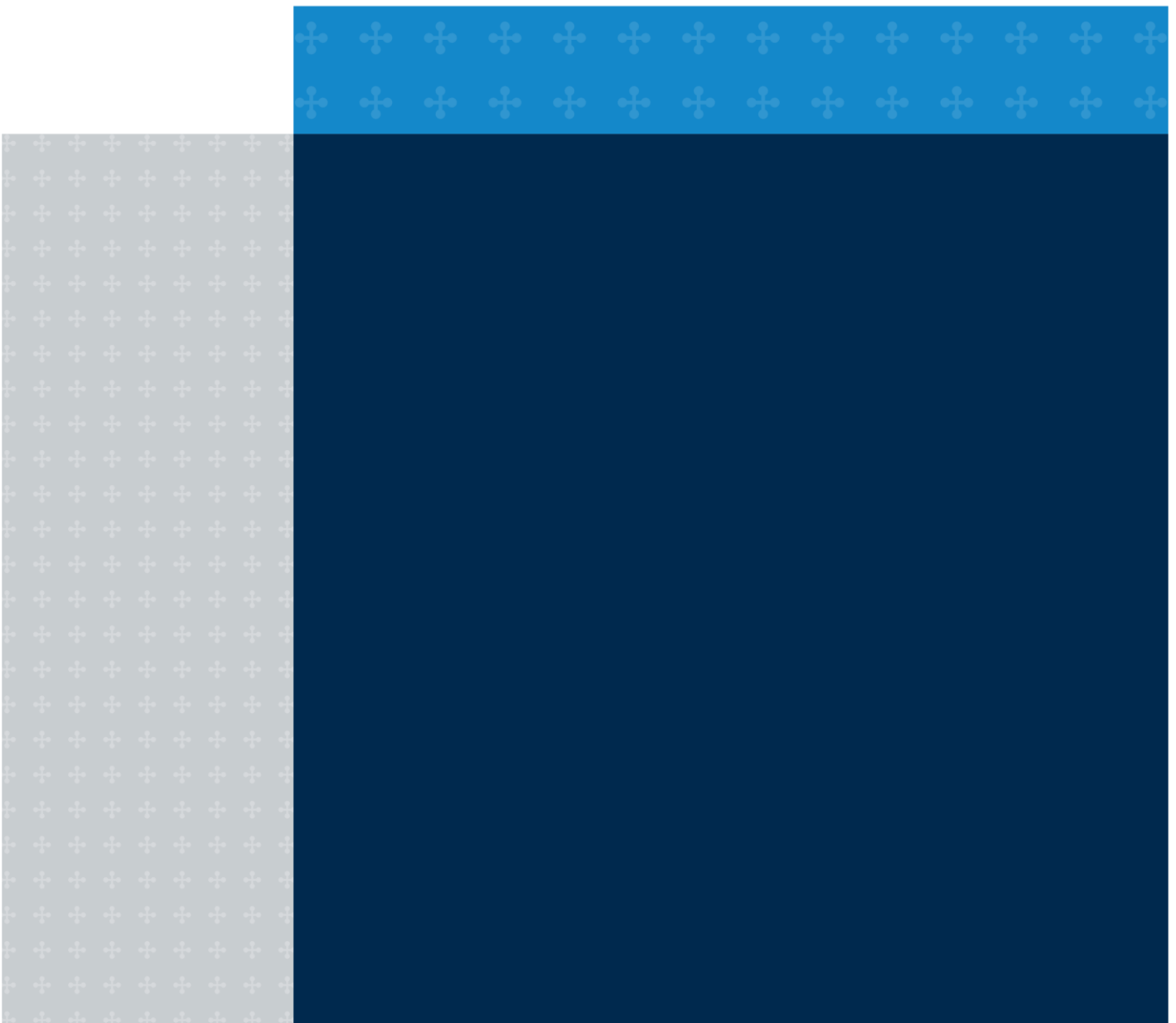




Policy Statement | PS10/21

Resolution assessments: Amendments to reporting and disclosure dates

May 2021





BANK OF ENGLAND
PRUDENTIAL REGULATION
AUTHORITY

Policy Statement | PS10/21

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1 Overview

1.1 This Prudential Regulation Authority (PRA) Policy Statement (PS) provides feedback to responses to Consultation Paper (CP) 19/20 ‘Resolution assessments: Amendments to reporting and disclosure dates’.¹ It also contains the PRA’s final policy, as follows:

- amendments to Rules 3.1(1) and 4.1(1) in the Resolution Assessment Part of the PRA Rulebook (Appendix 1); and
- an updated Supervisory Statement (SS) 4/19 ‘Resolution assessment and public disclosure by firms’ (Appendix 2).²

1.2 This PS is relevant to UK banks and building societies with £50 billion or more in retail deposits on an individual or consolidated basis, as at the date of their most recent annual accounts (firms).

1.3 Firms should also refer to PS9/21 ‘Operational continuity in resolution: Updates to the policy’,³ and the Bank of England’s (Bank) Statement of Policy (SoP) ‘The Bank of England’s Approach to Assessing Resolvability’ (Bank’s RAF SoP), which have been published at the same time as this PS.⁴

Background

1.4 The CP proposed to amend:

- Resolution Assessment 3.1(1), to reflect that the date by which firms must submit a report of their assessment (report) would change from the first Friday in October 2020, to the first Friday in October 2021; and
- Resolution Assessment 4.1(1), to reflect that the date by which firms must publish a summary of the most recent report (public disclosure) would change from the second Friday in June 2021, to the second Friday in June 2022.

1.5 The proposals to amend those PRA rules followed a Modification by Consent (MBC) that the PRA published on Thursday 7 May 2020.⁵ The MBC granted temporary amendments to the rules in identical terms to those consulted on.

1.6 The PRA also proposed consequential amendments to SS4/19. These proposals were made as a result of the PRA’s proposed changes to its operational continuity in resolution (OCIR) policy in CP20/20 ‘Operational continuity in resolution: Updates to the policy’.⁶ Firms are expected to assess their compliance with OCIR policy that came into force on Tuesday 1 January 2019 in their assessment in October 2021.⁷ CP19/20 proposed to amend SS4/19 by adding an expectation in paragraph 2.11 that firms’ assessments in October 2021 should also focus on the progress made

¹ October 2020: <https://www.bankofengland.co.uk/prudential-regulation/publication/2020/resolution-assessments-reporting-and-disclosure-dates>.

² July 2019: <https://www.bankofengland.co.uk/prudential-regulation/publication/2019/resolution-assessment-and-public-disclosure-by-firms-ss>.

³ May 2021: <https://www.bankofengland.co.uk/prudential-regulation/publication/2020/operational-continuity-in-resolution>.

⁴ May 2021, available at: <https://www.bankofengland.co.uk/financial-stability/resolution/resolvability-assessment-framework/resolvability-assessment-framework-policy-documents>.

⁵ May 2019: <https://www.bankofengland.co.uk/news/2020/may/statement-by-the-bank-of-england-and-pra-on-resolution-measures-and-covid-19>.

⁶ October 2020: <https://www.bankofengland.co.uk/prudential-regulation/publication/2020/operational-continuity-in-resolution>.

⁷ Para 2.11: <https://www.bankofengland.co.uk/prudential-regulation/publication/2019/resolution-assessment-and-public-disclosure-by-firms-ss>.

towards, and outstanding steps needed to implement, the policies proposed in CP20/20 and the Bank's CP 'Updates to the Bank of England's Approach to Assessing Resolvability'.⁸

Summary of responses

1.7 The PRA received five responses to the CP. The responses primarily addressed the proposal that firms' assessments in their first report would also focus on the progress made towards, and outstanding steps needed to implement, the proposals in CP20/20. CP20/20 proposals have now been finalised in PS9/21 (revised OCIR policy). The PRA's feedback to these responses, and final policy decisions, are set out in Chapter 2.

Changes to draft policy

1.8 The PRA has considered the responses and has amended paragraph 2.11 in SS4/19 to remove the proposed expectation that firms' assessment in 2021 should also include the progress made towards, and outstanding steps needed, for meeting the revised OCIR policy. This change confirms that for their first report in October 2021, firms should assess their compliance against the OCIR policy that came into force on Tuesday 1 January 2019.

1.9 The PRA considers that the changes to the SS are beneficial for firms and will not materially alter the cost benefit analysis presented in CP19/20. The changes will allow firms more time to focus on their first report and to ensure senior management engagement. The PRA also considers these changes to be appropriate in light of the delay of the revised OCIR policy effective date to Sunday 1 January 2023.

Implementation and next steps

1.10 The amendments to Resolution Assessment 3.1(1) and 4.1(1) will be effective from Wednesday 2 June 2021.

1.11 The amendments to SS4/19 will take effect upon publication of this PS on Friday 28 May 2021.

1.12 Firms must submit their first report by Friday 1 October 2021. Thereafter, firms must submit their report biennially by the first Friday in October of the relevant calendar year.

1.13 As part of firms' preparations for implementing the revised OCIR policy, they should submit to the PRA their plan for implementing the policy by Friday 18 February 2022. Firms are encouraged to submit this plan, alongside other updates they may have to their reports, as they progress their implementation of capabilities ahead of the Bank's RAF SoP's compliance deadline of Saturday 1 January 2022.

1.14 Firms must publish their first public disclosure by Friday 10 June 2022. Thereafter, firms must publish their public disclosure biennially by the second Friday in June of the relevant calendar year.

1.15 The policy set out in this PS has been designed in the context of the UK having left the European Union and the transition period having come to an end. Unless otherwise stated, any references to EU or EU derived legislation refer to the version of that legislation which forms part of retained EU law.⁹ The PRA will keep the policy under review to assess whether any changes would be required due to changes in the UK regulatory framework.

⁸ October 2020: <https://www.bankofengland.co.uk/paper/2020/updates-to-the-boes-approach-to-assessing-resolvability>.

⁹ For further information, please see <https://www.bankofengland.co.uk/eu-withdrawal/transitioning-to-post-exit-rules-and-standards>.

2 Feedback to responses

2.1 Before making any proposed rules, the PRA is required by Financial Services and Markets Authority (FSMA) to have regard to any representations made to it, and to publish an account, in general terms, of those representations and its feedback to them.¹⁰

2.2 The PRA has considered the five responses received to the CP. This chapter sets out the PRA's feedback to those responses, and its final decisions. The PRA has also considered responses received to CP20/20 and whether those might affect the final policy as published in this PS.

2.3 Firms should note that in PS9/21, the PRA has decided to delay the revised OCIR policy effective date to Sunday 1 January 2023. Firms should refer to Chapter 3 of PS9/21 for additional information.

Changes to first reports and disclosures dates

2.4 One respondent welcomed the proposed changes to the dates by which firms would be required to submit their first reports and publish the public disclosures. Firms must submit their first report by Friday 1 October 2021 (rather than by Friday 2 October 2020), and must publish the public disclosure by Friday 10 June 2022 (rather than by Friday 11 June 2021). No further responses were received. The PRA will publish the amended rules as proposed.

Interaction with the revised OCIR policy

2.5 CP20/20 proposed to publish the final policy relating to OCIR in H1 2021. Five respondents asserted that conducting their first assessment (ahead of submitting their first report by Friday 1 October 2021) against the revised OCIR policy is not feasible or proportionate, and asked that the assessment should be against the OCIR policy that came into force on Tuesday 1 January 2019. One respondent suggested that this should be subject to firms' commitment to complete the assessment against the revised OCIR policy at a later stage.

2.6 All the respondents asserted that firms will not have sufficient time between the finalisation of the policy in this PS and PS9/21, and the submission of the first report by Friday 1 October 2021. Three respondents commented that this will not allow time for appropriate senior management engagement. Two respondents stated that work on the first report has already begun (or is due to commence imminently), such as the internal assurance process and governance review, and therefore cannot be updated to incorporate to revised OCIR policy. Three respondents commented that adding extra work at such a time could prevent firms from conducting a meaningful self-assessment and could compromise the quality of implementation. Two respondents mentioned the pressure on resources due to Covid-19, and considered that assessing against the revised OCIR policy proposed in CP20/20 would be inconsistent with alleviating the operational burden on firms due to the impact of Covid-19.

2.7 The PRA has considered these responses and acknowledges the challenges some firms could face in order to conduct the first assessment against the revised OCIR policy. The PRA also recognises the benefits of allowing firms more time to focus on their first report and to ensure senior management engagement. Therefore, having considered the responses, the PRA has decided to amend the expectation in paragraph 2.11 of SS4/19 so that firms should perform their first assessment against the OCIR policy that came into force on Tuesday 1 January 2019. The PRA has

¹⁰ Sections 138J(3) and 138J(4) of FSMA.

also retained the text in paragraphs 3.12–3.13 of SS4/19 and has added a footnote to acknowledge that not all policies relevant to firms’ resolvability will be in force by October 2021.¹¹

2.8 Paragraph 3.11 of SS4/19 gives examples of changes which may require a firm to submit an updated version of their report under Resolution Assessment 3.2. The PRA has maintained the example added of ‘updates to its capabilities, resources, and arrangements made in order to achieve any outstanding steps to meet the objectives set out in paragraph 2.11’.

2.9 The PRA considers that a firm’s timely preparations for policy implementation is good business practice consistent with, for example, Fundamental Rules 3 and 8.^{12 13} Accordingly, firms should submit to the PRA their plans for implementing the revised OCIR policy by Friday 18 February 2022. This will allow the PRA to monitor firms’ progress in implementing the revised OCIR policy ahead of the Sunday 1 January 2023 effective date.

2.10 Chapter 7 of the Bank’s RAF SoP explains how the Bank will conduct assurance of firms’ resolvability as part of the RAF. In particular, paragraph 7.1 sets out that the Bank will consider ‘the capabilities, resources, and arrangements firms have in place for satisfying relevant policies and how this achieves the resolvability outcomes’. For the avoidance of doubt, the PRA notes the Bank’s clarification that its assessment of firms’ resolvability during 2021 and 2022 will focus on the PRA OCIR policy that came into force on Tuesday 1 January 2019, taking into account the Sunday 1 January 2023 effective date for the PRA’s revised OCIR policy. This will also be reflected in the Bank’s public statement regarding the resolvability of the major UK firms during this time.¹⁴

2.11 One respondent asserted that the revised OCIR policy effective date should align with the operational resilience policy to design an approach that works for both policies and provides business benefits, rather than becoming a compliance exercise. The PRA has responded to this point in PS9/21, paragraphs 3.3-3.5. Firms are advised to refer to PS9/21 and PS6/21 for more information on the interaction between the two policies.

¹¹ The Bank’s policies on resolvability that will apply to firms in scope of this PS and will come into force on Saturday 1 January 2022 are: The Bank of England’s Statement of Policy ‘The Bank of England’s Approach to Assessing Resolvability’, The Bank of England’s Statement of Policy on Continuity of Access to Financial Market Infrastructure (FMI), The Bank of England’s Statement of Policy on Funding in Resolution, The Bank of England’s Statement of Policy on Management, Governance and Communication and The Bank of England’s Statement of Policy on Restructuring Planning. All these policies are available at: <https://www.bankofengland.co.uk/financial-stability/resolution/resolvability-assessment-framework/resolvability-assessment-framework-policy-documents>.

¹² Fundamental Rule 3: ‘A firm must act in a prudent manner’.

¹³ Fundamental Rule 8: ‘A firm must prepare for resolution so, if need arises, it can be resolved in an orderly manner with a minimum disruption of critical services’.

¹⁴ May 2021, available at: <https://www.bankofengland.co.uk/financial-stability/resolution/resolvability-assessment-framework/resolvability-assessment-framework-policy-documents>.

Appendices

- 1 PRA RULEBOOK: CRR FIRMS: RESOLUTION ASSESSEMENT INSTRUMENT 2021, available at: <https://www.bankofengland.co.uk/-/media/boe/files/prudential-regulation/publication/2021/ps1021app1.pdf>.

- 2 SS4/19 'Resolution assessment and public disclosure by firms', available at: <https://www.bankofengland.co.uk/prudential-regulation/publication/2019/resolution-assessment-and-public-disclosure-by-firms-ss>.