

Supervisory Statement | SS4/19

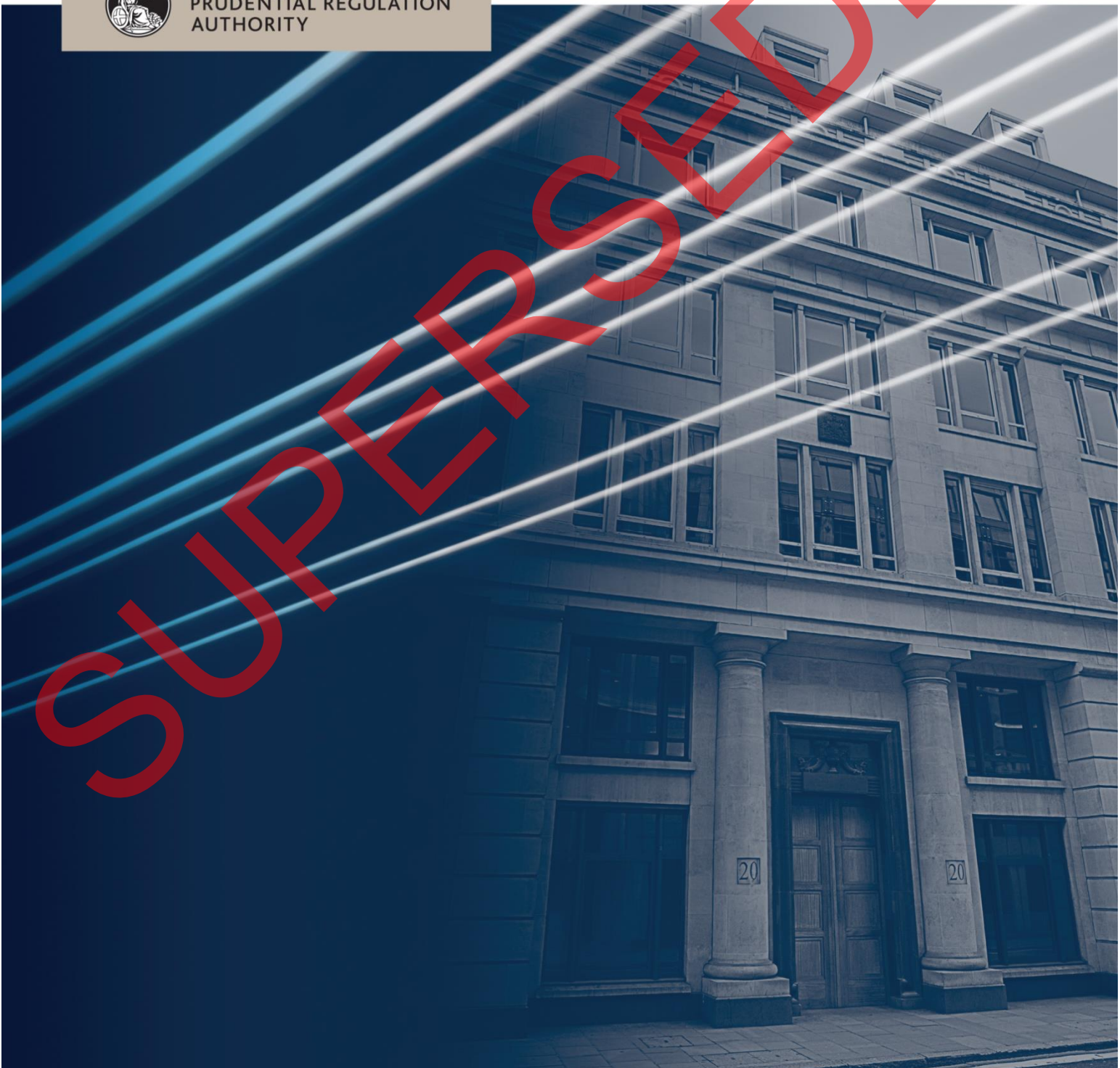
Resolution assessment and public disclosure by firms

July 2019



BANK OF ENGLAND
PRUDENTIAL REGULATION
AUTHORITY

SUPERSEDED





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1 Introduction

1.1 This Supervisory Statement ('SS') is relevant to the UK banks and building societies to which the rules in the Resolution Assessment Part of the PRA Rulebook ('the rules') apply ('a firm').

1.2 It sets out the Prudential Regulation Authority's (PRA's) expectations on how these firms should comply with the rules.

1.3 This SS should be read in conjunction with the rules and the Bank of England's ('the Bank') Statement of Policy, 'The Bank of England's Approach to Assessing Resolvability' ('the Bank's Approach to Assessing Resolvability SoP'). The rules require firms to assess their preparations for resolution, submit a report of their assessment, and publish a summary of their report. The Bank's Approach to Assessing Resolvability SoP sets out, amongst other things, the Bank's approach to assessing the resolvability of banks and building societies where the Bank, as resolution authority, has notified them that their resolution strategy is bail-in or partial-transfer or where the Bank, in its capacity as host resolution authority, has notified them that they are a 'material subsidiary' of an overseas-based banking group for the purposes of setting internal MREL in the UK.¹

1.4 The PRA may, in consultation with the Bank as resolution authority, consider an exercise of its powers under section 55M of the Financial Services and Markets Act 2000 (FSMA) to apply some or all of the requirements set out in the rules to one or more banks or building societies with a preferred resolution strategy of Bank-led bail-in or partial-transfer resolution strategy, where it is desirable to do so to advance the PRA's general objective to promote the safety and soundness of the firms it regulates. The PRA would consult with the affected bank or building society on a case by case basis before reaching a decision.

2 Assessing preparations for resolution

2.1 A firm is required to carry out an assessment of its preparations for resolution under Chapter 2 of the rules. This section sets out the PRA's expectations in relation to that Chapter.

Outcomes for resolvability

2.2 The PRA expects a firm to undertake a forward-looking, realistic assessment of how its preparations for resolution would enable it to achieve the outcomes for resolvability as set out in the Bank's Approach to Assessing Resolvability SoP.

2.3 The three outcomes for resolvability as set out in the Bank's Approach to Assessing Resolvability SoP are:

(i) **Have adequate financial resources in the context of resolution:**²

A firm should ensure that it has the resolution-ready financial resources available to absorb any further losses and recapitalise without exposing public funds to loss. This includes resources to meet its financial obligations in resolution. This is necessary to allow the authorities to keep the firm operating as described below. This means that a firm must:

¹ Bank of England (2018) 'The Bank of England's approach to setting a minimum requirement for own funds and eligible liabilities (MREL)' available at: <https://www.bankofengland.co.uk/paper/2018/boes-approach-to-setting-mrel-2018>

² Appropriate minimum levels will be determined by the relevant authorities.

- meet the ‘minimum requirements for eligible liabilities’ (MREL) appropriately distributed across its business;
- be able to support a timely assessment of its capital position and recapitalisation needs; and
- be able to analyse and mobilise liquidity in resolution.

(ii) **Be able to continue to do business through resolution and restructuring:**

A firm should ensure that its activities can continue while the authorities take charge and begin to restructure the firm in such a way that the business can be reshaped, including any parts of it being sold or wound down (as appropriate). This includes ensuring that the resolution does not result in a firm’s financial and operational contracts being materially disrupted or terminated and that direct or indirect access to services delivered by financial market intermediaries is maintained. This is essential to having a continuing business that can be returned to long-term viability through restructuring. It also means building on recovery planning work so that the operational and support services needed for a viable business can be identified, separated and reorganised to support restructuring options.

(iii) **Be able to co-ordinate and communicate effectively within the firm and with the authorities and markets so that resolution and subsequent restructuring are orderly.**

Resolution assessments

2.4 This section should be read in conjunction with the Bank’s Approach to Assessing Resolvability SoP.

2.5 When undertaking its assessment, the PRA expects a firm to consider how a Bank-led resolution is likely to be executed.

2.6 A firm should:

- base its assessment on how it would be resolved by the Bank and how its preparations facilitate the Bank’s process with reference to the pre-resolution contingency period, the ‘resolution weekend’, and the post-bail in period as described in the Bank’s Approach to Assessing Resolvability SoP;
- identify any risks which could prevent the above outcomes from being achieved and detail the steps it intends to take to reduce or remove those risks. This should include an anticipated timeline for completion and any controls that exist at the firm to oversee its execution of these steps;
- identify any other actions it may need to take to facilitate orderly resolution; and
- document these considerations in its report.

2.7 The PRA expects a firm to reference a stylised resolution timeline as outlined in Annexes 1 and 2 of the Bank’s Approach to Assessing Resolvability SoP as a reference tool when developing its assessments.

2.8 The PRA expects a firm’s assessment to cover the consolidation group that the PRA is responsible for supervising on a consolidated basis. Consideration should also be given to how the

firm's preparations for resolution are consistent with the PRA's ring-fencing requirements under the Ring-Fenced Bodies Part of the PRA Rulebook.

2.9 The PRA expects that a single assessment would be developed covering the consolidation group which the PRA is responsible for supervising on a consolidated basis. The PRA will treat this single assessment as discharging the obligations of the other firms within the consolidation group, in line with its understanding of how the firm would be resolved by the Bank, subject to the considerations outlined in paragraphs 2.8 and 5.6 of this SS. Similarly, the PRA expects firms to provide a single report and disclosure under Chapters 3 and 4 of the rules covering the consolidation group the PRA is responsible for supervising on a consolidated basis.

2.10 The PRA does not expect a firm to consider issues relating to how the UK authorities will engage with authorities in other jurisdictions.

Barriers to resolvability

2.11 In conducting its assessment, the PRA expects a firm to assess its preparations for resolution by reference to the objectives of the barriers to resolvability identified by the Bank in the Bank's Approach to Assessing Resolvability SoP. A firm should also consider its specific business model and whether there are any additional barriers that are relevant. The PRA also expects a firm to assess whether there are any other factors that may prevent its orderly resolution. A firm should assess whether it has the capabilities, resources and arrangements to achieve the following objectives:

- **Minimum requirement for own funds and eligible liabilities ('MREL'):** A firm should maintain a sufficient amount of resources, as determined by the Bank, that can credibly and feasibly be used to absorb losses and recapitalise the firm to a level that enables it to continue to comply with the conditions for regulatory authorisation and sustains market confidence.³
- **Valuations:** A firm's valuation capabilities should enable a valuer to carry out sufficiently timely and robust valuations to support effective resolution.
- **Funding in resolution:** In order to ensure it continues to meet its obligations as they fall due, a firm should be able to estimate, anticipate and monitor its potential liquidity resources and needs and mobilise liquidity resources in the approach to and throughout resolution.
- **Early termination of financial contracts (stays):** A firm should suitably address the risk of early termination of financial contracts upon entry into resolution, to limit any impact on its stability and the wider financial system (e.g. market contagion) that may otherwise occur as a result of resolution.
- **Operational continuity in resolution ('OCIR'):** A firm's operational continuity arrangements should ensure continuity at the point of entry into resolution and permit any post-stabilisation restructuring, to ensure the continuity of banking services and critical functions. For its assessment in 2020, a firm should assess how its compliance with PRA OCIR policy which came into force on 1 January 2019 is helping it achieve this objective. Thereafter, a firm should assess how its arrangements as a whole meet this objective, taking into account the PRA OCIR policy that is in force at the time of its assessment.

³ For firms with a partial-transfer resolution strategy, recapitalisation may be limited to the level that (i) ensures that the transfer does not undermine the capital position of a private sector purchaser or (ii) enables a new bridge bank to be adequately capitalised.

- **Continuity of access to financial market infrastructure:** A firm should be able to take all reasonable steps available to facilitate continued access to clearing, payment, settlement, and custody services in order to keep functioning in resolution (recognising that providers of these services may retain a degree of discretion over their ability to terminate a firm's membership).
- **Restructuring planning:** A firm should be able to plan and execute restructuring effectively and on a timely basis in the event of resolution, taking into account the objectives applicable to that firm's preferred resolution strategy.
- **Management, governance and communications:** A firm should be able to – during the execution of a resolution – ensure that their key roles are suitably staffed and incentivised, that their governance arrangements provide effective oversight and timely decision making, and that they deliver timely and effective communications to staff, authorities and other external stakeholders.

2.12 The PRA does not consider the capabilities set out in the Bank's Approach to Assessing Resolvability SoP to be exhaustive. A firm should also consider its specific business model and whether there are any additional barriers that are relevant. The PRA expects these additional barriers and/or factors to be taken into account in a firm's assessment.

2.13 The PRA recognises that it may be necessary for a firm to make a number of assumptions around the actions and/or decisions of different parties involved in resolving a firm, for example by regulators and advisors, to determine whether its preparations for resolution are realistic. The stylised resolution timeline as set out in Annexes 1 and 2 of the Bank's Approach to Assessing Resolvability SoP provides an indication of the assumptions a firm may need to make.

2.14 The PRA expects a firm to undertake testing of its preparations for resolution to substantiate its assessment, to identify any risks to its resolution, and to assist in the development of steps it needs to take to remove or reduce those risks. Any testing and review should assess a firm's capabilities, resources and arrangements against the objectives outlined above in paragraph 2.11 should be designed with regard to the stylised resolution timeline as outlined in Annexes 1 and 2 the Bank's Approach to Assessing Resolvability SoP.

2.15 A firm should undertake testing and review of its preparations at a suitable frequency to ensure that its assessment remains up-to-date and accurate.

2.16 A firm should appropriately allocate roles and responsibilities for its testing. The PRA expects any testing to involve an appropriate level of senior management engagement, to provide oversight and to reflect how the firm's preparations function in practice. Reviews should be carried out by individuals of a suitable level of expertise and a suitable level of independence to ensure the review is robust.

Multiple Point of Entry ('MPE') Bail-in firms

2.17 Where the Bank has set a preferred resolution strategy as MPE bail-in, a firm should consider as part of its assessment how resolution groups in other jurisdictions would be resolved, assess interdependencies between the UK resolution group and resolution groups in other jurisdictions, and address any resulting barriers to the resolution process. In particular, an MPE firm should consider the degree of financial and operational separability of its UK resolution group, for instance related to booking and risk-management practices or access to critical FMIs, and relevant structural issues, for instance arising from inter-resolution group exposures.

2.18 In addition, an MPE firm headquartered in the UK should consider the extent to which coordination across multiple resolution groups is necessary to execute its group-wide resolution strategy. As such, a firm should consider relevant factors including governance and operational arrangements, and capabilities that may be relevant for the firm as a whole.

2.19 The PRA does not expect a firm to provide detail on how resolution groups headquartered in other jurisdictions comply with policies set in those jurisdictions.

3 Reporting firms' assessments

3.1 This chapter sets out the PRA's expectations on the content and format of a firm's report required under Resolution Assessment Chapter 3.

Format

3.2 The PRA expects a firm to develop a format for its written report that reflects the structure, size, and complexity of its business and operating model.

Content

3.3 The PRA expects a firm's report on its assessment of its preparations for resolution to cover, at a minimum, the following topics:

- A summary of the firm's group structure. This should include a brief explanation of any key aspects of its structure (including as a result of the PRA's ring-fencing requirements) that either facilitate or may pose impediments to orderly resolution.
- An explanation of the firm's understanding of its resolution strategy. This should include a brief description of the actions the firm would take to support resolution actions by the Bank, using a stylised resolution timeline as outlined in Annexes 1 and 2 of the Bank's Approach to Assessing Resolvability SoP as a reference tool for the overall resolution process.
- A summary of the capabilities, resources and arrangements in place to prepare for the firm's resolution, and how they relate to the actions identified above. A firm should explain how it would achieve the resolvability outcomes set out in paragraph 2.3 with reference to barriers to resolvability. This includes the barriers identified in the Bank's Approach to Assessing Resolvability SoP and others that may be specific to a firm's particular structure and/or business model. The PRA expects a firm to describe any issues that could prevent the resolvability outcomes set out in paragraph 2.3 from being achieved.
- The anticipated timeline for completion of the steps the firm is taking to remove or reduce those risks, as well as a description of the controls in place to oversee the execution of those steps.
- A summary of testing. Where a firm has carried out testing of its existing capabilities and arrangements to substantiate its assessment, it should incorporate a summary of its testing into its report. This should include detail about the design and planning of the test, how the exercise unfolded, the team or individuals involved and lessons learnt.
- A summary of the governance processes that the firm has in place for performing its assessment and producing its report. A firm should describe how its governance processes meet the expectations set out in Chapter 5 of this SS.

3.4 The Bank's Approach to Assessing Resolvability SoP sets out further detail on what the Bank considers is needed to address the barriers to resolvability listed in paragraph 2.11 above. The PRA expects that the Bank's Approach to Assessing Resolvability SoP will inform a firm's assessment of its preparations for resolution, and subsequently, a firm's report. A firm is also expected to identify how its compliance with PRA rules, such as those on OCIR, helps it to address the above barriers to resolution.

3.5 A firm may determine that it could achieve the resolvability outcomes⁴ without having some of the capabilities described in the Bank's Approach to Assessing Resolvability SoP for example as a result of its structure, its business model or its resolution strategy. The PRA expects such instances to be exceptional, but if they were to occur, the PRA expects a firm's report to explain why this is the case.

3.6 A firm should not treat its report as a regulatory compliance exercise. The PRA expects firms to describe all necessary actions required to support their preparations for resolution and to provide additional clarifications, details, and explanations of preparations where it would be necessary or helpful to the PRA.

Accessibility

3.7 The PRA expects a firm's report to be written in an accessible manner which would enable the PRA to obtain a clear and accurate understanding of its preparations for resolution. It should contain as much information and analysis as necessary for the PRA to understand the firm's assessment of its preparations undertaken for resolution. The report should typically be around 250 pages in length.

Materiality

3.8 While a firm's report should be sufficiently detailed and provide sufficient evidence to enable the PRA to understand its preparations for resolution, the level of detail should not be excessive.

3.9 The PRA expects a firm to avoid superfluous or unnecessary text in its report. In particular, a firm should not submit a significant volume of supporting documents such as contracts or operational documentation in its report. Instead, a firm should describe such documents, including how far they support orderly resolution.

Relation to other reporting requirements

3.10 The PRA notes that the content of a firm's report may overlap in places with that of other reports submitted to the PRA or the Bank in accordance with other regulatory reporting obligations or expectations, such as the PRA's expectations regarding a firm's resolution pack submissions as set out in SS19/13 'Resolution Planning'⁵ or the EBA ITS on information for resolution planning.⁶ The PRA does not expect a firm to duplicate in its report any material that it has submitted to the PRA or the Bank in the discharge of other regulatory reporting obligations or expectations, such as resolution packs. Instead, a firm may cross-refer to the relevant documents, as long as the information therein remains correct as at the reference date of the report

⁴ Described in paragraph 2.3 of this SS.

⁵ December 2013: <https://www.bankofengland.co.uk/prudential-regulation/publication/2013/resolution-planning-ss>.

⁶ <https://eba.europa.eu/regulation-and-policy/recovery-and-resolution/implementing-technical-standards-on-procedures-forms-and-templates-for-resolution-planning/-/regulatory-activity/press-release>

Updating the report

3.11 Rule 3.2 requires a firm to submit an updated version of its report under Rule 3.1 within 20 working days of a change in the assessment carried out under Chapter 2 of the rules. Examples of such changes may include:

- changes to group structures that may affect MREL issuance structures;
- major investments in capabilities that improve a firm's preparations for resolution and/or reduce the risk of a firm's disorderly failure; and
- divestments.

4 The requirement to publish

4.1 This chapter sets out the PRA's expectations for the content of the public disclosures required under Rule 4.1 of the rules.

4.2 The PRA expects a firm's public disclosure to be a concise summary of its report on its assessment of its preparations for resolution. The PRA does not expect a firm's public disclosure to include an overall judgement about whether or not the firm considers itself to be resolvable, or to contain unnecessarily detailed descriptions of particular resolvability arrangements or plans.

4.3 The PRA expects the information contained in a firm's public disclosure to be consistent with the report submitted to the PRA under Chapter 3 of the rules. If a firm has chosen to include an executive summary or any similar introductory statement in its report, the PRA would not expect that summary or statement to constitute the public disclosure required under Rule 4.1.

4.4 The PRA expects a firm's public disclosure to:

- Summarise its understanding of its resolution strategy and the steps the firm would take to facilitate resolution by the Bank relative to the stylised resolution timeline as described in Annexes 1 and 2 of the Bank's Approach to Assessing Resolvability SoP. This should assist a user to understand how the resolution strategy of the firm works, what it means for its financial and operational counterparties, clients (including depositors) and investors.
- Describe the capabilities, resources and arrangements currently in place at the firm as referred to in paragraph 3.3 that have been implemented to improve its resolvability, including how these achieve the resolvability outcomes outlined in paragraph 2.3. The PRA also expects a firm to include a summary of its group structure, a summary of any testing it has carried out, and the governance processes it has in place for performing its assessment. The firm's public disclosure should be designed to help users come to a view of the quality of the firm's existing capabilities, resources and arrangements for resolution.
- Describe any outstanding steps that a firm is planning to undertake to remove or reduce any gaps in their capabilities, resources and arrangements for resolution. These should include an anticipated timeline for completion and details of the controls that exist in the firm to oversee its execution of these steps. The public disclosure should enable users to assess the feasibility and credibility of the firm's plans for removing or reducing gaps in its capabilities, resources and arrangements for resolution. Users should also be able to assess how the firm's financial and operational counterparties, clients and investors might be impacted over time as the firm implements its outstanding steps.

- Identify and describe any additional issues that could prevent these resolvability outcomes from being achieved. This should enable users to understand the other factors outside the firm's control that could prevent the resolvability outcomes set out above in paragraph 2.3 from being achieved.

4.5 The PRA expects the firm to include in its public disclosure any material updates that have occurred during the period of time that has elapsed between submission of a firm's report and publication of its public disclosure. This should ensure that users have up to date information on which to base decisions.

4.6 A firm may exclude information from the public disclosure on the grounds that it is proprietary or confidential. When excluding information on these grounds, the PRA expects a firm's approach to be consistent with its approach to meeting its Pillar 3 disclosure requirements.⁷

Public Disclosures made prior to 1 January 2022

4.7 The PRA acknowledges that for public disclosures made prior to 1 January 2022, firms will have had less time to achieve some of the objectives set out in paragraph 2.11.

4.8 The PRA considers that a firm's public disclosure made prior to 1 January 2022 should meet the expectations set out in paragraph 4.4, but in light of paragraph 4.7 above is likely to be focused more on outstanding steps rather than capabilities, resources and arrangements already in place.

4.9 To recognise that some of the capabilities, resources and arrangements a firm may need to achieve the objectives set out in paragraph 2.11 are likely to be further from being achieved prior to 1 January 2022, namely, continuity of access to financial market infrastructure, funding in resolution, management, governance and communications, and restructuring planning, a firm should create a separate section in its public disclosure to differentiate these objectives from other objectives where a firm's capabilities, resources, and arrangements should be more developed.

5 Governance

5.1 This chapter sets out the PRA's expectations regarding the governance arrangements supporting a firm's assessment, report and public disclosure.

5.2 The PRA expects a firm that is required to undertake an assessment under Chapter 2 of the rules to ensure that its management body oversees, assesses and approves the assessment before the firm submits its report to the PRA. Firms are already required under Rule 5.1 of the General Organisational Requirements ('GoR') Part of the PRA Rulebook to have their management body define, oversee and be accountable for the implementation of governance arrangements that ensure effective and prudent management of the firm. The PRA expects that requirement also to include a firm's preparations for resolution, which are part of a firm's prudential risk management. Such board-level engagement and accountability is important to ensure that there is adequate oversight of these key activities. Moreover, the PRA expects a firm to embed fully the process of assessment, and preparing and approving reports into its governance framework.

5.3 Under Rule 4.1 of the Allocation of Responsibilities Part of the PRA Rulebook firms are required to allocate the 'prescribed responsibility' for developing and maintaining the firm's recovery plan

⁷ Basel Committee on Banking Supervision (2015), 'Revised Pillar 3 Disclosure requirements', paragraph 11: <https://www.bis.org/bcbs/publ/d309.pdf>.

and resolution pack and for overseeing the internal processes regarding their governance to a Senior Manager. This necessarily requires firms to take actions in business-as-usual to plan for stressed conditions that could potentially lead to business failure and resolution.

5.4 To that end, the PRA expects the board, its sub-committees (including, where appropriate, the risk and audit committees) and senior management to have clear responsibilities for approving the report required under Chapter 3 of the Resolution Assessment Part, and to devote adequate time and resources to this task. As part of this process, the board and senior management should give particular attention to remaining barriers to resolvability, as well as any planned actions to address those barriers and the time horizon over which the firm reasonably expects it would be able to do so.

5.5 A firm management body is required under the GoR to oversee the process of disclosure and communications. The PRA expects this to encompass a firm's public disclosure under Rule 4.1 of the rules.

5.6 Where a firm's consolidated group contains a ring-fenced body (RFB), the PRA expects that the management body of the RFB is involved in the development of the consolidated group's single assessment and its single report for submission to the PRA, as described in paragraph 2.9. The RFB should also take steps to manage any conflicts between interests arising between the RFB and the group as part of the group's assessment.

6 Waiver or modification of assessment, report, and disclosure requirements

6.1 The PRA recognises that there may be circumstances in which a firm may seek to alter one or more of the deadlines set out in the rules, for example the submission date of its report or disclosure date. This could be, for example, when it is undergoing a significant reorganisation, restructure, merger or acquisition.

6.2 In such situations, the PRA may consider whether to grant a waiver from, or modification of, the requirement to assess or publish by the relevant date, or both, where the relevant statutory tests are met. The PRA does not automatically grant applications for waivers or modifications. Details on the PRA's waiver process are available on the PRA's webpages.⁸

7 Process

7.1 The submission and disclosure dates specified in the rules are the latest possible dates by which a firm must submit its report to the PRA and make its public disclosure. In practice, the expectation is that the PRA, the Bank as resolution authority, and a firm would seek to coordinate, prior to the deadline, on a suitable date for submission and disclosure.

7.2 If necessary, and after engaging with firms in scope of the Resolution Assessment Part, the PRA may consider a waiver from or modification of one or more firms' report or disclosure date in the rules to either bring it forward or move back as appropriate for the circumstances.

⁸ <https://www.bankofengland.co.uk/prudential-regulation/authorisations/waivers-and-modifications-of-rules>.

8 Transitional arrangements

8.1 Where a firm not previously subject to the rules comes into scope within 12 months of a report submission date, the PRA may consider the granting of a waiver or modification of the relevant requirement or requirements to postpone the submission or disclosure date, or both, until the next cycle. In considering a firm application for a waiver or modification, the PRA would take into account, among other things, whether the firm came into scope as a result of an acquisition or through organic growth.

8.2 Where a firm comes into scope between 12 to 24 months of a report date, the PRA is less likely to grant a waiver or modification of the requirement to assess and report to the PRA. However, the PRA may consider, upon receipt of an application from a firm, granting a waiver or modification from the requirement to publish a summary of the firm's report.

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