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.

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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.
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**

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


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
Appendix

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 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.

28 October 2020: This is a draft rule instrument for consultation. Please see: https://www.bankofengland.co.uk/prudential-regulation/publication/2020/operational-continuity-in-resolution

Draft for consultation
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.
### EXTERNALLY DEFINED TERMS

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<th>Term</th>
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<tr>
<td>group</td>
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