

Policy Statement | PS29/15

# Strengthening individual accountability in banking: UK branches of non-EEA banks

December 2015



BANK OF ENGLAND  
PRUDENTIAL REGULATION  
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This policy statement contains the final PRA rules, first published in August as near-final rules, to implement the Senior Managers and Certification regimes in UK branches of non-EEA banks and PRA-designated investment firms.



## 1 Overview

1.1 This Prudential Regulation Authority (PRA) policy statement sets out the PRA's final rules on the application of the Senior Managers and Certification regimes (SM&CR) to UK branches of non-EEA banks and PRA-designated investment firms (non-EEA branches).

1.2 In August 2015 the PRA published Policy Statement (PS) 20/15 *Strengthening individual accountability in banking: UK branches of non-EEA banks*,<sup>1</sup> which provided feedback on CP9/15 *Strengthening accountability in banking: UK branches of foreign banks*.<sup>2</sup>

1.3 PS20/15 included a set of final rules for extending the SM&CR to non-EEA branches which the PRA was able to make using its general rulemaking powers under part 9A of the Financial Services and Markets Act 2000 (FSMA), notably on the definition of Senior Management Functions (SMFs) and the allocation of responsibilities to Senior Managers.

1.4 In addition, PS20/15 included a set of near-final rules covering the extension of the new regimes to non-EEA branches that could not be made until Parliament approved HM Treasury's order extending the definition of 'relevant authorised persons' in section 71A of FSMA to incoming branches (section 71A order). In particular these rules covered the certification regime and grandfathering arrangements for non-EEA branches. While the rules could not be published in final form at the time, the PRA considered it important to give firms as much certainty at an early stage to prepare for implementation.

1.5 HM Treasury laid the section 71A order before Parliament on 22 July 2015 and it came into force on 9 November 2015. Consequently, the PRA is now able to finalise the near-final rules it published in August. As indicated in PS20/15, the final rules included in this policy statement are identical to the near-final rules published in August. In addition, the PRA has made a number of small corrective changes to certain rules; in particular, the grandfathering table, an updated version of which is set out in Table 1.

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<sup>1</sup> August 2015; [www.bankofengland.co.uk/pr/Pages/publications/ps/2015/ps2015.aspx](http://www.bankofengland.co.uk/pr/Pages/publications/ps/2015/ps2015.aspx).

<sup>2</sup> March 2015; [www.bankofengland.co.uk/pr/Pages/publications/cp/2015/cp915.aspx](http://www.bankofengland.co.uk/pr/Pages/publications/cp/2015/cp915.aspx).

**Table 1**

<b>Pre-implementation PRA or FCA Controlled Function</b>	<b>PRA Senior Management Function</b>	<b>FCA-designated Senior Management Function</b>
<b>All firms apart from credit unions and UK branches of third country CRR firms</b>		
Director (CF1) Partner (CF4) Director of unincorporated association (CF5)...	Chief Finance function (SMF2) Chief Risk function (SMF4) Head of Internal Audit (SMF5) Head of Key Business Area (SMF6) Group Entity Senior Manager (SMF7)	Executive Director (SMF3)
Non-executive director (CF2)	Group Entity Senior Manager (SMF7) Chairman (SMF9) Chair of the Risk Committee (SMF10) Chair of the Audit Committee (SMF11) Chair of the Remuneration Committee (SMF12) Senior independent director (SMF14)	Chair of the Nominations Committee (SMF13)
Chief executive (CF3)	Chief executive (SMF1)	
Systems and Controls (CF28)	Chief Finance function (SMF2) Chief Risk function (SMF4) Head of Internal Audit (SMF5) <u>Group Entity Senior Manager (SMF7)</u>	
Significant management (CF29)	Head of Key Business Area (SMF6) Group Entity Senior Manager (SMF7)	<u>Other overall responsibility function</u> (SMF18)
<b>Credit unions</b>		
<b>PRA or FCA Controlled Function</b>	<b>PRA Senior Management Function</b>	<b>FCA-designated Senior Management Function</b>
Director (CF1)	Credit Union Senior Manager (SMF8)	Executive Director (SMF3)
Non-executive director (CF2)	Credit Union Senior Manager (SMF8)	Chair of the Nominations Committee (SMF13)
Chief executive (CF3)	Credit Union Senior Manager (SMF8)	

<b>UK Branches of Third country CRR firms</b>		
<b><u>PRA or FCA Controlled Function</u></b>	<b><u>PRA Senior Management Function</u></b>	<b><u>FCA Function</u></b>
<u>Director (CF1)</u>	<u>Chief Finance function (SMF2)</u> <u>Chief Risk function (SMF4)</u> <u>Head of Internal Audit (SMF5)</u> <u>Group Entity Senior Manager (SMF7)</u> <u>Head of Overseas Branch (SMF19)</u>	<u>Executive Director function (SMF 3)</u>
<u>Non-executive director (CF2)</u>	<u>Group Entity Senior Manager (SMF7)</u>	
<u>Chief executive (CF3)</u>	<u>Head of Overseas Branch (SMF19)</u>	
<u>Systems and Controls (CF28)</u>	<u>Chief Finance function (SMF2)</u> <u>Chief Risk function (SMF4)</u> <u>Head of Internal Audit (SMF5)</u> <u>Group Entity Senior Manager (SMF7)</u>	<u>Other local responsibility function (SMF22)</u>
<u>Significant management (CF29)</u>	<u>Group Entity Senior Manager (SMF7)</u> <u>Head of Overseas Branch (SMF19)</u>	<u>Other local responsibility function (SMF22)</u>

1.6 This policy statement also includes an updated version of Supervisory Statement 28/15 *Strengthening individual accountability in banking*, which includes a number of additional paragraphs setting out the PRA's expectations of how non-EEA branches should comply with certain aspects of the new regimes. These paragraphs cover the scope and prescribed responsibilities for incoming third-country branches, and were included as an appendix to PS20/15. As stated in PS20/15, all other aspects of SS28/15 will apply to non-EEA branches in the same way that they apply to UK firms.

1.7 The appendices to this PS contain:

- final rules for non-EEA branches covering the extension of the SM&CR to EEA branches in PRA Rulebook: CRR Firms Non-CRR Firms: Individual Accountability Instrument (No. 4) 2015; and
- an updated version of Supervisory Statement 28/15 *Strengthening accountability in banking*.

1.8 This PS is relevant to third country CRR firms in relation to the activities of their establishment in the United Kingdom.

1.9 Future changes to PRA forms and rules may be necessary due to the Bank of England and Financial Services Bill<sup>1</sup> currently before Parliament, and its proposed removal of the requirement to notify regulators of actual and suspected Conduct Rule breaches (section 64B of FSMA). This would also affect ongoing work on regulatory references.

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<sup>1</sup> See <http://services.parliament.uk/bills/2015-16/bankofenglandandfinancialservices.html>.

## Appendices

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- 1 PRA Rulebook: CRR Firms Non-CRR Firms: Individual Accountability Instrument (No. 4) 2015 available at [www.bankofengland.co.uk/pr/Pages/publications/ps/2015/ps2915.aspx](http://www.bankofengland.co.uk/pr/Pages/publications/ps/2015/ps2915.aspx).**

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  - 2 Supervisory Statement 28/15: Strengthening individual accountability in banking available at [www.bankofengland.co.uk/pr/Pages/publications/ss/2015/ss2815update.aspx](http://www.bankofengland.co.uk/pr/Pages/publications/ss/2015/ss2815update.aspx).**