



BANK OF ENGLAND  
PRUDENTIAL REGULATION  
AUTHORITY

Consultation Paper | CP19/20

# Resolution assessments: Amendments to reporting and disclosure dates

October 2020



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The consultation paper will explain if responses will be shared with other organisations (for example, the Financial Conduct Authority). If this is the case, the other organisation will also review the responses and may also contact you to clarify aspects of your response. We will retain all responses for the period that is relevant to supporting ongoing regulatory policy developments and reviews. However, all personal data will be redacted from the responses within five years of receipt. To find out more about how we deal with your personal data, your rights or to get in touch please visit [bankofengland.co.uk/legal/privacy](https://bankofengland.co.uk/legal/privacy).

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Responses are requested by Sunday 31 January 2021.

**In light of current measures to help prevent the spread of COVID-19, please address any comments or enquiries by email to: [RAF\\_OCIR\\_consultations\\_2020@bankofengland.co.uk](mailto:RAF_OCIR_consultations_2020@bankofengland.co.uk).**

Alternatively, please address any comments or enquiries to:

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Prudential Regulation Authority  
20 Moorgate  
London  
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## 1 Overview

1.1 This Consultation Paper (CP) sets out the Prudential Regulation Authority's (PRA) proposal to move back, by one year, the dates by which firms are first required to submit a report of their assessment of their preparation for resolution, and to first publish a summary of that report under Rule 3.1(1) and Rule 4.1(1) respectively of the Resolution Assessment Part of the PRA Rulebook (Rules). This would amend the dates in the Rules (Appendix 1) as follows:

- Resolution Assessment 3.1(1), to reflect that the date by which firms must submit a report of their assessment would change from the first Friday in October 2020, to the first Friday in October 2021; and
- Resolution Assessment 4.1(1), to reflect that the date by which firms must publish a summary of the most recent report would change from the second Friday in June 2021 to the second Friday in June 2022.

1.2 The PRA also proposes consequential amendments to Supervisory Statement (SS) 4/19 'Resolution assessment and public disclosure by firms' (Appendix 2).<sup>1</sup>

1.3 This CP is relevant to UK banks and building societies with £50 billion or more in retail deposits on an individual or consolidated basis, as at the date of their most recent annual accounts (firms).

1.4 The proposed amendments would be made as a result of the Modification by Consent (MBC) to the Rules published by the PRA on Thursday 7 May 2020. The MBC was made available to alleviate operational burdens on firms due to the impact of Covid-19,<sup>2</sup> and to ensure firms' senior management are able to engage fully in the Resolvability Assessment Framework (RAF) report submission (reports) and disclosure (public disclosures) process. These proposals support the PRA's general objective to promote the safety and soundness of PRA-authorized firms. The PRA does not expect firms to incur any additional costs as a result of them.

1.5 Firms should also refer to CP20/20 'Operational continuity in resolution: Updates to the policy',<sup>3</sup> and the Bank of England's (Bank) CP 'Updates to the Bank of England's approach to assessing resolvability',<sup>4</sup> which have been published at the same time as this CP. They contain proposals which are relevant to the proposals in this CP.

### Background

1.6 The Bank and the PRA jointly published the RAF in July 2019. The Resolution Assessment Part of the PRA Rulebook requires firms to assess their preparations for resolution, submit a report of that assessment, and publish a summary of their most recent report. The RAF also sets out how the Bank, as resolution authority, will assess resolvability.

1.7 The RAF supports the PRA's general objective to promote the safety and soundness of PRA-authorized firms, advanced primarily by minimising the adverse effect failure could have on financial

<sup>1</sup> July 2019: <https://www.bankofengland.co.uk/prudential-regulation/publication/2019/resolution-assessment-and-public-disclosure-by-firms-ss>.

<sup>2</sup> May 2020: <https://www.bankofengland.co.uk/news/2020/may/statement-by-the-bank-of-england-and-pra-on-resolution-measures-and-covid-19>.

<sup>3</sup> October 2020: <https://www.bankofengland.co.uk/prudential-regulation/publication/2020/operational-continuity-in-resolution>.

<sup>4</sup> October 2020: <https://www.bankofengland.co.uk/paper/2020/updates-to-the-boes-approach-to-assessing-resolvability>.

stability. In particular, the RAF builds on PRA Fundamental Rule 8, under which a firm must prepare for resolution so, if needed, it can be resolved in an orderly manner with minimum disruption to critical services.

1.8 The Rules currently provide for the first cycle under the RAF to begin in October 2020, when firms were due to submit reports. That first cycle was due to conclude in June 2021 with the publication of public disclosures.

1.9 On Thursday 7 May 2020, the PRA announced its decision to temporarily move back, by one year, the dates by which firms are required to submit their reports and public disclosures. The PRA published an MBC, and noted its intention to consult on changes to its Rules, principally with a view to replacing the dates in the Rules with those in the MBC.

### Responses and next steps

1.10 This consultation closes on Sunday 31 January 2021. The PRA invites feedback on the proposals set out in this consultation. Responses to this CP, CP20/20 and the Bank's CP 'Updates to the Bank of England's approach to assessing resolvability' may be included in a single response to [RAF\\_OCIR\\_consultations\\_2020@bankofengland.co.uk](mailto:RAF_OCIR_consultations_2020@bankofengland.co.uk).

1.11 The CP proposes that the changes resulting from the CP, which will consider responses to any feedback received, would take immediate effect following the publication of the final policy in H1 2021.

1.12 This consultation closes after the end of the transition period set out in the EU (Withdrawal Agreement) Act 2020. The proposals set out in this CP have therefore been designed for the context that the UK is no longer bound by EU law. The PRA will keep the policy under review to assess whether any changes would be required due to changes in the UK regulatory framework after the end of the transition period, including those arising once any new arrangements with the EU take effect.

1.13 The proposals in this CP should be read in conjunction with the proposals for deficiency fixing currently under consultation in PRA CP13/20, 'UK withdrawal from the EU: Changes before the end of the transition period', which closes on Thursday 17 November 2020.<sup>5</sup> The PRA may make changes to the Rules following that consultation.

1.14 The draft SS attached to this CP should be read in conjunction with SS1/19 'Non-binding PRA materials: The PRA's approach after the UK's withdrawal from the EU'.<sup>6</sup>

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<sup>5</sup> September 2020: <https://www.bankofengland.co.uk/prudential-regulation/publication/2020/uk-withdrawal-from-the-eu-changes-before-the-end-of-the-transition-period>.

<sup>6</sup> April 2019: <https://www.bankofengland.co.uk/prudential-regulation/publication/2019/non-binding-pra-materials-the-pras-approach-after-the-uks-withdrawal-from-the-eu-ss>.

## 2 Proposals

2.1 The PRA proposes to move back, by one year, the dates by which firms are required to submit their reports and public disclosures, as follows:

- firms would submit their first reports, as required under Resolution Assessment 3.1(1), by the first Friday in October 2021, rather than by the first Friday in October 2020; and
- firms would publish a summary of their reports, as required under the Resolution Assessment 4.1(1), by the second Friday in June 2022, rather than by the second Friday in June 2021.

2.2 The dates of firms' subsequent reports and public disclosures would follow biennially, from October 2021 and June 2022 respectively.

2.3 These proposals are made in light of the PRA's decision to alleviate operational burdens on firms due to the impact of Covid-19, and to ensure firms' senior management are able to engage fully in the report submission and disclosure process.

2.4 The PRA proposes to amend the reference to operational continuity in resolution (OCIR) policy in paragraph 2.11 of SS4/19. The PRA is consulting on updates to its OCIR policy in CP20/20 'Operational continuity in resolution: Updates to the policy', which has been published simultaneously with this CP. The PRA intends to finalise the proposals in CP20/20 in H1 2021. The effect of the proposal to amend paragraph 2.11 would be that, in October 2021, a firm's assessments would focus on their compliance with PRA OCIR policy that came into force on Wednesday 1 January 2019, and on the progress made towards – and outstanding steps needed to implement – the proposals in CP20/20 and the Bank's RAF CP 'Updates to the Bank of England's approach to assessing resolvability'. The proposals in CP20/20 and Bank's RAF CP have not been finalised at the time of publication of this CP, and could undergo changes due to consultation feedback. The PRA will consider feedback received regarding CP20/20, whether any further changes to the proposals in this CP are required, and whether they should be subject to further consultation.

2.5 The PRA recognises that, if made, the proposed amendment to the Rules would result in firms submitting their first reports to the PRA in October 2021, ahead of Saturday 1 January 2022, when the PRA has proposed that changes resulting from CP20/20 would take effect. The PRA is proposing to add a new section in Chapter 3 of SS4/19 to clarify that firms' reports made prior to Saturday 1 January 2022 should be focused on outstanding steps needed to meet the objectives set out in paragraph 2.11 of SS4/19, as well as the capabilities, resources, and arrangements in place. The PRA additionally proposes to amend paragraph 3.11 of SS4/19 to clarify that firms would be expected to update their reports once updates to their capabilities, resource, and arrangements have been made in order to achieve the outstanding steps.

2.6 The PRA also proposes to amend SS4/19 by deleting paragraphs 4.7 to 4.9, which relate to 'Public Disclosures made prior to 1 January 2022'. This is because firms would not be required to make public disclosures prior to Saturday 1 January 2022.

### 3 The PRA's statutory obligations

3.1 In carrying out its policy making functions, the PRA is required to comply with several legal obligations. Before making any rules, the Financial Services and Markets Act 2000 (FSMA)<sup>7</sup> requires the PRA to publish a draft of the proposed rules accompanied by:

- a cost benefit analysis;
- an explanation of the PRA's reasons for believing that making the proposed rules is compatible with the PRA's duty to act in a way that advances its general objective,<sup>8</sup> insurance objective<sup>9</sup> (if applicable), and secondary competition objective;<sup>10</sup>
- an explanation of the PRA's reasons for believing that making the proposed rules are compatible with its duty to have regard to the regulatory principles;<sup>11</sup> and
- a statement as to whether the impact of the proposed will be significantly different to mutuals than to other persons.<sup>12</sup>

3.2 The Prudential Regulation Committee (PRC) should have regard to aspects of the Government's economic policy as recommended by HM Treasury.<sup>13</sup>

3.3 The PRA is also required by the Equality Act 2010<sup>14</sup> to have due regard to the need to eliminate discrimination and to promote equality of opportunity in carrying out its policies, services and functions.

#### Cost benefit analysis

3.4 The PRA set out the costs and benefits of resolution and public disclosure by firms in December 2018 in PRA CP31/18.<sup>15</sup> The PRA estimated that those proposals contribute to the overall benefits of having a credible resolution regime, estimated at between £6.1 billion and £18.3 billion per annum; and the costs were estimated to fall within a range of £3.8 million to £6.3 million per annum in total for firms.

3.5 Since the publication of CP31/18, the economic environment for firms has changed considerably as a result of Covid-19. As a result, it is likely that maintaining the October 2020 and June 2021 schedule for the reports and public disclosure would have increased operational risks. The focus on Covid-19 would have made it more difficult for firms to produce the reports and public disclosure, and senior management may have been prevented from fully engaging in these processes.

3.6 The benefits of the proposals in this CP arise from allowing firms to re-allocate resources, as appropriate, to focus on their response to the impact of Covid-19, while continuing to make progress

<sup>7</sup> Section 138J of FSMA.

<sup>8</sup> Section 2B of FSMA.

<sup>9</sup> Section 2C of FSMA.

<sup>10</sup> Section 2H(1) of FSMA.

<sup>11</sup> Sections 2H(2) and 3B of FSMA.

<sup>12</sup> Section 138K of FSMA.

<sup>13</sup> Section 30B of the Bank of England Act 1998.

<sup>14</sup> Section 149.

<sup>15</sup> December 2018: <https://www.bankofengland.co.uk/prudential-regulation/publication/2018/resolution-assessment-and-public-disclosure-by-firms>.

on resolvability. Moreover, moving back the dates in the Rules by one year would ensure firms' senior management are able to engage fully in the report submission and disclosure process.

3.7 The PRA does not expect the delay in providing the report and public disclosure to have a material impact on the benefits reported in CP31/18. Moreover, the PRA does not anticipate that firms will incur any additional costs as a result of these proposals.

### **Compatibility with the PRA's objectives**

3.8 The proposals in this CP would help advance the PRA's objective of promoting the safety and soundness of firms by alleviating operational burdens on firms due to the impact of Covid-19, and ensuring that firms' senior management are able to engage fully in the RAF report submission and disclosure process.

3.9 As all aspects other than the proposed amendments to the reporting and disclosure dates of the Resolution Assessment Part remain unchanged,<sup>16</sup> the PRA considers that the rules continue to help prevent disorderly failure, and support financial stability, by:

- ensuring that firms and their senior managers take responsibility for, and improve the quality of, their preparations for resolution; and
- increasing public and market confidence in the resolution regime and enhancing the regime's credibility through the disclosure of summaries of firm's reports.

3.10 The PRA has, as a secondary objective, a duty to facilitate effective competition in the markets for services provided by PRA-authorised persons. The PRA does not believe that the proposals in this CP would have an impact on competition, as these proposals only impact the timing of reporting and disclosure.

### **Regulatory principles**

3.11 In developing the proposals in this CP, the PRA has had regard to the regulatory principles. Two of the principles are of particular relevance:

- The principle that a burden which is imposed on a person should be proportionate to the benefits expected to result from that burden. These proposals seek to avoid further impact on firms' resources during the period of disruption caused by Covid-19, by moving reporting and disclosure dates while keeping all other aspects of the Resolution Assessment Part unchanged.
- The desirability of sustainable growth in the economy of the UK. These proposals have been made to alleviate operational burdens on firms due to the impact of Covid-19, recognising the importance of the financial industry in facilitating sustainable growth in the UK economy.

### **Impact on mutuals**

3.12 The PRA considers that the impact of the proposed rule changes on mutuals is expected to be no different from the impact on other firms.

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<sup>16</sup> The proposals in this CP should be read in conjunction with the proposals for deficiency fixing currently under consultation in PRA CP13/20, 'UK withdrawal from the EU: Changes before the end of the transition period', which closes on Thursday 17 November 2020. The PRA may make changes to the Rules following that consultation.

## HM Treasury recommendation letter

3.13 HM Treasury has made recommendations to the Prudential Regulation Committee (PRC) about aspects of the Government's economic policy to which the PRC should have regard when considering how to advance the PRA's objectives and apply the regulatory principles.<sup>17</sup>

3.14 The PRA has considered these aspects of the Government's economic policy most relevant to the proposals in this CP:

- (i) growth;
- (ii) better outcome for consumers; and
- (iii) competitiveness.

3.15 The PRA has considered aspect (i) and (ii) in the 'compatibility with the PRA's objectives' and 'regulatory principles' sections above. These proposals allow firms to re-allocate resources, as appropriate, to focus on their response to the impact of Covid-19. This recognises the importance of the financial industry in facilitating growth in the UK economy, and will enable firms to deliver better outcomes for consumers.

3.16 Consideration of aspect (iii) is set out below.

### Competitiveness

3.17 The PRA considers that these proposals preserve the benefits to UK competitiveness outlined in CP31/18, namely that the disclosures should support confidence in the UK financial system by providing markets with additional information on firms' resolvability. By proposing to amend reporting and disclosure dates, the PRA have recognised the importance of allowing firms to re-allocate resources to respond to the challenges posed by Covid-19, while maintaining the benefits of the reporting and disclosure regime under the Rules.

### Equality and diversity

3.18 The PRA considers that the proposals do not give rise to equality and diversity implications.

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<sup>17</sup> Information about the PRC and the recommendations from HM Treasury are available on the Bank's website at <https://www.bankofengland.co.uk/about/people/prudential-regulation-committee>.

## Appendices

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<b>1</b>	<b>Draft Resolution Assessment Instrument</b>	<b>8</b>
<b>2</b>	<b>Draft amendments to SS4/19 Supervisory Statement – ‘Resolution assessment and disclosure by firms’</b>	<b>10</b>

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## **1 Draft Resolution Assessment Instrument**

### **APPENDIX**

#### **PRA RULEBOOK: CRR FIRMS: RESOLUTION ASSESSMENT AMENDMENT INSTRUMENT 2021**

##### **Powers exercised**

- A. The Prudential Regulation Authority (“PRA”) makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
  - (1) section 137G (The PRA’s general rules); and
  - (2) section 137T (General supplementary powers).
- B. The rule-making powers referred to above are specified for the purpose of section 138G(2) (Rule-making instrument) of the Act.

##### **Pre-conditions to making**

- C. In accordance with section 138J of the Act (Consultation by the PRA), the PRA consulted the Financial Conduct Authority. After consulting, the PRA published a draft of proposed rules and had regard to representations made.

#### **PRA Rulebook: CRR Firms: Resolution Assessment Amendment Instrument 2021**

- D. The PRA makes the rules in the Annex to this instrument.

##### **Commencement**

- E. This instrument comes into force on [DATE].

##### **Citation**

- F. This instrument may be cited as the PRA Rulebook: CRR Firms: Resolution Assessment Amendment Instrument 2021.

##### **By order of the Prudential Regulation Committee**

[DATE]

## Annex

### Amendments to the Resolution Assessment Part

In this Annex new text is underlined and deleted text is struck through.

...

#### **3 3 REPORT**

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3.1 A *firm* must submit to the *PRA* a report in writing of the assessment in 2.1 by:

- (1) the first Friday in October ~~2020~~ 2021;

...

#### **4 4 DISCLOSURE**

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4.1 A *firm* must publish by the following dates a summary of the most recent report submitted to the *PRA* under Chapter 3:

- (1) the second Friday in June ~~2021~~ 2022;

...

...

## 2 Draft amendments to SS4/19 Supervisory Statement – ‘Resolution assessment and disclosure by firms’

This appendix outlines proposed amendments to SS4/19. Underlining indicates new text and strikethrough indicates deleted text.

...

### 2 Assessing preparations for resolution

...

#### 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:

- ...
- **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 first assessment in 2021, a firm should assess its progress to date against this objective, and any outstanding steps that are necessary in order to meet this objective. ~~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 Reporting firms’ assessments

...

#### 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:

- ...
- major investments in capabilities that improve a firm’s preparations for resolution and/or reduce the risk of a firm’s disorderly failure; ~~and~~
- updates to its capabilities, resources, and arrangements made in order to achieve any outstanding steps undertaken to meet the objectives set out in paragraph 2.11; and

- divestments.

#### Reports made prior to January 2022

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

3.13 The PRA considers that a firm's report made prior to 1 January 2022 should meet the expectations set out in paragraph 3.3, but in light of paragraph 3.12 above may be focused more on outstanding steps, in addition to the capabilities, resources, and arrangements already in place.

## 4 The requirement to publish

...

### ~~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.~~