

# Bank of England

## Prudential Regulation Authority

### Operating the Simpler-regime criteria

#### Statement of Policy

February 2023

Draft for consultation



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# 1. Introduction

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1.1 This Statement of Policy (SoP) sets out the Prudential Regulation Authority's (PRA) approach to operating the Simpler-regime criteria.<sup>1</sup> It covers:

- how banks and building societies ('firms') that meet the Simpler-regime criteria can access the Transitional Capital Regime<sup>2</sup> and the simpler-regime measures;
- how firms that are part of groups based outside of the UK could access the Transitional Capital Regime and the simpler-regime measures;
- how firms will be treated in the case of a merger, acquisition, a disposal of entities or activities, or similar circumstances;
- how firms that cease to meet the Simpler-regime criteria will transition between the Transitional Capital Regime and the Basel 3.1 rules;
- how firms that cease to meet the Simpler-regime criteria will transition between the simpler-regime measures and rules and policies that do not apply to Simpler-regime firms; and
- the PRA's approach to reviewing the Simpler-regime criteria.

1.2 The PRA is offering firms that meet the Simpler-regime criteria separate modifications by consent to access the Transitional Capital Regime and the simpler-regime measures. A firm's decision whether to take up one of these modifications is independent of whether it takes up the other modification. However, eligibility for either modification is based on the Simpler-regime criteria.

1.3 This SoP should be of interest to PRA-authorised banks and building societies, and prospective entities interested in, and currently applying for, authorisation as a deposit-taker. It should be of particular interest to firms that meet the Simpler-regime criteria, or those that expect to do so in the future, and firms wishing to be treated in the same way as firms meeting those criteria.

<sup>1</sup> <https://www.bankofengland.co.uk/-/media/boe/files/prudential-regulation/consultation-paper/2023/february/cp423app3>.

<sup>2</sup> <https://www.bankofengland.co.uk/-/media/boe/files/prudential-regulation/consultation-paper/2022/november/cp1622app9>.

## 2. Accessing the Transitional Capital Regime

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2.1 The PRA is prepared to offer a firm that meets the Simpler-regime criteria on 1 January 2024 a modification of the definition of 'TCR firm' by which the firm would become a TCR firm. The Transitional Capital Regime will apply to TCR firms when it comes into effect.

2.2 The PRA's offer of the modification is on condition that any other firm in the firm's consolidation group is also willing to consent to a similar modification at the same time. Where all PRA-authorized firms in a consolidation group are TCR firms, the CRR consolidation entity is a 'TCR consolidation entity', which will also be subject to the Transitional Capital Regime.

### Discretion to remove firms meeting the Simpler-regime criteria from the Transitional Capital Regime

2.3 The PRA will consider removing a firm from the Transitional Capital Regime by revoking its modification direction if, in the PRA's consideration, the firm's inclusion in the regime does not advance the PRA's statutory objectives.

2.4 This situation is likely to arise if a firm is carrying out business activities that create risks to the firm's safety and soundness that are not adequately addressed by the Transitional Capital Regime, but are adequately addressed by the prudential rules that apply to other firms.

2.5 The PRA may in particular consider revoking a firm's modification direction in the case of a merger or acquisition, or similar circumstances, if the Transitional Capital Regime is no longer appropriate for the firm even though it continues to meet the Simpler-regime criteria due to the criteria's use of measures based on historical data (eg a three-year average of total assets to calculate the size measure).

## 3. Accessing the simpler regime

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3.1 The PRA is prepared to offer a firm that meets the Simpler-regime criteria a modification of the definition of a 'Simpler-regime Firm' by which the firm would become a Simpler-regime Firm. The simpler-regime measures will apply to Simpler-regime Firms when those measures come into effect.

3.2 The offer of the modification is on condition that any other firm in the firm's consolidation group is also willing to consent to a similar modification at the same time. Where all PRA-  
authorised firms in a consolidated group are Simpler-regime Firms, the CRR consolidation entity is a 'Simpler-regime consolidation entity', which will also be subject to the simpler-regime measures.

### Discretion to remove firms meeting the Simpler-regime criteria from the simpler regime

3.3 The PRA will consider removing a firm from the simpler regime by revoking its modification direction if, in the PRA's consideration, the firm's inclusion in the regime does not advance the PRA's statutory objectives.

3.4 This situation is likely to arise if a firm is carrying out business activities that create risks to the firm's safety and soundness that are not adequately addressed by the simpler regime, but are adequately addressed by the prudential rules that apply to other firms.

3.5 The PRA may in particular consider revoking a firm's modification direction in the case of a merger or acquisition, or similar circumstances, if the simpler regime is no longer appropriate for the firm even though it continues to meet the Simpler-regime criteria due to the criteria's use of measures based on historical data (eg a three-year average of total assets to calculate the size measure).

## 4. Approach to firms that do not meet the Simpler-regime criteria

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4.1 This chapter sets out the PRA's approach to firms that wish to access the Transitional Capital Regime **and/or the simpler regime**, but do not meet the Simpler-regime criteria, but may still be able to be treated in the same way as a firm meeting the Simpler-regime criteria.

### Firms that are subsidiaries of foreign groups

4.2 A firm that is a UK subsidiary of a group based outside the UK (including a firm that has a holding company outside the UK) (a 'foreign group') cannot meet the Simpler-regime criteria. The criteria include a requirement that any undertaking of which the firm is a subsidiary must be a UK undertaking.

4.3 The PRA considers that it may be appropriate for a firm that is a subsidiary of a foreign group and that satisfies each of the other conditions in the Simpler-regime criteria to be treated in the same way as a firm that satisfies all the Simpler-regime criteria. Whether this is the case will depend in particular on the total size of the foreign group of which the firm is a part. The PRA considers that this is likely to be the case where the firm can demonstrate that the group's total assets do not exceed £20 billion when calculated on the following basis:

- the measure of total assets is comparable to the measure used in the Simpler-regime criteria and calculated using the average of this measure during the previous 36 months; and
- the entities included in or excluded from the group for this purpose are determined using approximately the same principles as those used when establishing the boundaries of a UK consolidation group.

4.4 If a firm in this position wishes to be subject to the Transitional Capital Regime **or the simpler regime**, it should apply to the PRA under section 138A of the Financial Services and Markets Act 2000 (FSMA) for a modification of the Simpler-regime criteria, so that instead of requiring that any undertaking of which the firm is a subsidiary must be a UK undertaking, the modified criteria include a criterion to the effect that the group's total assets do not exceed £20 billion, appropriately tailored to the circumstances of the group.

4.5 The PRA will consider any application for a modification of the Simpler-regime criteria on a case-by-case basis, applying the statutory tests in section 138A(4) of FSMA. The PRA considers that the statutory tests are generally likely to be met in the circumstances described above. In assessing an application for the modification, the PRA will consider

whether there are any reasons that the firm's safety and soundness would be negatively affected if it were granted the modification.

4.6 A firm that is a UK subsidiary of a foreign group that is granted a modification to the Simplifier-regime criteria, and meets its modified Simplifier-regime criteria, will be subject to the PRA's offer of a modification by consent to become a TCR firm and enter the Transitional Capital Regime (on the same terms as other firms that meet the Simplifier-regime criteria) and the PRA's offer of a modification by consent to become a Simplifier-regime firm and be subject to the simpler-regime measures (on the same terms as other firms that meet the Simplifier-regime criteria).

## Other firms

4.7 In the case of a disposal of entities or activities, or similar circumstances, a firm might consider that the Transitional Capital Regime and/or the simpler regime are appropriate for the firm even though it does not meet the Simplifier-regime criteria, due the criteria's use of measures based on historical data (eg a three-year average of total assets to calculate the size measure).

4.8 If a firm in such a position applies for a modification of the Simplifier-regime criteria under section 138A of FSMA, the PRA will consider its application, including the explanation and evidence submitted by the firm that support its view that the PRA can be satisfied that the statutory tests in FSMA 138A(4) are met.

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## 5. Leaving the Transitional Capital Regime

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5.1 This chapter sets out the approach for firms transitioning out of the Transitional Capital Regime.

5.2 If a TCR firm (ie a firm that is subject to a modification described in paragraph 2.3) ceases to meet the Simpler-regime criteria between 1 January 2024 and the implementation date of the risk-based capital framework in the simpler regime, it must notify the PRA. The firm should expect that the PRA will then decide to revoke its modification direction so that it stops being subject to the Transitional Capital Regime and becomes subject to Basel 3.1 rules.<sup>3</sup> In many cases, such a firm will be able to prepare for ceasing to meet the scope criteria, and should therefore be able to comply with Basel 3.1 rules (as implemented by the PRA) almost immediately. In some circumstances, a firm might reasonably need some further time to prepare for complying with Basel 3.1 rules (as implemented by the PRA). The PRA will consider this when deciding when to revoke the firm's modification direction.

5.3 If a firm that has a modification direction for the Transitional Capital Regime ceases to meet the Simpler-regime criteria because it receives an internal ratings based (IRB) approval, the PRA will engage with the firm in the period before the approval decision to ensure the firm is ready to move from the Transitional Capital Regime to Basel 3.1 (as implemented by the PRA).

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<sup>3</sup> If these circumstances arise before the Transitional Capital Regime and Basel 3.1 rules have come into effect then the firm would not become subject to the Transitional Capital Regime.

## 6. Leaving the simpler regime

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6.1 This chapter sets out the approach for firms transitioning out of the simpler regime.

6.2 If a Simpler-regime Firm (ie a firm that is subject to a modification described in paragraph 3.1) ceases to meet the Simpler-regime criteria, it must notify the PRA. The firm should expect that the PRA will then decide to revoke its modification direction so that it stops being subject to the simpler-regime measures and becomes subject to rules and policies that do not apply to Simpler-regime firms. In many cases, such a firm will be able to prepare for ceasing to meet the scope criteria, and should therefore be able to comply almost immediately with the measures that will apply to it when it ceases to be a Simpler-regime firm. In some circumstances, a firm might reasonably need some further time to prepare for complying with those measures. The PRA will consider this when deciding when to revoke the firm's modification direction.

6.3 If a firm that has a modification direction for the simpler regime ceases to meet the Simpler-regime criteria because it receives an internal ratings based (IRB) approval, the PRA will engage with the firm in the period before the approval decision to ensure the firm is ready to move from the simpler-regime measures to the rules and policies that do not apply to Simpler-regime firms.

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## 7. Approach to reviewing the Simpler-regime criteria

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7.1 The PRA considers that the simpler regime is intended for small firms that are not systemically important and are focused on deposit-taking from, and lending to, households and corporates in the UK. The Simpler-regime criteria are designed to reflect the attributes of smaller, less complex firms.

7.2 To ensure the criteria continue to do that, the PRA will monitor the suitability of the Simpler-regime criteria.

7.3 Specifically, the PRA intends to undertake a review of the Simpler-regime criteria no later than the end of 2028. In that review, the PRA would assess whether the criteria still identify the relevant firms (eg it could consider whether structural changes in the banking sector require other criteria in order to identify relevant firms) and whether the calibrations of the thresholds within the criteria still identify the relevant firms (eg whether the thresholds expressed in currency terms need to be adjusted).

7.4 If the conclusion of the review were that changes to the Simpler-regime criteria would advance PRA objectives, any proposed changes would be subject to the normal consultation process.<sup>4</sup>

7.5 If the review led the PRA to propose changes to the size criterion, the PRA would intend that those changes would be reflected in the PRA's approach to firms that are part of foreign groups, with the consultation also covering updates to this SoP.

<sup>4</sup> Section 138J of FSMA.