

PRA Rulebook

Guidance on the PRA's use of the transitional direction

Introduction

- This document provides guidance on the PRA's transitional direction in relation to the PRA Rulebook.
- This guidance is intended for all PRA-regulated firms (i.e. UK credit institutions and designated investment firms), apart from former EEA firms that will be in the Transitional Permissions Regime (TPR) or Financial Services Contracts Regime (FSCR) after exit day.
- Firms should have regard to this guidance while the transitional relief granted under the direction is in effect. Firms should note that this guidance is non-binding in nature, that it may be amended from time-to-time and that the direction should be followed in the case of any inconsistency with this guidance.
- The transitional direction will come into effect on exit day and will apply until 30 June 2020 unless the PRA decides to make any changes to this timing in the future.
- Any reference to an EU regulation, including to a Binding Technical Standard, is a reference to the UK version of that regulation, unless otherwise stated.
- For further details on the PRA's general approach to the exercise of the transitional direction, firms should consult:
 - a. the Bank of England's Policy Statement on the amendments to financial services legislation under the European Union (Withdrawal) Act 2018; and
 - b. general guidance provided with the PRA's transitional direction.

General guidance

1. Many of the onshoring changes to the PRA Rulebook will not result in firms needing to take any different action on exit day – for example, where we have replaced a cross reference to an EU Directive with a reference to the relevant UK implementing legislation having the same effect.
2. In addition, many changes reflect the loss of passporting and are only relevant to formerly incoming EEA firms (who will be in TPR or FSCR after exit day). The direction contains specific provisions for these firms (see paragraph 10 of the direction). Obligations which apply to such firms for the first time (or apply to them differently) by reason of the repeal of EEA passports will apply to them notwithstanding paragraph 6 of the direction. These changes are not relevant to the firms to whom this guidance is addressed given onshoring would not result in previously authorised firms needing to take any additional action by exit day due to them.

Delay to onshored requirements

3. In some areas we are providing transitional relief to delay onshoring changes such that firms should continue to comply with pre-exit requirements. Onshoring changes will be delayed in the following areas:
 - a. **Credit Unions.** Credit unions can continue to comply with rules 6.3 and 6.4 in the same way as before exit – for example, they can continue to place deposits with EU credit institutions and invest in certain EU assets. However, the maturity of such (non UK) EEA investments made after exit day must be no later than 30 June 2020 (rules 6.3A and 6.4A).

- b. **Recovery Plans and Resolution Pack.** Firms should continue to prepare and maintain a group recovery plan and a group resolution pack on the same basis as before exit day.

No transitional relief

- 4. No transitional relief is being provided in respect of the following onshoring changes:
 - a. **Rules relating to the Financial Services Compensation Scheme (FSCS) parts of the Rulebook.** No transitional relief is provided. All firms must comply with all onshoring changes on exit day.
 - b. **Contractual recognition of bail in.** Firms must include a contractual recognition term in EEA law governed liabilities, other than phase two liabilities, that are issued or materially amended after exit day. For the avoidance of doubt, the existing stock of these EEA law governed liabilities at exit day would not need to be updated unless they are materially amended. Firms are not required to include a contractual recognition of bail-in term in new or materially amended EEA law governed phase two liabilities after exit day.
 - c. **Stay in Resolution.** Firms are required to comply with the Stay in Resolution rules in respect of new EEA law governed financial arrangements (or existing financial arrangements materially amended) after exit day. The existing stock of financial arrangements governed by EEA law at exit day would not need to be updated, unless they are materially amended.
- 5. The Annex to this note sets out further detail on the effect of the PRA's transitional relief on relevant parts of the Rulebook. The list is not exhaustive. Firms must continue to satisfy themselves that they comply with all required PRA Rules.

Annex – Application of transitional relief to relevant PRA Rulebook Parts

Unless otherwise clarified, “firms” in this table refers to firms in scope of the individual part of the Rulebook as defined by the relevant Rule.

Relevant Rulebook part	Summary of effect of transitional relief
Audit Committee	The Direction means the exception for a subsidiary of an EEA parent in rule 1.2 will continue to apply until 30 June 2020, after which it will apply only to subsidiaries of UK parents. The Direction retains the scope of the transitional provisions contained in the pre-exit instrument PRA rules but does not change the period during which the transitional provisions apply, which is until the commencement of a firm’s financial year beginning on or after 17 June 2018.
Change in Control	Firms will still have to notify the PRA if a ‘controller’ who is authorised in an EEA state, ceases to be so authorised during the period of transitional relief.
Conditions Governing Business	Data on ‘Community co-insurance operations’ will no longer be relevant or applicable after ‘exit day’.
Contractual Recognition of Bail In	The Direction means that firms are required to comply with the rules in respect of EEA law governed liabilities, other than phase two liabilities, that are issued or materially amended after exit day. Firms are not required to include a contractual recognition of bail-in term in new or materially amended EEA law governed phase two liabilities after exit day.
Credit Risk	EEA exposures secured by mortgages on commercial immovable property are treated in the same way as before exit.
Credit Unions	Credit unions can continue to comply with rules 6.3 and 6.4 in the same way as before exit – for example, they can continue to place deposits with EU credit institutions and invest in certain EU assets, however the maturity of such (non UK) EEA investments made after exit day must be no later than 31 December 2020 (rules 6.3A and 6.4A).
Depositor Protection	No transitional relief: all firms must comply with all onshoring changes on exit day.
Dormant Account Scheme	No transitional relief: all firms must comply with all onshoring changes on exit day.
External Audit	“Group supervisor” means the PRA.
Financial Conglomerates	This Direction means that: <ul style="list-style-type: none"> - For a firm that is a member of a financial conglomerate where the coordinator is a supervisory authority in an EEA State other than the UK, this Part of the Rulebook would continue to apply as it would have applied immediately before exit day, provided that the PRA or FCA does not seek to apply supplementary supervision during the transitional period.

Relevant Rulebook part	Summary of effect of transitional relief
	<ul style="list-style-type: none"> - If the PRA or FCA seeks to apply supplementary supervision to a financial conglomerate where the coordinator is a supervisory authority in an EEA State other than the UK, this Direction will apply with necessary modifications so that a firm that is a member of such a financial conglomerate complies with this Part of the Rulebook as a member of financial conglomerate that has received a financial conglomerate notification, defined by the Rulebook as amended by on-shoring changes. - For a group that would not meet Threshold Test 2 in Annex 1 of the Financial Conglomerate part of the Rulebook but for the amendment to the definition of ‘sectoral rules’ for the purposes of rule 2.8 of that part, ‘sectoral rules’ has the same meaning as before exit. - A financial conglomerate shall be categorised as either a banking and investment services conglomerate or an insurance conglomerate during the transitional period, in the same way as before exit, as though paragraph 3.1 of Annex 2 of the Financial Conglomerate Part had not been amended. - For calculating the conglomerate capital resources requirement for a financial conglomerate, the solo capital resources requirement for an entity that is regulated in the EEA shall continue to be calculated during the transitional period in the same way as before exit as though paragraphs 6.4 and 6.5 of Annex 2 of the Financial Conglomerates Part had not been amended.
Friendly Society - Liability Valuation	The only change to this part is a minor technical clarification of rule 11.8.
FSCS Management Expenses Levy Limit and Base Costs	No transitional relief: all firms will be subject to these changes immediately upon exit.
General Provisions	Chapter 3 (disclosures to retail clients) should be applied in its current form during the period of transitional relief, with ‘EEA [state]’ being read for this purpose as including the UK. For the purposes of the application of Chapters 5 & 6, the MIFID (and other corresponding) rules made in EEA states should be considered to be equivalent rules.
Group Supervision	The Direction means that: <ul style="list-style-type: none"> • For a firm that is a member of a group where the group supervisor is a supervisory authority in an EEA State other than the UK, this Part of the Rulebook would continue to apply as it would have applied immediately before exit day, provided that the PRA does not seek to apply group supervision during the transitional period. • If the PRA seeks to apply group supervision to a group where the group supervisor is a

Relevant Rulebook part	Summary of effect of transitional relief
	supervisory authority in an EEA State other than the UK, this Direction will apply with necessary modifications so that a firm that is a member of such a group effectively complies with this Part of the Rulebook as amended by on-shoring changes.
Insurance - Supervised Run-Off	This new part is only relevant to SRO insurers.
Insurance Company – Exposure Limits	The only change to this part is a minor technical clarification of rule 9.4.
Insurance Company - Technical Provisions	During the period of transitional relief, this part will continue to apply to all business written within the EEA (or in the UK); and will continue to enable firms to localise assets within any EEA state (or the UK).
Insurance General Application	‘EEA rights’ will no longer exist after ‘exit day’, and the amendments to this part will apply accordingly from ‘exit day’. Any Solvency II Directive firms that have previously exercised EEA rights, but which would otherwise meet the threshold criteria in chapter 2 of this part for exclusion from Solvency II, may wish to talk with their supervisor about the application of their regulatory permissions’.
Notifications	For financial conglomerates, the Direction means that the reporting and disclosure requirements under Rule 9.5 would not apply to UK financial conglomerates where these would otherwise have begun to apply as a result of onshoring changes.
Policyholder Protection	No transitional relief: all firms must comply with all onshoring changes on exit day.
Recovery Plans	Onshoring changes to rule 3.1 should not result in firms needing to draw up and submit a group recovery plan to the PRA, in circumstances where the PRA is not the EEA consolidating supervisor on exit day. Where firms engage in restructuring related to Brexit, material changes to the document must be notified to the PRA promptly and, in any event, within one month. Firms must keep the recovery plan up to date to reflect, among other matters, changes to their business. These obligations remain applicable, since they will not begin to apply, or apply differently, as a result of the operation of an exit instrument.
Remuneration	Firms should continue to apply the EBA Guidelines on the applicable notional discount rate for variable remuneration of 27 March 2014 during the transitional period.
Resolution Pack	Onshoring changes to rule 3.1 should not result in firms needing to prepare and maintain a group resolution pack, in circumstances where the PRA is not the EEA consolidating supervisor on exit day.

Relevant Rulebook part	Summary of effect of transitional relief
	Where firms engage in restructuring related to Brexit, material changes to the document must be notified to the PRA promptly and, in any event, within one month. Firms must keep the resolution pack up to date to reflect, among other matters, changes to their business. These obligations remain applicable, since they will not begin to apply, or apply differently, as a result of the operation of an exit instrument.
Stay in Resolution	No transitional relief: all firms must comply with all onshoring changes on exit day.
Technical Provisions	During the period of transitional relief, the ‘fundamental spread’ for the matching adjustment will continue to be assessed in accordance with rule 7.3(2) for exposures to central governments and central banks in all EEA states (and the UK). ‘Community co-insurance operations’ will no longer be relevant or applicable after ‘exit day’.
Third Country Branches	The application of the localisation requirements to third country branch undertakings in Chapter 3 will not be amended during the period of transitional relief, but ‘EEA state’ may be considered to include the UK for the purpose of the application of these rules. Provisions for ‘EEA deposit insurer’ and ‘UK deposit insurer’ will not be amended during the period of transition. However we do not expect this to impact any firms.
Transitional Measures	The transitional measures in this part will continue to apply, during the period of transitional relief, on the same basis as before ‘exit day’.
Undertakings in Difficulty	Onshoring changes take effect – after exit it will be the PRA (rather than EIOPA) who will be able to declare an “adverse exceptional situation” for the purposes of Rule 3.2.