



BANK OF ENGLAND  
PRUDENTIAL REGULATION  
AUTHORITY

Consultation Paper | CP7/20

# Strengthening Accountability: SM&CR Forms update

July 2020



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By responding to this consultation, you provide personal data to the Bank of England. This may include your name, contact details (including, if provided, details of the organisation you work for), and opinions or details offered in the response itself.

The response will be assessed to inform our work as a regulator and central bank, both in the public interest and in the exercise of our official authority. We may use your details to contact you to clarify any aspects of your response.

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).

Information provided in response to this consultation, including personal information, may be subject to publication or disclosure to other parties in accordance with access to information regimes including under the Freedom of Information Act 2000 or data protection legislation, or as otherwise required by law or in discharge of the Bank's functions.

Please indicate if you regard all, or some of, the information you provide as confidential. If the Bank of England receives a request for disclosure of this information, we will take your indication(s) into account, but cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system on emails will not, of itself, be regarded as binding on the Bank of England.

Responses are requested by Tuesday 13 October 2020.

**In light of current measures to help prevent the spread of COVID-19, please address any comments or enquiries by email to: [CP07\\_20@bankofengland.co.uk](mailto:CP07_20@bankofengland.co.uk).**

Alternatively, please address any comments or enquiries to:

Policy Delivery Team (MG-07)  
Prudential Regulation Authority  
20 Moorgate  
London  
EC2R 6DA

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## 1 Overview

1.1 This consultation paper (CP), sets out the Prudential Regulation Authority (PRA)'s proposals to make minor amendments to the PRA Rulebook, the Notifications Form and the Senior Manager & Certification Regime (SM&CR) Form L.

1.2 The proposals in this CP would result in changes to the Notifications Part of the PRA Rulebook (Appendix 1), the Notification Form (Appendix 2) and the SM&CR Form L (Appendix 3).

1.3 This CP is relevant to all PRA-authorised firms.

1.4 The PRA does not expect firms would incur additional costs as a direct result of the proposals.

### Implementation

1.5 Pending consideration of the responses to this consultation, the proposed implementation date is on publication of the final policy.

### Responses and next steps

1.6 The consultation closes on Tuesday 13 October 2020.

1.7 The PRA invites feedback on the proposals set out in this CP. Please address any comments or enquiries to [CP07\\_20@bankofengland.co.uk](mailto:CP07_20@bankofengland.co.uk).

1.8 The proposals set out in this CP have been designed in the context of the UK's withdrawal from the European Union (EU) and entry into the transition period, during which time the UK remains subject to European 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 at the end of the transition period, including those arising once any new arrangements with the EU take effect.

1.9 The PRA has assessed that the proposals would not need to be amended under the EU (Withdrawal) Act 2018 (EUWA). Please see PS5/19 'The Bank of England's amendments to financial services legislation under the European Union (Withdrawal) Act 2018'<sup>1</sup> for further details.

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<sup>1</sup> April 2019: <https://www.bankofengland.co.uk/paper/2019/the-boes-amendments-to-financial-services-legislation-under-the-eu-withdrawal-act-2018>.

## 2 Proposals

2.1 The PRA proposes to amend the Notification Form to reflect the new FCA address following their move to new premises and the new FCA logo.

2.2 The PRA also proposes to make minor consequential amendments to the Notification Form. These are deleting an incorrect reference to the PRA as a limited company, updating references to the PRA Rulebook, and updating the General Data Protection Regulation (GDPR) notification.

2.3 The PRA is proposing to update SM&CR Form L to reinstate question 3.05, which requests firms making a notification to provide details of any disciplinary action taken. This question was erroneously deleted when the Form was updated as part of the extension of SM&CR to insurers in December 2018.<sup>2</sup>

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<sup>2</sup> July 2018: <https://www.bankofengland.co.uk/prudential-regulation/publication/2018/strengthening-individual-accountability-in-insurance-extension-of-the-smcr-to-insurers>.

### 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>3</sup> requires the PRA to publish a draft of the proposed rules accompanied by:

- a cost benefit analysis;<sup>4</sup>
- 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>5</sup> insurance objective (if applicable),<sup>6</sup> and secondary competition objective;<sup>7</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>8</sup> and
- a statement as to whether the impact of the proposed rules will be significantly different to mutuals than to other persons.<sup>9</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>10</sup>

3.3 The PRA is also required by the Equality Act 2010 to have due regard to the need to eliminate discrimination and to promote equality of opportunity in carrying out its policies,<sup>11</sup> services and functions.

3.4 The PRA has consulted the Financial Conduct Authority (FCA) on the proposals in this CP.

#### Cost benefit analysis

3.5 The PRA considers that the amendments proposed in this CP would have no cost implications, as they place no new requirements on firms. They do not materially affect the substance of any PRA policies, but rather they clarify the PRA's expectations, and therefore help firms to meet these.

#### Compatibility with the PRA's objectives

3.6 The PRA has a statutory objective to promote the safety and soundness of PRA-authorized persons. The PRA considers that the proposals in this CP are compatible with this objective, as they make its rules and associated forms clearer.

3.7 When discharging its general function in a way that advances its primary objectives, the PRA has, as a secondary objective, a duty to facilitate effective competition in the markets for services

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<sup>3</sup> Section 138J of FSMA.

<sup>4</sup> Section 138J(2)(a) of FSMA.

<sup>5</sup> Section 2B of FSMA.

<sup>6</sup> Section 2C of FSMA.

<sup>7</sup> Section 2H(1) of FSMA.

<sup>8</sup> Sections 2H(2) and 3B of FSMA.

<sup>9</sup> Section 138K of FSMA.

<sup>10</sup> Section 30B of the Bank of England Act 1998 (Information about the PRC and the recommendations from HM Treasury are available at <https://www.bankofengland.co.uk/about/people/prudential-regulation-committee>).

<sup>11</sup> Section 149 of the Equality Act 2010: <http://www.legislation.gov.uk/ukpga/2010/15/contents>.

provided by PRA-authorized persons. The PRA considers that the proposals in this CP do not have a material impact on effective competition, as they do not materially change our expectations.

### **Regulatory principles**

3.8 In developing the proposals in this CP, the PRA has had regard to the regulatory principles. The PRA considers that the principle that the PRA should exercise its functions as transparently as possible is most relevant. The proposals in this CP ensure that the relevant forms are usable, accurate, and up-to-date, with the aim of improving the transparency of the information the PRA requires.

### **Impact on mutuals**

3.9 The PRA considers that the impact of the proposed policy changes on mutuals is no different from the impact on other firms.

### **HM Treasury recommendation letter**

3.10 HM Treasury has made recommendations to the 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. The PRA considers the aspect most relevant to the proposals is transparency. This has been addressed in paragraph 3.8 above.

### **Equality and diversity**

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

## Appendices

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<b>1</b>	<b>Draft Notifications Part of the PRA Rulebook</b>	<b>6</b>
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## **1 Draft Notifications Part of the PRA Rulebook**

### **PRA RULEBOOK: CRR Firms, Non-CRR Firms, Solvency II Firms, Non-Solvency II Firms: Forms Amendment Instrument 2020**

#### **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 64A (Rules of conduct)
  - (2) Section 64C (Requirement for relevant authorised persons to notify regulator of disciplinary action)
  - (3) Section 66 (Disciplinary Powers)
  - (4) Section 66B (Misconduct: action by the PRA)
  - (5) Section 137G (The PRA’s general rules); and
  - (6) 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, Non-Firms, Solvency II Firms, Non-Solvency II Firms: Forms Amendment Instrument 2020**

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

#### **Commencement**

- E. This instrument come into force on **[X]**

#### **Citation**

- F. This instrument may be cited as the PRA Rulebook: CRR Firms, Non-CRR Firms, Solvency II Firms, Non-Solvency II Firms: Forms Amendment Instrument 2020.

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

**[DATE]**

## Annex A

### Amendments to Notifications part

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

#### 10 FORMS

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10.3 The Notification Form can be found ~~here~~here.

#### 11 CONDUCT RULES: NOTIFICATIONS

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...

11.9 ...

(3) Form L may be found ~~here~~here.

## 2 Draft amendments to Notifications Form



BANK OF ENGLAND  
PRUDENTIAL REGULATION  
AUTHORITY



# Notification Form

(April 2013) July 2020

...

Please return the form, marked for the attention of your relevant supervisory contact as appropriate:

Financial Conduct Authority  
~~25 The North Colonnade~~ 12 Endeavour Square  
Canary Wharf  
London  
E14 5HS United Kingdom E20 1JN

Prudential Regulation Authority  
20 Moorgate  
London  
EC2R 6DA

...

The Financial Conduct Authority is registered as a Limited Company in England and Wales No 1920623. Registered Office as above.

~~The Prudential Regulation Authority is registered as a Limited Company in England and Wales No 07854923. Registered Office: 8 Lothbury Road, London, EC2R 7HH~~

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## Type of notification

## Section B

There are circumstances where a firm must disclose information to the FCA and/or PRA in a timely manner, including:-

- where a rule has been breached;
- where the firm fails to satisfy a threshold condition (these can be found in Schedule 6 of the Financial Services and Markets Act 2000);
- where a matter occurs which could have a significant adverse impact on a firm, including its ability to provide adequate services to a customer;
- where a particular notifiable event may have occurred.

A consolidated summary of some of the FCA notification rules is in the Handbook, Schedule 2 of the Supervision Modules (SUP). For PRA notification rules see the Notifications Part of the PRA rulebook. Also, the FCA Principle for Businesses No 11 and PRA Fundamental Rule 7 requires a firm to disclose appropriately any information of which the FCA and/or PRA would reasonably expect notice. Other notification requirements are listed in Schedule 2 of many of the other FCA and PRA Modules within the Handbook. ~~This form allows you to make any of these notifications.~~

## Declaration and signatures

## Section D

### Warning

Knowingly or recklessly giving the FCA and/or PRA information, which is false or misleading in a material particular, may be a criminal offence (sections 398 and 400 of the Financial Services and Markets Act 2000) SUP 15.6.4R requires an authorised person to take reasonable steps to ensure the accuracy and completeness of information given to the FCA and/or PRA and to notify the FCA and/or PRA immediately if materially inaccurate information has been provided. Contravention of these requirements may lead to disciplinary sanctions or other enforcement action by the FCA and/or PRA. It should not be assumed that information is known to the FCA and/or PRA merely because it is in the public domain or has previously been disclosed to the FCA and/or PRA. If you are not sure whether a piece of information is relevant, please include it anyway.

### Data Protection

~~For the purposes of complying with the Data Protection Act, the personal information in this form will be used by the Financial Conduct Authority and/or the Prudential Regulation Authority to discharge its statutory functions under the Financial Services and Markets Act 2000 and other relevant legislation. It will not be disclosed for any other purposes without the permission of the applicant.~~

For the purposes of complying with data protection legislation, please read our privacy notices:

FCA's privacy notice <https://www.fca.org.uk/data-protection>

Bank of England's privacy notice <https://www.bankofengland.co.uk/prudential-regulation/authorisations>

These notices will tell you what to expect when the FCA and/or the Bank of England collects personal information, including how and why we use your personal information and who to contact if you have any queries or wish to exercise your rights.

### 3 Draft amendments to SM&CR Form L



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AUTHORITY

Application number  
(for PRA use only)

## Form L: Notifications of breach of conduct rules and related disciplinary action in relation to a person performing a certification function or a Conduct Rules non-executive director

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### Details of disciplinary action

### Section 3

...

**3.05** Disciplinary action. If the firm is making a notification under section 64C of the Financial Services Act in relation to a relevant person please provide details below of disciplinary action taken and the reasons for this action:

...