

# Bank of England

## Prudential Regulation Authority

### Operating the Interim Capital Regime

#### Statement of policy

December 2023

Near-final part 1



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Near-final part 1

# 1: Introduction

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1.1 This statement of policy (SoP) sets out the Prudential Regulation Authority's (PRA) approach to operating the criteria for being eligible for the Interim Capital Regime (ICR).<sup>1</sup> It covers:

- how UK banks and building societies ('firms') that meet the Small Domestic Deposit Taker (SDDT) criteria and CRR consolidation entities that meet the SDDT consolidation criteria can access the ICR;<sup>2</sup>
- how firms and CRR consolidation entities that are members of groups based outside of the UK could access the ICR;
- how firms and consolidation entities will be treated in the case of a merger, acquisition, a disposal of entities or activities, or similar circumstances; and
- how firms that cease to meet the SDDT criteria, and consolidation entities that cease to meet the SDDT consolidation criteria, will transition between the ICR and the Basel 3.1 standards (as implemented by the PRA).

1.2 Firms that meet the SDDT criteria and CRR consolidation entities that meet the SDDT consolidation criteria are offered by the PRA separate modifications by consent to access the ICR and the SDDT measures. A decision whether to take up one of these modifications is independent of a decision about whether to take up the other modification. However, eligibility for either modification is based on the same criteria.

1.3 This SoP should be of interest to PRA-authorised banks and building societies, and to CRR consolidation entities, as well as entities prospectively interested in, or currently applying for, authorisation as a deposit-taker. It should be of particular interest to firms that meet the SDDT criteria and CRR consolidation entities that meet the SDDT consolidation criteria, and firms and CRR consolidation entities wishing to be treated in the same way as firms and CRR consolidation entities meeting those criteria.

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<sup>1</sup> <https://www.bankofengland.co.uk/-/media/boe/files/prudential-regulation/policy-statement/2023/december/ps1723app6.pdf>.

<sup>2</sup> <https://www.bankofengland.co.uk/-/media/boe/files/prudential-regulation/policy-statement/2023/december/ps1723app6.pdf>.

## 2: Accessing the Interim Capital Regime

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2.1 The PRA is prepared to offer a firm that meets the SDDT criteria a modification of the definition of an 'ICR firm' by which the firm would become an ICR firm. Similarly, the PRA is prepared to offer a CRR consolidation entity that meets the SDDT consolidation criteria a modification of the definition of an 'ICR consolidation entity' by which it would become an ICR consolidation entity.

2.2 Where a firm is a member of a consolidation group, those modifications are offered on condition that all firms in the consolidation group and the CRR consolidation entity are willing and able to consent to a similar modification at the same time.

### Discretion to remove firms meeting the SDDT criteria from the Interim Capital Regime

2.3 The PRA will consider removing a firm from the ICR by revoking its modification direction if, in the PRA's consideration, the firm's inclusion in the regime does not advance the PRA's statutory objectives.

2.4 This situation is likely to arise if a firm is carrying out business activities that create risks to the firm's safety and soundness that are not adequately addressed by the ICR but are adequately addressed by the prudential rules that apply to other firms.

2.5 The PRA may in particular consider revoking a firm's modification direction in the case of a merger or acquisition, or similar circumstances, if the ICR is no longer appropriate for the firm even though it continues to meet the SDDT criteria due to the criteria's use of measures based on historical data (eg a three-year average of total assets to calculate the size measure).

2.6 Where relevant, the PRA will also consider revoking a CRR consolidation entity's modification direction in similar circumstances.

## 3: Approach to firms that do not meet the SDDT criteria

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3.1 This chapter sets out the PRA's approach to firms and CRR consolidation entities that wish to access the ICR, but do not meet SDDT criteria or SDDT consolidation criteria. Such firms and CRR consolidation entities may still be able to be treated in the same way as those meeting the criteria. The remainder of the chapter refers only to firms and the SDDT criteria. Those references should be read, with any necessary modifications, as applying also to CRR consolidation entities and the SDDT consolidation criteria.

### Firms that are members of foreign groups

3.2 A firm that has a parent based outside the UK (including a firm that has a holding company based outside the UK) ('a member of a foreign group') cannot meet all the SDDT criteria: in particular, the criterion specifying that 'any parent undertaking of the firm is a UK undertaking'.<sup>3</sup>

3.3 The PRA considers that it may be appropriate for a firm that is a member of a foreign group but that satisfies each of the other conditions in the SDDT criteria to be treated in the same way as a firm that satisfies all the SDDT criteria. Whether this is the case will depend in particular on the total size of the foreign group the firm is a member of. The PRA considers that this is likely to be the case where the firm can demonstrate that the group's total assets do not exceed £20 billion when calculated on the following basis:

- the measure of total assets is comparable to the measure used in the SDDT criteria and calculated using the average of this measure during the previous 36 months; and
- the entities included in or excluded from the group for this purpose are determined using approximately the same principles as those used when establishing the boundaries of a UK consolidation group.

3.4 If a firm in this position wishes to be subject to the ICR, it should apply to the PRA under section 138A of the Financial Services and Markets Act 2000 (FSMA 2000) for a modification of the SDDT criteria, so that instead of the criterion specifying 'any parent undertaking of the firm is a UK undertaking', there is a criterion to the effect that the group's total assets do not exceed £20 billion, appropriately tailored to the circumstances of the group.

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3 PRA Rulebook, SDDT Regime – General Application, 2.1(9).

3.5 The PRA will consider any application for a modification of the SDDT criteria on a case-by-case basis, applying the statutory tests in section 138A(4) of FSMA 2000. Subject to that, the PRA considers that the statutory tests are generally likely to be met in the circumstances described above. In assessing an application for the modification, the PRA will consider whether there are any reasons that the firm's safety and soundness would be negatively affected if it were granted the modification.

3.6 A firm that is a member of a foreign group that is granted a modification to the SDDT criteria, and meets its modified SDDT criteria, will be subject to the PRA's offer of a modification by consent to become an ICR firm and enter the ICR (on the same terms as other firms that meet the SDDT criteria).

## Other firms

3.7 In the case of a disposal of entities or activities, or similar circumstances, a firm might consider that the ICR is appropriate for the firm even though it does not meet the SDDT criteria, due the criteria's use of measures based on historical data (eg a three-year average of total assets to calculate the size measure).

3.8 If a firm in such a position applies for a modification of the SDDT criteria under section 138A of FSMA 2000, the PRA will consider its application, including the explanation and evidence submitted by the firm that support its view that the PRA can be satisfied that the statutory tests in FSMA 2000 138A(4) are met.

## 4: Leaving the Interim Capital Regime

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4.1 This chapter sets out the approach for firms and CRR consolidation entities transitioning out of the ICR.

4.2 If an ICR firm or an ICR consolidation entity ceases to meet the SDDT criteria or SDDT consolidation criteria, it must notify the PRA. The remainder of the chapter refers only to firms and the SDDT criteria. Those references should be read, with any necessary modifications, as applying also to CRR consolidation entities and the SDDT consolidation criteria.

4.3 The firm should expect that the PRA will then decide to revoke its modification direction so that it stops being subject to the ICR and becomes subject to Basel 3.1 standards.<sup>4</sup> In many cases, such a firm will be able to prepare for ceasing to meet the SDDT criteria, and should therefore be able to comply with the PRA's Basel 3.1 standards almost immediately. In some circumstances, a firm might reasonably need some further time to prepare for complying with the PRA's Basel 3.1 standards. The PRA will consider this when deciding when to revoke the firm's modification direction. The PRA would also consider the time that it might reasonably need to adjust and/or rebase the firm's Pillar 2 requirements to reflect the implementation of Basel 3.1 standards.

4.4 If a firm that has a modification direction for the ICR ceases to meet the SDDT criteria because it receives an internal ratings based (IRB) approval, the PRA will engage with the firm in the period before the approval decision to support the firm's readiness to move from the ICR to the PRA's Basel 3.1 standards.

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4 If these circumstances arise before the ICR and the PRA's Basel 3.1 standards have come into effect then the firm would not become subject to the ICR.