a party to the loan facility agreement upon giving no less than six months' notice to the other parties to the loan facility agreement; in such circumstances, the contractual relations between the other parties to the loan facility agreement will continue in force unaltered (formally, this may mean that the contract is varied in order to discharge the departing party of its obligations);

(y) when a member of the DoLSub (or qualifying parent undertaking where 2.2(b)(ii) of the Liquidity (CRR) Part applies) gives notice of its intention to cease to be a party to the loan facility agreement, its obligation to repay any loan with a term that extends beyond the date at which it will cease to be a party is accelerated, so that the loan should be repaid by the date at which it will cease to be a party to the loan facility agreement;

(z) the outstanding borrowings of a member of the DoLSub (or qualifying parent undertaking where 2.2(b)(ii) of the Liquidity (CRR) Part applies) under the loan facility agreement should be repaid by the time at which it ceases to be a party to the loan facility agreement;

(aa) the loan facility agreement (whether in its original form or as varied) may not be terminated while being relied on for a Liquidity (CRR) Rule 2.2 permission to form a DoLSub;

(bb) gives each member of the DoLSub (and the qualifying parent undertaking where 2.2(b)(ii) of the Liquidity (CRR) Part applies) the right to be released from its loan-making obligations to other parties to the loan facility agreement if the PRA revokes the Liquidity (CRR) 2.2 permission (though each party's existing repayment obligations would be unaffected); and

(cc) specifies the rate of interest and any other charges to be levied by the lending entity (the rate of interest should be a market rate that would not inhibit use of the loan facility).

3A.5 The PRA expects that the applicant firm has obtained a separate legal opinion from a reputable third-party counsel with expertise in the relevant field dealing with the following matters:

(xliv) compliance of the loan facility agreement with all the stipulations in paragraph 3A.4 above;

(xlv) parties' corporate standing;

(xlvi) whether the obligations are legal, valid, binding, and enforceable (including any relevant conflicts of laws issues and corporate benefit issues);

(xlvii) due execution (including whether the agreement was within the capacity and powers of the parties, duly authorised, with all necessary consents and approvals); and

(xlviii) whether the provision of the loan facility agreement, and exercise of the rights thereunder, would conflict with any applicable laws and regulations.

3A.6 The PRA expects that the legal opinion should find that the loan facility agreement complies with all the stipulations and is enforceable in the UK.

3A.7 The PRA expects that the applicant will make reasonable efforts to keep under review any legal or regulatory changes that could affect the efficacy of the loan facility agreement, and that it will take all reasonable steps to amend the agreement in the light of any such changes in order to maintain the loan facility agreement's efficacy.

3A.8 Where necessary to ensure the effective supervision of the members of a DoLSub, the PRA may request members of a DoLSub provide reporting to the PRA on a solo basis. The PRA may also require that firms provide additional information, such as information in relation to intragroup funding. The PRA expects that where such information is requested, an appropriate senior manager would be made responsible for the timeliness and accuracy of such information.

3 Detailed analysis of objectives and 'have regards'

3.1 The PRA has considered its primary and secondary objectives and had regard to all the FSMA regulatory principles, the HM Treasury recommendation letter and the new matters in the Financial Services Bill in relation to the proposals in this Consultation Paper (CP). The analysis below summarises the areas where the impact of these considerations was most material and explains how the proposed rules are compatible with these considerations and how they affected the proposed rules

Area	Summary	PRA Objectives and 'have regards'
Level of application	The PRA proposes to permit the inclusion in a DoLSub of firms that are subsidiaries of a common immediate UK qualifying parent undertaking that is not a bank or PRA-designated investment firm, and revise the conditions to qualify for a DoLSub permission and the factors that the PRA will take into account when considering DoLSub applications	**Overview** • The PRA considered limiting the DoLSub permission such that firms would have been allowed to form a DoLSub only between a parent institution and its subsidiaries, and only where every member of the DoLSub was an institution to which the Liquidity Part of the PRA Rulebook applied on an individual basis. This approach would have advanced firms' safety and soundness because other types of DoLSubs, where the immediate parent undertaking of the DoLSub entities is a financial or mixed financial holding company, could present risks to safety and soundness. Financial holding companies and mixed financial holding companies are not subject to Pillar 1 requirements, PRA general rule making powers or supervision or enforcement on an individual or sub-consolidated basis.[23] After considering responses to CP 12/21, and considering the matters to which it must have regard, the PRA proposes instead to amend the DoLSub framework to ensure it would help to promote firms' safety and soundness irrespective of the legal form of the parent undertaking of a DoLSub. The PRA considers this would be proportionate, help to facilitate effective competition, helps to ensure accountability, and enhance the transparency with which the PRA carries out its functions. **PRA objectives** • **PRA's primary objective**: The PRA considers that this proposal would advance the safety and soundness of firms by enhancing the conditions that must be met for firms to obtain a DoLSub, but doing so in a proportionate manner. Neutrality to the types of group that may form a DoLSub could present additional risks to safety and soundness where the immediate parent undertaking of the

23 The PRA could consider whether it was necessary to give a direction to the qualifying parent undertaking under Section 192C of FSMA, for example if risks to effective governance, liquidity management or controls were to crystallise in the case of a sibling DoLSub.

		DoLSub entities is a financial or mixed financial holding company, as that entity would not generally be included in the DoLSub, subject to requirements on a sub-consolidated basis, or otherwise be subject to prudential requirements on an individual or sub-consolidated basis. The PRA considered that the PRA's safety and soundness objective could be advanced in an effective and proportionate manner by enhancing the conditions that must be met for firms to obtain a DoLSub and granting a DoLSub permission only where it is satisfied that these risks have been adequately mitigated. • **PRA's secondary objective**: The PRA considers that this proposal establishes neutrality in the DoLSub framework to the type of immediate parent undertaking, which helps to facilitate effective competition by enabling a potentially broader range of group structures to be potentially eligible for the DoLSub permission. The PRA considers this would enable firms operating in the UK with different group structures to benefit from the DoLSub approach to level of application of the PRA's liquidity and funding requirements. **Have regards:** • **International standards:** The PRA considers that the approach proposed in this CP is consistent with international standards, as the Basel standards do not specify a methodology for the application of standards on a sub-consolidated basis. • **Proportionality:** The PRA considers that the approach proposed in this CP is consistent with taking a proportionate approach to the application of liquidity and funding requirements. While the proposals would result in costs for some firms, the PRA considers that these costs are proportionate to the risks that the revised framework is intended to address, and the benefits afforded by the DoLSub permission. • **Transparency:** the PRA considers that the proposed revisions to the SoP 'Liquidity and Funding Permissions' enhance the extent to which the PRA exercises its functions transparently, making clearer the basis on which DoLSub permissions are considered and granted and helping to ensure the consistency of the PRA's assessment process for DoLSub applications. • **The responsibilities of the senior management:** The PRA considered the aspects of the Senior Manager and Certification Regime (SM&CR) that support the effective governance of DoLSubs that include a bank or PRA-designated investment firm parent undertaking. Given that the SM&CR does not apply to holding companies, the PRA considers a condition for accountability for the effective

		operation of a DoLSub that references the Senior Management Function 7 role (group entity senior manager) would help to provide assurance that the governance and accountability arrangements of a DoLSub with an immediate financial or mixed financial holding company are sufficiently clear and effective. • **Different business models:** The PRA considers that not limiting the DoLSub permission to certain types of groups would afford greater recognition to the different structures and business models firms may have. Consideration of this factor was significant in affecting the specification of the PRA's proposed rules that would permit the recognition of sibling DoLSubs. • **Relative standing of the UK and competitiveness:** The PRA considers that the approach proposed in this CP would be positive for the relative standing of the UK, as other jurisdictions with a DoLSub regime allow for sibling DoLSubs. This factor was relevant to the PRA's consideration and development of its proposed rules. • **The need to use the resources of [the PRA] in the most efficient and economic way:** Neutrality to the types of group that may form a DoLSub could result in additional firms applying for the DoLSub permission than would otherwise be the case. Such applications would require PRA resource to process. However, the PRA considers that enhancing the clarity of the factors that the PRA will consider when assessing applications will improve consistency of application and ameliorate the impact of a larger number of applications.

4 PRA statutory obligations

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

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

  - relevant standards recommended by the Basel Committee on Banking Supervision from time to time

- the likely effect of the rules on the relative standing of the United Kingdom as a place for internationally active credit institutions and investment firms to be based or to carry on activities. For these purposes, the PRA must consider the United Kingdom's standing in relation to the other countries and territories in which, in its opinion, internationally active credit institutions and investment firms are most likely to choose to be based or carry on activities

- the likely effect of the rules on the ability of CRR firms to continue to provide finance to businesses and consumers in the United Kingdom on a sustainable basis in the medium and long term

- the target in section 1 of the Climate Change Act 2008 (carbon target for 2050)

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

- *For CRR rules only* – explanation of the ways in which having regard to the matters specified above has affected the proposed rules (s144D FSMA).

- *For CRR rules only* – publication of a summary of the proposed CRR rules.

- *For CRR rules only* – consideration and consultation with the Treasury about the likely effect of the rules on relevant equivalence decisions (s144C (3) & (4) FSMA).