

Appendix [-] - Operational Continuity Part

PRA RULEBOOK: CRR FIRMS: OPERATIONAL CONTINUITY INSTRUMENT [DATE] 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);
 - (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 instruments) 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: Operational Continuity Instrument 2021

- D. The PRA makes the rules in Annexes A and B to this instrument.

Part	Annex
Glossary	Annex A
Operational Continuity	Annex B

Commencement

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

Citation

- F. This instrument may be cited as the PRA Rulebook: CRR Firms: Operational Continuity Instrument 2020.

By order of the Prudential Regulation Committee
[DATE]

Annex A

Amendments to the Glossary

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

critical functions

has the meaning in section 3(1) and (2) of the Banking Act 2009.

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Annex B

Amendments to the Operational Continuity Part

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

1 APPLICATION AND DEFINITIONS

1.1 This Part applies to a *CRR firm* that receives *critical services* if it fulfils any of the following conditions on 1 January of any year:

- (1) the average of the firm's total assets it was required to report for ~~in~~ the previous 36 months in accordance with Chapters 7 and 9 of the *Regulatory Reporting Part* of the *PRA Rulebook* exceeds £10bn;
- (2) the average of the *firm's safe custody assets* it was required to report for ~~in~~ the previous 36 months in accordance with SUP 16.14 of the *FCA Handbook* as amended from time to time exceeds £10bn; or
- (3) the average total amount of received sight deposits it was required to report for ~~in~~ the previous 36 months in accordance with the *ITS on supervisory reporting*, or that it would have had to report if the *ITS on supervisory reporting* had been in force, exceeds £350m.

1.2 This Part ceases to apply to a *CRR firm* to which it applies under 1.1 if the *firm* does not meet any of the conditions in 1.1 on 1 January in each of two consecutive years.

1.3 1.2 does not prevent this Part applying to a *CRR firm* on a subsequent occasion if one of the conditions in 1.1 is met again.

1.4 A *firm* must calculate the averages in 1.1 by adding the values it was required to report each time a report was due and dividing the total by the number of times the report was due.

1.5 In this Part, the following definitions shall apply:

core business lines

means business lines and associated services which represent material sources of revenue, profit or franchise value for a *firm* or for its *group*.

critical functions

has the meaning in section 3(1) and (2) of the Banking Act 2009.

CSD

has the meaning given in Article 2(1)(1) of CSDR.

CSDR

means Regulation (EU) No 909/2014 of the European Parliament and of the Council of 23 July 2014 on improving securities settlement in the European Union and on central securities depositories and amending Directives 98/26/EC and 2014/65/EU and Regulation (EU) No 236/2012.

essential services

means activities, functions or services performed for one or more business units of the firm or for the firm and another member of its group, whether by the firm itself, any other group member or a person outside the firm's group, the failure of which would lead to the collapse of or present a serious impediment to the performance of the firm's core business lines or those of its group.

excluded agreement

means a contract or other agreement for the provision of critical services or essential services to a firm:

- (1) which is governed by the laws of any part of the United Kingdom;
- (2) the parties to which are incorporated in, or formed under the law of any part of, the United Kingdom; and
- (3) the parties to which belong to the same resolution group.

excluded person

means a payment system, CSD, third-country CSD, SSS or CCP.

group provider

in relation to a firm, means:

- (1) a member of its group that provides critical services or essential services to it; or
- (2) the firm itself if one of its business units provides the critical services or essential services to it.

ITS on supervisory reporting

Commission Implementing Regulation (EU) No 680/2014 as amended by Commission Implementing Regulation (EU) No 2016/313 laying down implementing technical standards with regard to supervisory reporting of institutions according to Regulation (EU) No 575/2013 of the European Parliament and of the Council.

payment system

has the meaning given in Section 182 of the Banking Act 2009.

resolution group

has the meaning given in section 3(1) of the Banking Act 2009.

safe custody asset

has the meaning in the *FCA Handbook* as amended from time to time.

SSS

has the meaning given in Article 2(1)(10A) of CSDR.

third-country CSD

has the meaning given in Article 2(1)(2) of CSDR.

2 FACILITATION OF EFFECTIVE RECOVERY AND RESOLUTION PLANNING

- 2.1 A *firm* must ensure the operational arrangements for the *critical services* and essential services it receives facilitate the effective execution of:
- (1) its *recovery plan*; and
 - (2) the *group recovery plan* of its *group*.
- 2.2 A *firm* must ensure the operational arrangements for the *critical services* and essential services it receives facilitate the effective planning for and effective taking of actions in the event of:
- (1) circumstances in which all or part of its business is likely to fail; or
 - (2) the failure of all or part of its business.
- 2.3 A *firm*'s operational and financial arrangements must ensure the continuity of the *critical services* and essential services it receives in the event of:
- (1) circumstances in which all or part of the business of any other member of its *group* is likely to fail; or
 - (2) the failure of all or part of the business of any other member of its *group*.

3 DETAILS OF OPERATIONAL CONTINUITY ARRANGEMENTS

- 3.1 If a *firm* receives critical services from one of its business units, it must document A firm must:
- (1) identify and document the details of the critical services; and essential services it receives and details of critical services and essential services required to deliver each of its critical functions and core business lines; and
 - (2) be able to demonstrate it can put in place the transition arrangements for the continuity of the these critical services and essential services it receives in the event of the firm being restructured or resolved.
- 3.2 Subject to 3.2A, if a firm receives critical services or essential services from another party, it must ensure the agreement governing the provision of these services:
- (1) does not permit the other party to terminate, suspend or materially alter the services or facilities or the agreement as a result of the deterioration in the financial circumstances or the resolution of the *firm* or any of its *group* members; and
 - (2) entitles the *firm* to continue to receive those services during the *firm*'s resolution or restructuring as long as the *firm* fulfils its payment obligations under the agreement.
- 3.2A 3.2 does not apply in respect of an excluded agreement or an agreement entered into by a firm with an excluded person.
- 3.3 A if a firm receives critical services or essential services from another party, it must ensure that the agreement governing the provision of those services charging structure for the critical services it receives is predictable, transparent and is set on arm's length terms.

3.3A A firm must ensure that the charging structure for the *critical services* and *essential services* it receives is predictable and transparent.

3.4 A firm must ensure access by the firm, the service provider and the PRA to the operational assets supporting *critical services* or *essential services* is not disrupted in the event of a group member being restructured or resolved.

4 GROUP ARRANGEMENTS FOR OPERATIONAL CONTINUITY

4.1 This chapter applies to a firm that receives *critical services* or *essential services* from a group provider.

4.2 A firm must ensure the group provider has a governance and management structure in place that supports the continuity of the provision of *critical services* and *essential services* to the firm.

4.3 A firm must ensure that in the event of the deterioration in the financial circumstances of another group member the group provider continues to provide *critical services* and *essential services* to the firm in accordance with the agreement governing the *critical services* and *essential services* provision or the documentation and transition required under 3.1.

Draft for consultation

EXTERNALLY DEFINED TERMS

Term	Definition source
group	Section 421, Financial Services and Markets Act 2000

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