



Consultation Paper | CP2/21

International banks: The PRA's approach to branch and subsidiary supervision

January 2021





BANK OF ENGLAND
PRUDENTIAL REGULATION
AUTHORITY

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Responses are requested by Sunday 11 April 2021.

In light of current measures to help prevent the spread of COVID-19, please address any comments or enquiries by email to: CP02_21@bankofengland.co.uk.

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1 Overview

1.1 This Consultation Paper (CP) sets out the Prudential Regulation Authority's (PRA) proposals regarding its approach to supervising the UK activities of PRA-authorised banks and designated investment firms that are headquartered outside of the UK or are part of a group based outside of the UK.¹ In this CP, these firms are referred to as 'international banks'. It therefore includes those firms operating in the UK through a branch. It also proposes expectations for receiving information concerning risks in the wider group, and for co-operation from regulated entities and their supervisors, in order that it can be satisfied that firms are meeting threshold conditions.²

1.2 The proposals in this CP would result in a new Supervisory Statement (SS) 'International banks: The PRA's approach to branch and subsidiary supervision' (Appendix), which will supersede SS1/18 'International banks: the Prudential Regulation Authority's approach to branch authorisation and supervision'.³

1.3 This CP is relevant to existing or prospective PRA-authorised banks and designated investment firms that are headquartered outside of the UK or are part of a group based outside of the UK.

1.4 The purpose of these proposals is to provide clarity to international banks on the implications for them of the different ways they may choose to structure their operations. The proposals also aim to explain how the PRA would assess these firms against its threshold conditions, particularly the condition relating to the effective supervision of firms, when a firm belongs to a group based outside the UK.

1.5 Overall, the PRA's approach to the supervision of international banks remains stable and consistent following the UK's withdrawal from the EU. Those firms which have operated in the UK for some time as either branches or subsidiaries should find the proposals to be in line with their experience of the PRA's supervision. The proposed expectations on subsidiaries and systemic wholesale branches⁴ in the proposed SS are consistent with the PRA's existing supervisory approach, and are intended to provide clarity to firms on what they need to do to meet the PRA threshold conditions. This clarification is particularly timely given the changes in the population of firms that the PRA supervises and the associated changes in firms' operating structures.

Background

Responsible openness towards international business

1.6 Banking is an international industry and the UK is a significant international financial centre. Many overseas firms or groups operating in the UK are significant providers of financial services to the UK economy. Where the threshold conditions for authorisation are met and consistent with the PRA's general objective to promote the safety and soundness of the firms it regulates, the PRA is open to hosting highly integrated international banking operations, recognising the efficiency benefits that these can bring.

¹ The PRA designated investment firms list is available at: www.bankofengland.co.uk/prudential-regulation/authorisations/which-firms-does-the-pra-regulate.

² The Financial Services and Markets Act 2000, Schedule 6, Part 1E. Available at: <https://www.legislation.gov.uk/ukpga/2000/8/schedule/6>.

³ March 2018: <https://www.bankofengland.co.uk/prudential-regulation/publication/2018/international-banks-pras-approach-to-branch-authorisation-and-supervision-ss>.

⁴ As set out in SS1/18 and included below in paragraph 6.19 of the proposed SS.

1.7 The UK has long been open to hosting significant international banks,⁵ and the UK financial sector has become increasingly open since the liberalisation of capital flows in the 1970s and of financial services in the 1980s. This has been part of the trend towards a more open economy and the increasing globalisation of financial services worldwide.

1.8 There is clear evidence that openness supports economic dynamism through a range of channels – innovation, new technology, the free movement of capital, and labour.⁶ Increased openness can lead to lower economic volatility through time as it facilitates a diversification of risks across countries, although it may also increase contagion. A diversified financial system should be more resilient and competitive.

1.9 The UK financial sector has evolved such that it is larger relative to gross domestic product (GDP), more internationally focused, and more connected with other economies than the sector is in many other countries. This brings advantages for growth and trade, but such openness can make the domestic economy more vulnerable to international financial shocks. Openness therefore needs to be accompanied by financial and operational resilience if it is to support sustainable economic growth, something the PRA terms 'responsible openness'.⁷

1.10 When banking is international, effective oversight of the full risks within that sector entails greater complexity. As was evident in the financial crisis of 2007–2008, both branches and subsidiaries operating in the UK may fail because of problems elsewhere in their groups. Since then, the PRA has sought to be well-sighted on group risks for both branches and subsidiaries operating in the UK. Overall, to obtain the benefits of international banking, the full set of risks needs to be appropriately managed.

1.11 In that context, the PRA is open to international banks operating in the UK on a highly integrated global basis or more stand-alone, either as branches or subsidiaries, once they are authorised by the PRA. In line with the PRA's approach of responsible openness, all international banks need to meet the PRA's prudential standards. The precise approach the PRA takes will vary according to the legal forms adopted and the nature of the regulatory regimes to which the group is subject in relevant home jurisdictions,⁸ still the PRA seeks to achieve the same outcomes, taking into account the combined effect of its rules and powers together with the applicable foreign regimes. So, while the PRA expects to achieve the same outcomes whether business in the UK is undertaken through a branch or subsidiary, the steps necessary to achieve these outcomes will differ.

1.12 A greater alignment of international regulatory standards and closer supervisory co-operation underpin responsible openness and enable cross-border banking to be conducted safely. As noted by the Financial Stability Board, 'Effective international regulatory and supervisory co-operation is an important pre-condition for integrated financial markets and cross-border financial activity'.⁹

⁵ See for example <https://www.bankofengland.co.uk/quarterly-bulletin/1961/q3/the-overseas-and-foreign-banks-in-london>, and <https://www.bankofengland.co.uk/quarterly-bulletin/1968/q2/overseas-and-foreign-banks-in-london>.

⁶ 'EU Membership and the Bank of England' October 2015. Available at: <https://www.bankofengland.co.uk/-/media/boe/files/report/2015/eu-membership-and-the-boe>.

⁷ See 'Stylish Regulation – speech by Sam Woods', given at the UBS 20th Annual Financial Institutions Conference, Lausanne, Thursday 16 May 2019. Available at: <https://www.bankofengland.co.uk/speech/2019/sam-woods-ubs-20th-annual-financial-institutions-conference-lausanne>. See also 'Strong and Simple – speech by Sam Woods', given at Mansion House, London, Thursday 12 November 2020. Available at: <https://www.bankofengland.co.uk/speech/2020/sam-woods-city-banquet>.

⁸ Home jurisdiction and home state supervisor refer to the jurisdiction and supervisory authority that have assumed responsibility for consolidated prudential supervision, where a firm is part of a group, together with any other jurisdiction or supervisory authority with a regime that is particularly relevant to the way in which an international bank does business in the UK. This also includes the jurisdiction and supervisory authority responsible for the prudential supervision of a firm with a UK branch. Home resolution authority refers to the resolution authority responsible for the resolution of the overall group and co-ordination of resolution plans.

⁹ See <https://www.fsb.org/2019/06/fsb-report-on-market-fragmentation-2/>.

Effective co-operation is essential if the PRA is to be satisfied that all firms are capable of being effectively supervised. The extent to which this can be achieved will depend on the degree of influence and visibility that the PRA has over the supervisory outcomes for the firm or wider group as a whole, as necessary for the PRA to meet its objectives, including promoting the safety and soundness of the firm.

The nature of international banking in the UK

1.13 The UK has a large and complex banking sector. Around one-fifth of global banking activity is undertaken in the UK.¹⁰ Almost half of the banking assets in the UK are held by international banks. The UK banking system is characterised by its combination of:

- the scale of international business undertaken. UK banking sector assets have risen from around 100% of GDP to around 450% over the last 40 years;¹¹
- the range and types of the participants. There are approximately 150 branches and around 90 banking subsidiaries of groups based in around 50 countries;
- the complexity of the financial instruments used (with securities and derivatives comprising around one-third of UK banking system assets);
- its global interconnectedness — as measured by the volume of business booked cross-border into and out of the UK;
- fair competition within a regulatory framework established in accordance with international regulatory standards; and
- innovation, with a strong track record in recognising new risks and opportunities such as those arising from financial technologies (commonly known as FinTech), the development of risk-free reference rates, and climate change.

1.14 With the UK's exit from the EU, the PRA has seen a significant restructuring of firms' operations. The cessation of passporting rights has led UK-incorporated firms to establish subsidiaries within the EU in order to be able to service EU clients. The shift has corresponded to a proportion of the revenues and assets of UK based investment banks moving to their EU entities.

1.15 In addition, around 66 former European Economic Area (EEA) passporting firms are pursuing authorisation to operate through UK branches,¹² and have moved into the temporary permissions regime (TPR).¹³ This will mean a significant increase in the proportion of UK banking assets that will be represented by branches. The number of systemic wholesale branches that the PRA supervises has risen by almost one-half, and the assets held by such branches by around two-thirds. A small number of former UK branches of EEA firms have been authorised as subsidiaries.

1.16 These evolving firm structures have led to an associated increase in intragroup flows of business and changes in the international footprint of many firms, including in relation to booking arrangements. These developments constitute one of the drivers for these proposals.

¹⁰ See Bush, O, Knott, S, and Peacock, C. (2014), 'Why is the UK banking sector so big and is that a problem?', Bank of England Quarterly Bulletin: <https://www.bankofengland.co.uk/quarterly-bulletin/2014/q4/why-is-the-uk-banking-system-so-big-and-is-that-a-problem>.

¹¹ Ibid.

¹² As at end October 2020.

¹³ See <https://www.bankofengland.co.uk/eu-withdrawal/temporary-permissions-regime>.

Implementation

1.17 The PRA proposes that the implementation date for the final policy would be in the second quarter of 2021.

1.18 Readers of this CP may also wish to refer to the Financial Conduct Authority's (FCA) recent consultation on its approach to international firms.¹⁴ The FCA is currently considering its final policy and implementation.

Responses and next steps

1.19 This consultation closes on Sunday 11 April 2021. The PRA invites feedback on the proposals set out in this consultation. Please address any comments or enquiries to CP02_21@bankofengland.co.uk.

1.20 The proposals set out in this CP have been designed in the context of the UK having left the European Union and the transition period having come to an end. Unless otherwise stated, any references to EU or EU derived legislation refer to the version of that legislation which forms part of retained EU law.¹⁵ The PRA will keep the policy under review to assess whether any changes would be required due to changes in the UK regulatory framework.

¹⁴ See FCA CP20/20: Our approach to international firms, September 2020: <https://www.fca.org.uk/publications/consultation-papers/cp20-20-our-approach-international-firms>.

¹⁵ For further information please see <https://www.bankofengland.co.uk/eu-withdrawal/transitioning-to-post-exit-rules-and-standards>.

2 Proposals

2.1 Specific aspects of the PRA's approach¹⁶ to the supervision of banks that are branching into the UK, in particular the circumstances in which authorisation as a subsidiary may be more appropriate than authorisation to operate through a branch, are currently set out in SS1/18 'International banks: the Prudential Regulation Authority's approach to branch authorisation and supervision'. The expectations are summarised and consolidated into the proposed SS. The PRA therefore proposes that SS1/18 be withdrawn and replaced by the proposed SS. The PRA's substantive approach to the supervision and authorisation of branches would be materially unchanged, but the PRA has made structural and grammatical changes to improve readability.

2.2 The PRA applies the same standards and considerations to banks and designated investment firms that are part of groups based in the UK. In particular, the threshold condition relating to the effective supervision of firms applies both to firms in UK groups and to international banks. However, in practice, the PRA has much greater visibility of the risks arising in the UK financial system or economy affecting firms in a UK group, and better direct access to information and individuals concerned with the whole group. The PRA therefore does not consider it necessary to issue a separate SS concerning firms which are part of a group based in the UK.

2.3 This CP proposes that certain factors would be relevant when considering an international bank's compliance with threshold conditions, taking into account its membership of a group, its potential impact on UK financial stability, and the degree of integration between operations inside and outside the UK. The PRA's expectations for the information that it requires to effectively supervise a firm vary according to the way in which such a firm's affairs are integrated or separated from the rest of the group.¹⁷ Consequently, the proposed SS describes the PRA's expectations for the appropriate degree of separation and controls around the firm's governance and independent risk management in different circumstances. It is to be read with, and does not replace, international banks' obligations under applicable legislation, the PRA's rules, and the expectations set out in its policy publications.¹⁸

2.4 Although the proposed SS largely consolidates the PRA's existing approach to international banks, the PRA recognises that firms operating with deemed authorisations under the TPR may need additional time to adjust. Accordingly, it is proposed that such firms will not need to meet the expectations in the proposed SS immediately, but will need to do so as soon as practicable (taking into account their individual business models and systemic impacts), and in any event by the time they are authorised by the PRA and exit the TPR.

2.5 As part of pre-authorisation discussions, the PRA proposes that such firms demonstrate how they intend to meet these expectations. Additionally, firms in the TPR are required to notify the PRA if they become aware (or have information that reasonably suggests) that they have failed to satisfy one or more threshold conditions, may have done so, or may do so in the foreseeable future. This would be a relevant matter for the PRA to discuss with the home state supervisor. Furthermore, if it appears to the PRA that a firm in the TPR is failing, or likely to fail, to satisfy threshold conditions, it

¹⁶ 'The PRA's approach to banking supervision', October 2018: <https://www.bankofengland.co.uk/prudential-regulation/publication/pras-approach-to-supervision-of-the-banking-and-insurance-sectors>.

¹⁷ In this CP and the proposed SS, references to a group include, where appropriate, in the case of a branch, the legal entity of which the branch forms a part.

¹⁸ Available at: <https://www.bankofengland.co.uk/prudential-regulation/policy>.

would be open to the PRA to take appropriate action, including using its powers to impose requirements, restrict, or cancel the firm's deemed Part 4A permission.¹⁹

2.6 This CP proposes which arrangements the PRA would expect to be in place in order to be able to effectively supervise international banks. By setting out these arrangements together for both subsidiaries and branches operating in the UK, the PRA considers that it will be clearer to businesses that whatever form they seek to operate in, the PRA applies a single coherent and proportionate approach with the aim of achieving the same supervisory outcomes. However, since the form of UK operations affects the risks to the PRA's safety and soundness objective, the choices that businesses make affect the way in which those risks need to be mitigated so as to achieve the same outcomes.

2.7 The relationship between those risks and mitigants, which is explained in the proposed SS, can be summarised in the Figure 1 (diagram below).

Figure 1: PRA expectations for effective supervision



¹⁹ Part 4A of the Financial Services and Markets Act 2000.

2.8 At a more granular level, the PRA's proposals can be grouped under the three sections shown in Figure 1: (i) increasing size and systemic importance; (ii) information, co-operation, and the controls required to be effectively supervised; and (iii) increasing degree of independence required.

General expectations, size, and systemic importance

2.9 The PRA's general expectations that there should be sufficient equivalence²⁰ between home and host regimes, appropriate supervisory co-operation, and an effective resolution regime provide a basis for effective supervision. While the proposed SS sets out these expectations, the proposals are consistent with the PRA's existing supervisory approach to subsidiaries and branches.

2.10 The PRA's approach varies according to the size and systemic importance of business in the UK. The proposed SS summarises some of the thresholds which are taken into account when assessing the appropriate operating structure, information, co-operation, and controls expected. The size thresholds summarised in the proposed SS, some of which apply to retail business and others to wholesale business, are unchanged.

2.11 In particular, the PRA does not propose differentiating its expectations for retail businesses that are above the thresholds at which operating through a branch would generally not be appropriate, but below the threshold at which the ring-fencing regime applies. The proposed SS does, however, remind international banks of the need to comply with requirements regarding the 'single customer view', through which data to ensure the speedy operation of the Financial Services Compensation Scheme can be provided. The proposed SS also highlights the need to follow rules on outsourcing, including where functions are outsourced to other group entities abroad.²¹ This is because some international banks have historically applied insufficient attention to these areas because of their reliance on overseas entities in the group, or because of group policies that are applied to the firm.

Information, co-operation, and the controls required to be effectively supervised

2.12 The proposed SS provides more detail on the information, co-operation arrangements, and controls that the PRA expects and, in particular, how these vary according to the size and systemic importance of the UK business and its degree of integration with overseas business. Those firms which have operated in the UK for some time as either branches or subsidiaries should find the proposals to be in line with their experiences of the PRA's supervision through the normal bilateral supervisory dialogue. For other firms, this level of detail may be new to them, but the PRA considers that it is appropriate to publish this detail in the interests of transparency.

2.13 In particular, the PRA proposes providing more detail on information sharing and booking arrangements.

Information sharing

2.14 This CP proposes that the PRA would expect to receive baseline information from all firms and additional information in respect of highly integrated subsidiaries and systemic wholesale branches. The proposed SS would also clarify the need to receive information on cross-subsidies and

²⁰ The PRA's assessment of equivalence is based on the outcomes achieved, and is for the purposes of authorisation and supervision by the PRA. This is separate from the advice the PRA may provide to HM Treasury pursuant to Regulation 4 of The Equivalence Determinations for Financial Services and Miscellaneous Provisions (Amendment etc.) (EU Exit) Regulations 2019 (SI 2019/541).

²¹ See the Depositor Protection Part and the Outsourcing Part of the PRA Rulebook.

dependencies between retail business and wholesale business, whether within the same firm or related group entities. This information can be found in Box 1 of the proposed SS.

2.15 One of the supervisory lessons of the financial crisis of 2007–2008 was that the risk position of UK businesses is highly influenced by the risk position of the international group to which they belong. The PRA considers that certain indicators, especially in trading activities, can give a timely and important indication of how well the business line is performing. For highly integrated businesses such as the trading activity of globally systemically important banks, the PRA would expect to see relevant high frequency profit-and-loss and risk data for key trading business lines. Conversely, the PRA would not expect to see similar data relating to group lending activity with little connection to the UK. The PRA would agree these needs with firms and their home state supervisors individually, while recognising their commercial sensitivity and any legal and regulatory issues that may arise.

2.16 International banks relying on systems run by the group on a global basis is another area where global data is particularly relevant. In such situations, the international bank's operational capability may be adversely affected by systems failures (for example, from cyber-attacks) in the wider group.

2.17 While the size and nature of wholesale business taking place in the UK may be systemically important whether it takes place through a branch or subsidiary, the PRA may need less extensive information and comfort on the controls around those operations where they take place in a subsidiary rather than through a branch. This is because branches are intrinsically more integrated with a wider group than a subsidiary, and because the PRA can exercise its powers more directly over the firm and applies more comprehensive rules when that firm is incorporated in and managed from the UK.

Booking arrangements

2.18 The PRA set out its expectations of firms' booking arrangements for their trading activities in SS1/18. The PRA proposes to expand on those core expectations and make clear that the expectation would apply to both subsidiaries and branches (see Box 2 of the proposed SS). The key areas are the need for:

- firms to have effective pre- and post-trade controls, and where they have a particularly global, highly integrated booking model, they will need stronger pre-trade controls. These expectations reflect some of the weaknesses that the PRA has found when undertaking reviews of front office controls and the feedback given to firms as a consequence; and
- sufficient risk management resource to be dedicated to the UK entities' booking arrangements to ensure that the fundamental rules on risk management can be met.

2.19 The PRA remains open to highly integrated global booking arrangements, provided that they are effectively controlled and the PRA has sufficient visibility of the group risks. This is unchanged from SS1/18.

Systemic wholesale branches

2.20 The proposed SS does not introduce any new expectations with regard to governance arrangements beyond what is set out in existing rules and expectations, but the proposed SS illustrates how these apply to, and can be particularly relevant for, systemic wholesale branches in the UK. These are set out in Box 3 in the proposed SS. There are three main aspects on which the PRA proposes to provide more detail:

- for systemic wholesale branches, the person exercising the Head of Overseas Branch (SMF19) function is expected to be a senior figure within the branch who is credible and influential at the group executive level. This person should be in a position to ensure that the PRA receives the information it needs (where this information can be provided by the firm);
- firms with systemic wholesale branches should consider whether they need to assign senior manager functions to a Chief Risk Officer (SMF4), Chief Finance Officer (SMF2), and Chief Operations Officer (SMF24); and
- systemic wholesale branches should consider whether a group senior manager or executive should be assigned a Group Entity Senior Manager function (SMF7) if they have significant influence over what risks are booked in the branch. As an example, this may be particularly relevant in operations that are typically run as a globally integrated activity, for example custody businesses.

2.21 The reason for drawing out these examples of how the governance regime applies is that in SS1/18, the PRA introduced the concept of systemic wholesale branches and noted that it may need to set firm-specific requirements for systemic branches on a case-by-case basis. Since then, the PRA has seen a shift in some firms' UK footprints, as EEA branches move to become authorised rather than operating under an EEA passport. Where necessary, the PRA has been considering the new authorisation of the firms with such new UK branches. Some firms have also closed their subsidiary in the UK and now operate solely as a systemic branch. These changes have highlighted the need to clarify the expectations of systemic wholesale branches' governance and risk management if these firms are to meet threshold conditions and be effectively supervised.

Degree of independence

2.22 The final part of the PRA's proposals clarifies how the PRA may adjust its approach to supervision if it does not have sufficient information or is not satisfied with the degree of co-operation it has, or if the controls over risks to the UK business appear to be inadequate. Since the PRA needs higher levels of each the more integrated the UK business is with the overseas business, one potential mitigant to bring risks back into line with the PRA's appetite is for the UK business to become more independent of the overseas business. The PRA has a range of existing supervisory tools and powers that can achieve this. The proposed SS does not extend these, but sets out the way in which they could be applied to international banks so as to provide clarity for firms and other supervisory authorities involved in the international bank or its group.

2.23 The PRA considers that setting out the areas and ways in which the PRA may exercise its powers, specifically over international banks, gives more clarity and predictability for firms and other supervisory authorities that may be involved internationally, and so contributes to financial stability and good co-operation internationally.

3 The PRA's duty to consult

3.1 The PRA has a statutory duty to consult when introducing new rules and, when not making rules, has a public law duty to consult widely where it would be fair to do so. When doing so, the PRA provides the following in relation to the proposed policy:

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

3.2 The Prudential Regulation Committee (PRC) should have regard to aspects of the Government's economic policy as recommended by HM Treasury.²²

3.3 The PRA is also required by the Equality Act 2010²³ 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 proposals in this CP relate to the PRA's approach to supervising the UK activities of international banks. In particular, the more integrated UK operations are with the rest of the group or the overseas bank, the greater the risk that problems in the wider group have an adverse effect on the safety and soundness of the UK operations. This affects the effectiveness of the PRA's supervision of the firm. However, good visibility and effective supervisory co-operation mitigate those risks and hence influence the PRA's assessment of compliance with threshold conditions. Where visibility of the wider group is limited, then the risks can be mitigated by supervising UK operations on a more stand-alone basis. In this case, the PRA has higher expectations for the UK operations in terms of their resilience to group-wide risks. The proposals set out how these expectations may manifest. The PRA considers that the proposals set out in this CP advance its objectives.

3.5 Costs for the PRA and for firms in implementing this supervisory approach are expected to be minor, as established non-EU branches and subsidiaries generally meet threshold conditions, and appropriate visibility on the firm's group-wide risks has already been established with the firm and the supervisory authorities responsible for the wider group. In limited circumstances where this is not the case, then the PRA is taking action to address the deficiencies in bilateral discussions, and the proposed SS should assist in the transparency and consistency of the PRA's existing approach.

²² Section 30B of the Bank of England Act 1998. Available at: <https://www.legislation.gov.uk/ukpga/1998/11/section/30B>.

²³ Section 149.

3.6 The PRA currently supervises approximately 250 international banks, both branches (including TPR firms) and subsidiaries, which are part of around 180 international groups. The vast majority of these groups are based in jurisdictions which the PRA considers to have sufficiently equivalent regimes. In reviewing the level of information that the PRA routinely receives from the largest international groups with a UK presence, a few provide substantially less information than their peers do. This consultation will be of particular relevance to those firms. The areas requiring particular attention would appear to be in the provision of information on financial performance and capital. In addition, once firms are aware of the level of evidence for controls around booking arrangements that the PRA expects, they may need to incur some costs to meet these expectations. Clearly, the burden will be small if such controls already exist and the PRA just needs to receive confirmation, as opposed to situations where appropriate controls do not exist. The PRA would welcome responses from any firms that consider that they would not meet the PRA's existing expectations in any of these areas.

3.7 The PRA's expectations with regard to its interpretation of threshold conditions, the information it should receive, or the controls around risks arising from high degrees of integration are not changing. The proposed SS is, however, providing a greater degree of clarity and transparency in order to ensure that the same approach applies irrespective of the home jurisdiction of the firm or its group. To a large extent, this pulls together expectations that the PRA has articulated in other SSs, but consolidates the most relevant matters for firms that are part of international groups. Any costs arising from improving information flows or controls would therefore be incurred whether or not this proposed SS is published.

3.8 To the extent to which expectations set out in SS1/18 are being incorporated into this consolidated SS, those expectations are not changing for subsidiaries or branches, and so the PRA has not considered further the related costs and benefits. These were however considered in CP29/17 'International Banks: The Prudential Regulation Authority's approach to branch authorisation and supervision'.²⁴

3.9 For subsidiaries of groups based in the EU, the PRA considers that the level of supervisory co-operation and information that firms and supervisory authorities provided when the UK was part of the EU is similar to the levels it expects when a group is based outside of the UK. Therefore, there should be no costs incremental to firms belonging to such groups as a consequence of the UK leaving the EU if that level continues.

3.10 For those branches which are now in the TPR, the expectations set out in the proposed SS do not apply fully from the point of entry, recognising that to do so would mean that these firms would incur additional costs; for example, because some of the expectations are conditional upon having appropriate supervisory arrangements in place. All branches will be treated consistently going forward.

3.11 In conclusion, apart from a very small number of isolated cases, the process of clarifying the PRA's approach is expected to generate little cost to subsidiaries and non-EU branches which are part of international groups that currently operate in the UK as subsidiaries or branches. To the extent to which any costs do arise, the PRA expects that these will be outweighed by the benefits to the safety and soundness of firms as articulated in paragraph 3.4 .

²⁴ December 2017: <https://www.bankofengland.co.uk/prudential-regulation/publication/2017/international-banks-pras-approach-to-branch-authorisation-and-supervision>.

Compatibility with the PRA's objectives

3.12 The proposals would ensure that the PRA would advance its primary objective of promoting the safety and soundness of the firms it regulates by:

- seeking to ensure that the firm's business is carried on in a way that avoids any adverse impact on UK financial stability; and
- minimising the adverse effect that the failure of the firm could have on UK financial stability.

3.13 The PRA considers that any burden placed on firms to ensure that they are capable of being effectively supervised is proportionate to mitigate the risk to its primary objectives. In broad terms, any additional costs which firms face will be either incurred to improve the effectiveness of the PRA's supervision or in becoming more independent from the wider group operationally. The PRA is neutral concerning this choice which firms have.

3.14 When discharging its general functions in a way that advances its primary objectives, the PRA has a secondary objective to act as far as is reasonably possible in a way that facilitates effective competition in the markets for services provided by PRA-authorized persons in carrying on their regulated activities. The PRA considers that by clarifying and reaffirming its openness to international business taking place in the UK, it is providing an environment where competition can flourish. The need for the PRA to be well-sighted on risks in the wider group that may affect UK operations represents a minimal barrier to entry to the UK market, which enhances competition.

Regulatory principles

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

3.16 The principle that the PRA's resources should be used in the most efficient and economical way possible. The PRA has followed this principle when considering equivalence of other regulatory regimes and whether information supplied by an international bank to other regulators would be sufficient for the PRA's supervisory needs.

3.17 The principle that any burden or restriction that the PRA imposes on a person, firm, or activity is proportionate to the benefits expected as a result. The PRA will only require a high level of separation of the UK activities from the international group where there is an inappropriate level of risk to its objectives. The PRA has considered the benefits to the international group that operating in an integrated way in the UK can bring, particularly in terms of its competitive benefits. The proposals consider all significant factors and allow a proportionate approach to be adopted before considering operational constraints on any particular business model. The key principles underlying the PRA's approach are that it tailors its supervisory approach according to the nature, scale, and complexity of a firm's UK operations and potential impact on financial stability in the UK, and to the extent to which the UK operations are integrated with overseas operations, taking into account the information it has on risks to that objective. See Chapter 2 of the proposed SS.

3.18 The principle that the PRA should exercise its functions as transparently as possible. The PRA has outlined its proposed approach to the supervision of UK subsidiaries and branches of international groups alongside its reasoning. The proposed introduction of a consolidated SS aims to ensure the regulatory approach is open and accessible.

3.19 The principle that consumers should take responsibility for their decisions. The PRA has considered this, particularly with regard to whether it would be appropriate for retail business to be

further separated from wholesale and other group business, and the PRA considers its proposals are consistent with the principle.

HM Treasury recommendation letter

3.20 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.²⁵

3.21 The aspects of the Government's economic policy most relevant to the proposals in this CP are competitiveness and trade.

Competitiveness

3.22 The Government wishes to ensure that the UK remains an attractive domicile for internationally active financial institutions, and that London retains its position as a leading international financial centre. The Government considers that achieving this aim in a manner that is consistent with robust institutions and a resilient system will support its aims for sustainable economic growth.

Trade

3.23 The Government also aims to encourage trade and inward investment to the UK that can help boost productivity and growth across the UK economy. This can be supported by improved competition opening the UK to new ways of doing things and being seen as a good place to do business.

3.24 The PRA considers that these proposals are consistent with robust institutions and a resilient system, and will not materially affect London's position as a leading international financial centre. This is because the proposals aim to maintain the quality of supervision applied to international banks. The proposals in this CP strengthen the supervisory framework to secure a sustainable presence of international banks. The PRA considers that this is an important component of an open world economy which in turn benefits the UK economy.

Impact on mutuals

3.25 The PRA's considers that the impact of the proposed SS on mutuals is expected to be no different from the impact on other firms.

Equality and diversity

3.26 The PRA has performed an assessment of the policy proposals and does not consider that the proposals give rise to equality and diversity implications.

²⁵ Information about the PRC and the recommendations from HM Treasury are available on the Bank's website at www.bankofengland.co.uk/about/people/prudential-regulation-committee.

Appendix

- 1 Draft Supervisory Statement 'International Banks: The PRA's approach to branch and subsidiary supervision', available at <https://www.bankofengland.co.uk/-/media/boe/files/prudential-regulation/consultation-paper/2021/january/cp221app1.pdf>
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