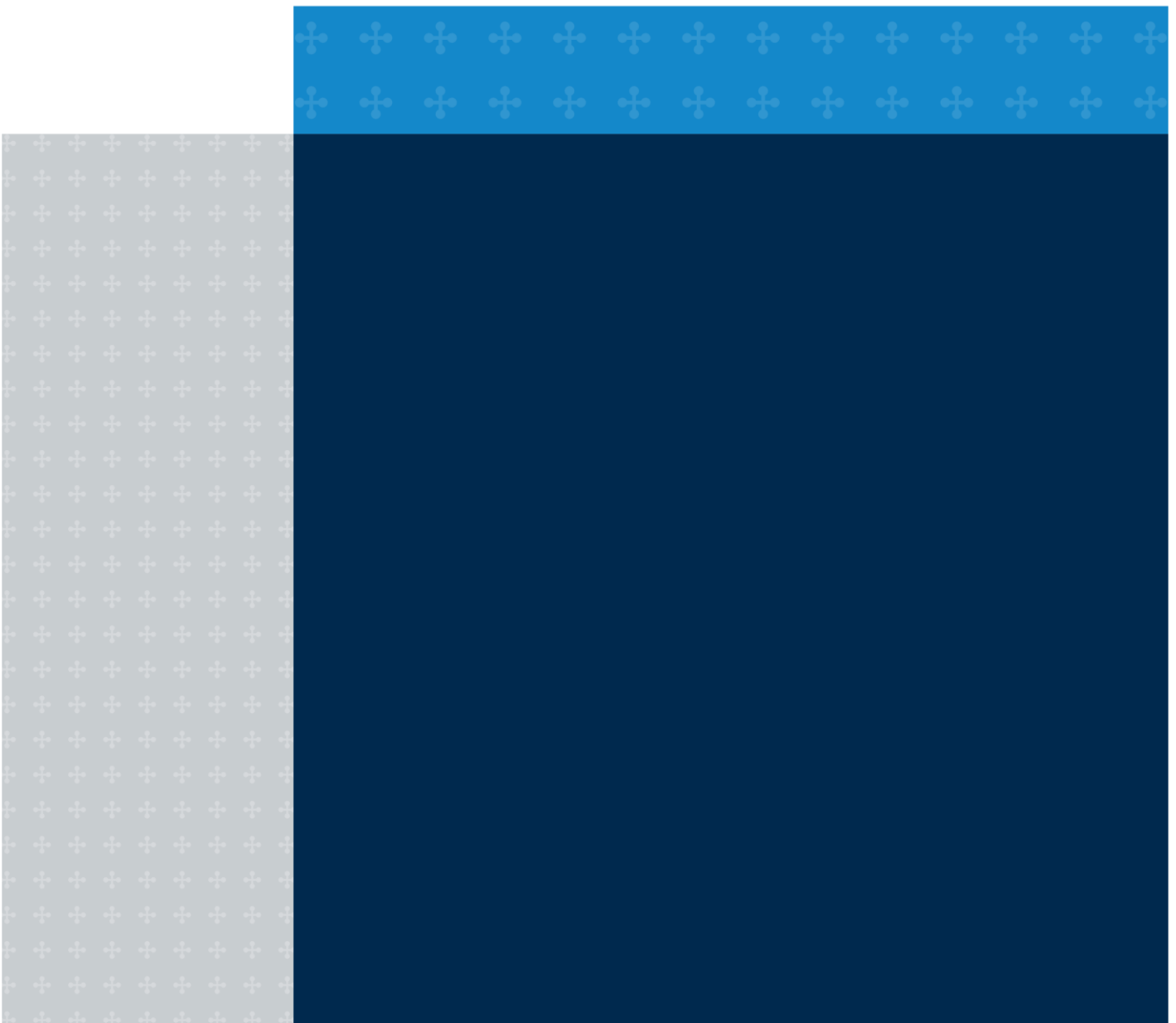




Policy Statement | PS25/21

Responses to CP13/21 'Occasional Consultation Paper'

November 2021





BANK OF ENGLAND
PRUDENTIAL REGULATION
AUTHORITY

Policy Statement | PS25/21

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1 Overview

1.1 This Prudential Regulation Authority (PRA) Policy Statement (PS) provides feedback to responses to Consultation Paper (CP) 13/21 'Occasional Consultation Paper'.¹ It also contains the final rules, updated Supervisory Statements (SS), and updated templates, instructions, and associated guidance and notes.

1.2 This PS is relevant to different firms, in accordance with the CP chapters, as follows:

- Chapters 2 and 3: banks, building societies, and PRA-designated investment firms;
- Chapter 4: Capital Requirements Regulation (CRR) firms;
- Chapter 5: PRA-supervised third country branches; and
- Chapter 6:
 - Audit Committee – CRR firms, UK Solvency II insurance and reinsurance firms, and the Society of Lloyd's and managing agents; and
 - Auditors – major UK banks and building societies.

1.3 The appendices to this PS provide links to the final policy material as set out in the table below.

CP Chapter	Policy material	Appendix
2. Pillar 2A: Amendments to FSA081 template, instructions, and SS32/15	Reporting Pillar 2 Part of the PRA Rulebook	1
	SS32/15 'Pillar 2 reporting, including instructions for completing data items FSA071 to FSA082, and PRA111'	2
	FSA081 template	3
	FSA081 instructions	4
3. Regulatory Reporting: Changes to FSA042, FSA017 instructions, and MLAR guidance notes	Regulatory Reporting Part of the PRA Rulebook	5
	SS34/15 'Guidelines for completing regulatory reports'	6
	FSA017 instructions	7
	Notes for completion of the Mortgage Lenders & Administrators Return (MLAR)	8
4. Definition of Capital: Minor update to the PRA Rulebook and SS7/13	Definition of Capital Part of the PRA Rulebook	9
	SS7/13 'Definition of capital (CRR firms)'	10
5. Regulatory Reporting Banking: Amendments to the Branch Return	Regulatory Reporting Part of the PRA Rulebook	5
	SS34/15 'Guidelines for completing regulatory reports'	6
	Branch Return	11
	Reporting guidance to the Branch Return	12
6. Audit Committee and Auditors: Correction and update	Audit Committee Part of the PRA Rulebook	13
	SS1/16 'Written reports by external auditors to the PRA'	14

¹ June 2021: Occasional Consultation Paper – June 2021.

Background

1.4 In the CP, the PRA proposed:

- to amend the reporting requirements to support a better understanding of defined benefit pension schemes' risk profiles, improve consistency, and ensure a level playing field for firms (Chapter 2);
- to amend the reporting requirements to delete a legacy template and to update rules and policy documents, to prepare for the expected discontinuation of LIBOR at the end of 2021 (Chapter 3);
- to amend the scope of Chapter 4 of the Definition of Capital Part of the PRA Rulebook, to refer to CRR (Capital Requirements Regulation) firms rather than UK banks (Chapter 4);
- to amend the method of submission, make minor formatting corrections to the Branch Return, and clarify the accompanying reporting guidance (Chapter 5); and
- to correct and update a reference in Rule 2.4(5) in the Audit Committee Part of the PRA Rulebook, and to correct an error in SS1/16 'Written reports by external auditors to the PRA'.

Summary of responses

1.5 The PRA received no responses to proposals relating to Chapters 3, 4, and 6. It received four responses to Chapters 2 and 5. Details of the responses and the PRA's feedback is set out in Chapter 2 of this PS.

Changes to draft policy

1.6 Where the final rules differ from the draft in the CP in a way which is, in the opinion of the PRA, significant, the Financial Services and Markets Act 2000 (FSMA)² requires the PRA to publish:

- (a) details of the difference together with a cost benefit analysis; and
- (b) a statement setting out in the PRA's opinion whether or not the impact of the final rule on mutuals is significantly different to: the impact that the draft rule would have had on mutuals; or the impact that the final rule will have on other PRA-authorised firms.

1.7 The PRA has made minor amendments to the proposed FSA081 instructions discussed in Chapter 2 'Pillar 2A: Amendments to FSA081 template, instructions, and SS32/15' (Appendix 4), in order to correct typos and improve readability of the text and forms.

1.8 Having considered feedback to the consultation, the PRA has also made minor amendments to the proposed Branch Return guidance discussed in Chapter 5 'Regulatory Reporting Banking: Amendments to the Branch Return' (Appendix 12), to provide clarity and ensure consistency of the reporting.

1.9 Details of these changes can be found in Chapter 2 of this PS.

1.10 The PRA has amended the effective date for the changes discussed in Chapter 3 of the CP 'Reporting: Changes to FSA042, FSA017 instructions, and MLAR guidance notes'. The deletion of FSA042 will come into force on Wednesday 10 November 2021. The changes to the FSA017

² Section 138J(5) and 138K(4) of FSMA.

instructions³ and MLAR guidance notes will now come in to force on Saturday 1 January 2022 to align the instructions with the timing of the discontinuation of LIBOR. SS34/15 will be updated on Wednesday 10 November 2021 to delete the link to FSA042, and again on Saturday 1 January 2022 to include the updated links to the FSA017 and MLAR guidance notes. This amendment will also align with the Financial Conduct Authority's effective date for changes to MLAR guidance note.

1.11 The PRA does not consider that the above changes are significant, or would have a significantly different impact on mutuals as compared to other PRA-authorized firms. The changes made provide clarity to the FSA081 instructions (Appendix 4), and to the Branch Return guidance (Appendix 12), and provide better alignment in respect of implementation date for 'FSA017 instructions' (Appendix 7) and the 'Notes for completion of the MLAR (Appendix 8).

1.12 When making rules, the PRA is required to comply with several legal obligations, including publishing an explanation of the ways in which the PRA has had regard to these obligations, and how they have affected the proposed rules. In CP13/21, the PRA set out this explanation under each proposal chapter. Given that the PRA has not received any responses to Chapters 3, 4, and 6 of its consultation, the analysis, as presented in the CP, remains unchanged. For Chapters 2 and 5, the PRA's have regards analysis, as presented in the CP, also remains unchanged due to the minor nature of the changes.

1.13 For CRR rules (as defined in section 144A of FSMA), and for rules applying to holding companies made under section 192XA of FSMA, the PRA must also publish a summary of the purpose of the proposed rules.⁴ This obligation is relevant to Chapter 2, 4, and 5 of the CP. For Chapter 2 and 5 this is set out detail in relevant sections of this PS (Chapter 2).

1.14 For Chapter 4 of the CP, the purpose of the rules is to expand the scope of Chapter 4 of the Definition of Capital Part of the PRA Rulebook to all CRR (Capital Requirements Regulation) firms rather than only UK banks. The amended scope of these rules provide clarity on their application, and therefore will ensure that all PRA-authorized firms comply with the purpose, as well as the letter, of the CRR in treating all connected funding of a capital nature as a holding of capital of the connected party.

Implementation

1.15 The implementation dates for the policy changes set out in this PS are (with reference to the chapters in the CP):

- Chapter 2: Wednesday 1 December 2021;
- Chapter 3: Wednesday 10 November 2021 for the deletion of FSA042, and Saturday 1 January 2022 for FSA017 instructions and MLAR guidance notes;
- Chapters 4 and 6: Saturday 1 January 2022; and
- Chapter 5: Tuesday 31 May 2022.

1.16 References related to the UK's membership of the EU in the rules and any other material covered by the policy in this PS have been updated as part of these proposals to reflect the UK's

³ The FCA also intend to undertake this activity and consult on amendments later this year.

⁴ Section 144D(2) of FSMA.

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 Feedback to responses

2.1 Before making any proposed rules, the PRA is required by 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.⁶

2.2 The PRA received no responses to its proposals relating to Chapters 4 and 6, and will therefore publish the policy as proposed.

2.3 The PRA received no responses to its proposals relating to Chapter 3, but has amended the implementation date for the changes to the FSA017 instructions and MLAR guidance notes to come into force on Saturday 1 January 2022.

2.4 The PRA received four responses to Chapter 2. The responses suggested amendments to the FSA081 template, as well as clarification on the reference date.

2.5 The PRA received four responses to Chapter 5. The responses requested further clarification on several aspects of the proposed amendments to the Branch Return and its supporting guidance.

2.6 Full details of the responses, the PRA's feedback, and changes to the draft policy are set out below.

Pillar 2A: Amendments to FSA081 template, instructions, and SS32/15

2.7 In Chapter 2 of the CP, the PRA proposed to make the following changes to the FSA081 template:

- add entries in relation to insured annuities, life expectancies assumed for current and future pensioners, and to add a tick box to confirm the funding valuation documentation has been submitted alongside the FSA081 template;
- remove the asset category for other assets;
- require all firms submitting an FSA081 to provide the asset and liability sensitivities known as 'PV01' and 'IE01'; and
- to make certain formatting changes.

2.8 One respondent suggested that there are data items within the templates that are duplicated or conveyed similar information, such as the granular asset split, which is provided within the stress testing template (STDF 077 template). The same respondent also suggested simplifying the information provided in certain areas to reduce the amount of resource required to populate the template. One respondent suggested that there is an inconsistency between the categories requested for life expectancy of pension members between the FSA081 and the firm's annual report and accounts. One respondent suggested clarifying the first reference date of the template.

2.9 Having considered the responses, the PRA has decided to:

- (i) Address any duplication of stress testing data in the templates for the stress test, rather than via the FSA081, as most firms populating the FSA081 do not participate in the annual banking

⁶ Sections 138J(3) and 138J(4) of FSMA.

stress test.

- (ii) Retain the life expectancies as proposed, as it enables comparisons to be made between firms and across the UK pension scheme universe. The majority of UK defined benefit pension schemes disclose life expectancies at the proposed ages (ages 45 and 65).
- (iii) Confirm that the first reference date is Wednesday 1 December 2021.

2.10 The PRA received general comments from two respondents in relation to making additional changes to the FSA081 template to reduce the number of data points and better reflect scheme profiles, such as by specifying liability-driven investments more explicitly. This did not relate directly to the proposals in the CP, and so the PRA has decided not to amend the policy in relation to these responses. However, the PRA will take this into consideration when developing policy in future.

2.11 The PRA has also made minor amendments to the proposed FSA081 instructions (Appendix 4), in order to correct typos and improve the readability of the text and forms.

2.12 When making CRR rules, the PRA must consider, and publish an explanation of the ways in which, the PRA has had regard to the additional matters and how the additional have regards have affected the proposed rules.⁷ In CP13/21, the PRA set out this explanation in the 'PRA's statutory obligations' section of Chapter 2. The PRA has considered these additional matters, taking into account the responses, and the analysis, as presented in the CP, remains unchanged.

2.13 The PRA considers that although the additional data items being requested in the FSA081 may result in some incremental increase in cost to some firms, the impact is expected to be small.

2.14 The purpose of the rules is to increase consistency between submissions, and to provide clarity, making it easier for firms to identify which data they are required to submit. The information submitted helps the PRA to determine the risk profile of firms' pension schemes. The PRA uses the data to assess firms' Pillar 2 capital add-ons for pension risk, and to supplement data submitted by some large firms involved in the Bank of England's annual stress test.

Regulatory reporting Banking: Amendments to the Branch Return

2.15 In Chapter 5 of the CP, the PRA proposed to:

- amend the method of submission from Excel templates submitted via email, to a submission of XML-format documents via Bank of England Electronic Data Submission (BEEDS);
- make minor formatting corrections;
- clarify the accompanying reporting guidance for the Branch Return; and
- change the Branch Return form referenced in Rule 22.3 in the Regulatory Reporting Part of the PRA Rulebook, from an Excel version to a PDF version.

2.16 Two respondents suggested that the PRA clarify the implementation date of the Branch Return changes. The PRA confirms that the revised Branch Return template will apply from the August 2022 submission of the return, with data as at Thursday 30 June 2022, which PRA-supervised third country branches must provide to the PRA within 30 business days, in line with Chapter 22 of the Regulatory

⁷ Sections 144C(1)(2) and 144D(1) of FSMA.

Reporting part of the PRA Rulebook. This is to provide firms with more time to implement any necessary changes to their data submission systems, and to allow firms to participate in UAT, to test the submission process, following planned upgrades to BEEDS.

2.17 In the CP, the PRA proposed to add US GAAP as one of the options for the accounting standard. One respondent requested statistics from the PRA on the expected use of US GAAP and other accounting standards. The PRA considers that this falls outside the scope of the CP.

2.18 One respondent asked for clarity around Parts 2, 3, and 5 of the Branch Return, and queried the following:

- In Part 2, whether firms should report in rows 040 and 050 of column 040 the total number of clients or customers for the total deposits (column 010), or only the deposits covered by the Financial Services Compensation Scheme (FSCS) (column 020). The PRA confirms that for rows 040 and 050 of Part 2, firms should use the deposits covered by the FSCS. For the other rows of Part 2, firms should report the total number of clients or customers (column 010).
- In Part 3, the respondent asked for clarification in respect of interest for loans. Firms should refer to the FINREP guidance,⁸ and note that column 005 of Part 3 is the Gross Carrying Amount, and columns 010–060 are the Carrying Amount.
- In Part 5, the respondent asked if firms had to report the notional value of the derivatives when the mark-to-market (MTM) is close to zero (for example, for new trades), and under which column firms should report this. The PRA considers that if MTM is close, but not equal, to zero, this should be reported in the relevant asset or liability cell. If MTM is equal to zero, this should be reported under assets.
- In addition, the respondent asked for clarification in relation to the currency breakdown of cross-currency swaps and FX derivatives, and whether net positive MTM is based on the currency of the notional receivable leg and net negative MTM is based on the currency of notional payable leg. The PRA requests that firms report both net positive and net negative MTM based on the currency of the receivable leg.

2.19 Having considered the responses, the PRA has decided to update the reporting guidance for the Branch Return (Appendix 12) to provide greater clarity and ensure that reporting is consistent and comparable. The PRA considers that by updating the reporting guidance in light of the responses, it has made the guidance clearer and no reconfiguration of systems or processes should be required by firms as a result of the updated guidance. There should be no additional costs to firms beyond the minimal implementation costs of the new Branch Return template, as outlined in the CP.

2.20 When making CRR rules, or rules applying to holding companies made under section 192XA of FSMA,⁹ the PRA must consider, and publish an explanation of the ways in which, the PRA has had regard to the additional matters and how the additional have regards affected the proposed rules.¹⁰ In CP13/21, the PRA set out this explanation in the 'PRA's statutory obligations' section of Chapter 5.

⁸ [EBA Supervisory reporting](#).

⁹ In PS20/21, the PRA extended the scope of the Reporting Pillar 2 and Definition of Capital Parts of the PRA Rulebook to holding companies. As a result, the amendments to those parts made under this PS are in part made under section 192XA and this is reflected in the rule instruments in Appendices 5 and 9 to this PS.

¹⁰ Sections 144C(1)(2) and 144D(1) of FSMA.

Given the minor nature of the changes, the PRA considers that the have regards analysis, as presented in the CP, remains unchanged.

2.21 The purpose of the change to Rule 22.3 in the Regulatory Reporting Part of the PRA Rulebook is to give the PRA greater flexibility to make minor technical changes to the supporting data collection mechanisms, such as changes to the format of a data point, without engaging the full statutory process for amending PRA rules. This is in line with the PRA's approach to other data collections.

Appendices

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- 1 **PRA RULEBOOK: CRR FIRMS: REPORTING PILLAR 2 (AMENDMENT) INSTRUMENT 2021** , available at <https://www.bankofengland.co.uk/-/media/boe/files/prudential-regulation/policy-statement/2021/november/ps2521app1.pdf>

 - 2 **SS32/15 'Pillar 2 reporting, including instructions for completing data items FSA071 to FSA082, and PRA111'** , available at <https://www.bankofengland.co.uk/prudential-regulation/publication/2015/pillar2-reporting-including-instructions-for-completing-data-items-fsa071-to-fsa082-ss>

 - 3 **FSA081 template**, available at <http://www.bankofengland.co.uk/-/media/boe/files/prudential-regulation/regulatory-reporting/banking/fsa-data-items/fsa081nov21.xltx>

 - 4 **FSA081 instructions**, available at <http://www.bankofengland.co.uk/-/media/boe/files/prudential-regulation/regulatory-reporting/banking/fsa-data-items/fsa081instructionsnov21.pdf>

 - 5 **PRA RULEBOOK: CRR FIRMS, NON CRR FIRMS: REGULATORY REPORTING AMENDMENT INSTRUMENT 2021**, available at: <https://www.bankofengland.co.uk/-/media/boe/files/prudential-regulation/policy-statement/2021/november/ps2521app5.pdf>

 - 6 **SS34/15 'Guidelines for completing regulatory reports'** , available at <https://www.bankofengland.co.uk/prudential-regulation/publication/2015/guidelines-for-completing-regulatory-reports-ss>

 - 7 **FSA017 instructions**, available at <http://www.bankofengland.co.uk/-/media/boe/files/prudential-regulation/regulatory-reporting/banking/fsa-data-items/fsa017-instructions-jan-2022.pdf>

 - 8 **Notes for completion of the Mortgage Lenders & Administrators Return**, available at www.bankofengland.co.uk/-/media/boe/files/prudential-regulation/crd-iv/mlar-notes-jan-2022.pdf

 - 9 **PRA RULEBOOK: CRR FIRMS: DEFINITION OF CAPITAL (AMENDMENT) INSTRUMENT 2021**, available at <https://www.bankofengland.co.uk/-/media/boe/files/prudential-regulation/policy-statement/2021/november/ps2521app9.pdf>

 - 10 **SS7/13 'Definition of capital (CRR firms)'** , available at <https://www.bankofengland.co.uk/prudential-regulation/publication/2013/crdiv-and-capital-ss>

 - 11 **Branch Return**, available at <http://www.bankofengland.co.uk/-/media/boe/files/prudential-regulation/regulatory-reporting/banking/branch-return-template-nov-2021.pdf>

 - 12 **Reporting guidance for the Branch Return**, available at <http://www.bankofengland.co.uk/-/media/boe/files/prudential-regulation/regulatory-reporting/banking/branch-return-guidance-nov-2021.pdf>

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- 13** PRA RULEBOOK: CRR FIRMS AND SII FIRMS: AUDIT COMMITTEE (AMENDMENT) INSTRUMENT 2021, available at <https://www.bankofengland.co.uk/-/media/boe/files/prudential-regulation/policy-statement/2021/november/ps2521app13.pdf>
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- 14** SS1/16 'Written reports by external auditors to the PRA', available at <https://www.bankofengland.co.uk/prudential-regulation/publication/2016/written-reports-by-external-auditors-to-the-pra-ss>
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