

Bank of England PRA

Appendix 19: Draft amendments to SS44/15 – Solvency II: third-country insurance and pure reinsurance branches

Consultation paper | CP12/23

June 2023

Draft for consultation



Draft amendments to SS44/15 – Solvency II: third-country insurance and pure reinsurance branches

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

...

1 Introduction

1.1 This supervisory statement is addressed to third country insurance undertakings that have a UK branch (third_country branch undertakings). This includes third country insurance undertakings that have a UK branch that solely carries out reinsurance activities (a third_country pure reinsurance branch). The statement replaces Supervisory Statement 10/15 ‘Solvency II: third-country branches’.¹ It should be read alongside the Third Country Branches Part of the Prudential Regulation Authority (PRA) Rulebook, any other rules in the PRA Rulebook that apply to third_country branch undertakings, the relevant European legislation (as it forms part of retained EU law), the ~~European Insurance and Occupational Pension Authority’s (EIOPA) third country branches remaining relevant Guidelines on the supervision of branches of third-country insurance undertakings~~ (herein referred to as ‘the EIOPA-Branch Guidelines’)^{1a} (as set out in Appendix 1 of this SS) ~~(as at the end of the transition period²)~~, and the relevant provisions of the Financial Services and Markets Act 2000 (FSMA). It sets out the PRA’s expectations of third_country branch undertakings.

1.2 This statement does not apply to Swiss General Insurers, as defined in the PRA Rulebook, to which different requirements apply pursuant to the Swiss Treaty Agreement (No. 91/370/EEC).

1.3 [Deleted].

1.4 [Deleted].

1.5 [Deleted].

1.6 Firms should also refer to:

- Bank of England and PRA Statement of Policy ‘Interpretation of EU Guidelines and Recommendations: Bank of England and PRA approach after the UK’s withdrawal from the EU’;³

¹ Supervisory Statement 10/15 ‘Solvency II: third-country branches’, March 2015: <https://www.bankofengland.co.uk/prudential-regulation/publication/2015/solvency2-third-country-branches-ss>.

^{1a} Guidelines on supervision of branches of third-country insurance undertakings: <https://www.bankofengland.co.uk/-/media/boe/files/paper/2020/december/gl-branches-third-country-insurance.pdf>. These are derived from the EIOPA Guidelines as at 31 December 2020.

² The UK’s membership of the EU came to an end on Friday 31 January 2020. The UK entered into a transition period lasting until 11pm on Thursday 31 December 2020, which marked the end of the transition period, during which EU law continued to apply to the UK.

³ December 2020: SoP - [Interpretation of EU Guidelines and Recommendations: Bank of England and PRA approach after the UK’s withdrawal from the EU](#).

- Supervisory Statement (SS) 1/19 ‘Non-binding materials: The PRA’s approach after the UK’s withdrawal from the EU’;⁴ and
- Supervisory Statement (SS) 2/19 ‘PRA approach to interpreting reporting and disclosure requirements and regulatory transactions forms after EU withdrawal’;⁵
- Statement of Policy ‘Solvency II regulatory reporting waivers’;^{5a} and
- Supervisory Statement (SS) 40/15 ‘Solvency II: reporting and disclosure’.^{5b}

Any reference to any provision of direct EU legislation is a reference to it as it forms part of retained EU law.

2 Compliance with the Branch Guidelines

2.1 The PRA expects third-country branch undertakings to comply with the EIOPA-Branch Guidelines published as a final report on 6 July 2015 (and re-issued on 23 October 2015)⁶ (as at the end of the transition period) that are relevant to them, and to comply with the rules in the PRA Rulebook that apply to third-country branch undertakings, in light the EIOPA Branch Guidelines (as at the end of the transition period).

2.2 The PRA also expects third-country undertakings that have a third-country pure reinsurance branch to comply with the EIOPA-Branch Guidelines (as at the end of the transition period) that are relevant to them. The PRA expects such undertakings to comply with the rules in the PRA Rulebook that apply to them in light of the EIOPA Branch Guidelines (as at the end of the transition period) as if the scope extended to them.

2.3 ~~[Deleted]~~ Where EIOPA Branch guidelines Guidelines (as at the end of the transition period) refer to templates that the PRA has deleted or amended after the end of the transition period, third country insurance undertakings should base their reporting requirements of these specific templates⁷ in light of the requirements introduced subsequently.

3 Important aspects of the EIOPA Branch Guidelines (as at the end of the transition period) Availability of assets and winding up

3.1 ~~[Deleted]~~.

3.2 The PRA expects third-country undertakings to maintain financial soundness at branch level (Guidelines 17–26) to ensure that the branch policyholders enjoy the same level of protection as those policyholders of an insurance undertaking situated in the UK. [This text has been moved to 4.1A].

⁴ December 2020: SS1/19 – [Non-binding PRA materials: The PRA’s approach after the UK’s withdrawal from the EU](#).

⁵ December 2020: SS2/19 – [PRA approach to interpreting reporting and disclosure requirements and regulatory transactions forms after the UK’s withdrawal from the EU](#).

^{5a} SoP – Solvency II regulatory reporting waivers: <https://www.bankofengland.co.uk/-/media/boe/files/prudential-regulation/consultation-paper/2023/june/cp1223app21.pdf>.

^{5b} July 2016, SS40/15: <https://www.bankofengland.co.uk/prudential-regulation/publication/2015/solvency2-reporting-and-public-disclosure-options-provided-to-supervisory-authorities-ss>

⁶ EIOPA-December 2020: Guidelines on supervision of branches of third-country insurance undertakings: <https://www.bankofengland.co.uk/-/media/boe/files/paper/2020/december/gl-branches-third-country-insurance.pdf>.

⁷ Including paragraph 1.77 sub-sections (x), (y), (ccc), (ddd), (eee), and paragraph 1.80 sub-sections (l) and (m).

3.3 The PRA expects considerable importance to be attached to calculating branch ~~own funds~~ assets so as to ensure that only those assets that are available to pay the claims of branch policyholders in the event of a winding up event are included in the calculation of branch assets. Assets will be deemed to be available, where either all of the undertaking's assets would be available to pay policyholders in priority to other creditors irrespective of the location of the claim,^{6a} ~~of the policyholders~~, or where those assets are exclusively available to pay the claims of branch policyholders (Branch Guidelines 6 and 25).

3.4 In accordance with Article 50 of Chapter 2A of the Reporting Part of the PRA Rulebook, third country branch undertakings are required to submit to the PRA expects to receive an analysis from the third-country undertaking of the applicable winding up regime of the home jurisdiction, analysing the priority given to policyholders of the branch compared to other policyholders of the third country undertaking and how the assets of the third-country undertaking would be distributed to those branch policyholders. The PRA may have access to analyses that have already been provided by other undertakings and may be able to rely on these documents (Guideline 4) in which case the analysis expected from the third-country undertaking need concern only the application of that regime to the undertaking's own circumstances.

3.4A As part of the analysis referred to in paragraph 3.4, the PRA expects third country branch undertakings to provide a numerical illustration of how the available assets would be distributed in a winding up of the undertaking. This should reflect the order of priorities of claims which would apply to the distribution of branch assets and take into account all arrangements which may be in place to provide certain policyholders or creditors security, protection, or priority. This analysis should be supported by a legal opinion, taking into account the applicable laws relating to winding up in the home jurisdiction. The qualifications of the person providing the analysis and their competency to advise in respect of those laws should also be stated.

3.4B As set out in section 6 of this SS, where there is a significant change in the winding up regime applicable to the third country branch, the PRA expects that the third country branch undertaking submits an update of the information in paragraphs 3 and 3.4A to the PRA as soon as possible.

3.5 In the context of third-country branch undertakings observing quantitative reporting requirements (Guidelines 44-61 and any subsequent deletions or amendments of specific templates that have been implemented by the PRA after the end of the transition period), the PRA is taking a proportionate approach as set out in section 6 of this supervisory statement. [Deleted].

4 Worldwide financial resources

4.1 In the PRA Rulebook, Third Country Branches 13 requires a third-country branch undertaking to maintain adequate worldwide financial resources and assess the adequacy of these resources. For this purpose, the PRA will consider the undertaking's compliance with the prudential regime under which it is supervised in its home country.

4.1A The PRA expects third country branch undertakings to maintain financial soundness at branch level (Branch Guidelines 17 and 26) to ensure that the branch policyholders enjoy the same level of protection as those policyholders of an insurance undertaking with its head office situated in the UK. [This paragraph has been moved from paragraph 3.2.]

^{6a} 'Location of the claim' means the location of either the beneficiary (including policyholders), the insured risk or the contract signed with the third country insurance undertaking (including whether the business was transacted through the branch or through the head office of the third country insurance undertaking).

4.2 The PRA expects the third-country branch undertaking to provide sufficient information so that the PRA may form an opinion on the adequacy of the worldwide financial resources of the undertaking.

4.3 Where the PRA assesses the home country regime to be broadly equivalent to the regime applied by the PRA to (re)insurers whose head office is in the UK, then compliance with the financial resources requirements of that prudential regime may be relied on by the third-country branch undertaking as tending to establish compliance with the PRA's worldwide financial resources rule. Contravention of financial resources requirements of ~~that the home country~~ prudential regime may be relied on as tending to establish contravention of the PRA's worldwide financial resources rule.

4.4 Where that prudential regime is not broadly equivalent to the regime applied by the PRA to (re)insurers whose head office is in the UK, then the PRA will assess the adequacy of financial resources using the methods and techniques applicable to (re)insurers whose head office is in the UK.

5 Scheme of operations

5.1 The PRA will ask for a scheme of operations that sets out all the information required under Third Country Branches 5.1 as part of the application process for any third-country branch undertaking applying for a grant or variation of permission.

6 ~~Annual and quarterly reporting requirements~~ Reporting

6.1 ~~[Deleted]. In meeting the reporting requirements for third-country branch undertakings as set out in Third Country Branches 9.1, the PRA expects third-country branch undertakings to use the reporting templates set out in the EIOPA Branch Guidelines (as at the end of the transition period). The PRA may decide which quarterly or annual quantitative reporting templates (QRTs) should be submitted by each third-country branch undertaking.⁸~~

6.2 ~~[Deleted]. Third-country branch undertakings should contact their usual supervisory contact to confirm which templates the PRA expects the undertaking to submit. The PRA's expectation is that reporting will fall into one of three groups:~~

- ~~• group 1 – branches designated by the PRA as Category one, two or three undertakings;~~
- ~~• group 2 – branches designated by the PRA as Category four undertakings; and~~
- ~~• group 3 – branches that are pure reinsurance branches.~~

6.3 ~~[Deleted]. Full reporting is expected for branches allocated to group 1 and limited reporting for branches allocated to groups 2 and 3. All branches are expected to report minimum capital requirement (MCR) templates S.28.01.01 and S.28.02.01 on an annual basis, at the end of firms' financial year.~~

6.4 ~~[Deleted]. The templates to be submitted for each of these three reporting groups are set out in table 1.~~

⁸ ~~Third-country branch undertakings should also refer to SS11/15 'Solvency II: Regulatory Reporting and exemptions'; March 2015: <https://www.bankofengland.co.uk/prudential-regulation/publication/2015/solvency2-regulatory-reporting-and-exemptions-ss>.~~

6.5 [Deleted].

6.6 [Deleted]. The PRA expects branches to use the XBRL format for the submission of quarterly and annual reporting QRTs.

6.7 The branch assets which may be included in the branch reporting templates depend upon the analysis of how available branch assets would be distributed in a winding up. This is relevant where the winding up regime applicable to the third-country branch undertaking does not deliver the protection to branch policyholders that Solvency II requires. ~~The analysis required to assess this may take some time to procure. Third country branch undertakings should agree with the PRA through their supervisory contact a reasonable time for this to be obtained and the basis on which branch assets are reported while that analysis is being assessed.~~

6.7A The PRA expects that third country branch undertakings guarantee that branch policyholders can obtain any publicly disclosed information concerning the solvency and financial condition of the whole third country branch undertaking, if the rules and regulations of the third country prescribe such disclosure.

6.8 The PRA expects third-country branch undertakings to agree with their supervisor the extent of the narrative reporting requirements required as regards the whole undertaking's solvency (such as copies of the third-country regulatory reporting information submitted to the supervisory authority in the third-country) as part of the regular supervisory reporting and the ORSA with regard to the branch operations.

6.8A With regard to branch operations, the PRA expects third country branch undertakings to submit the following information to the PRA and agree with their supervisor the frequency for which the information should be submitted:

- a copy of the supervisory reporting documentation of the whole third country branch undertaking; and
- a summary of any significant concerns which the home supervisory authority has raised with the third country branch undertaking.

6.8B The PRA may also require third country branch undertakings to communicate any other information prepared under the responsibility of, or at the request of, the administrative, management or supervisory body of the undertaking, in relation to operations effected by the branch.

6.8C Where a significant development affects the information received from a third country branch undertaking, the PRA expects that the undertaking should submit an update of this information to the PRA as soon as possible. Such an update can take the form of amendments to the initial report.

6.9 Third-country branches should refer to Supervisory Statement 40/15, 'Solvency II: ~~Reporting and public disclosure – options provided to supervisory authorities reporting and disclosure~~'.⁹ ~~SS40/15 specifies the PRA's approach where discretion is given to supervisory authorities in the~~

⁹ Supervisory Statement 40/15 'Solvency II: reporting and public disclosure – ~~options provided to supervisory authorities~~': <https://www.bankofengland.co.uk/prudential-regulation/publication/2015/solvency2-reporting-and-public-disclosure-options-provided-to-supervisory-authorities-ss>.

instructions accompanying the QRTs. The supervisory statement sets out the PRA’s expectations in the following areas that are relevant to branches:

- accident or underwriting year reporting for templates, where this is relevant (section 4);
- ~~claim size bands for reporting loss distribution risk profile (section 5);~~
- ~~sum insured bands for reporting non-life distribution of underwriting risks by sum insured (section 6);~~
- ~~lines of business to be reported for the reporting of non-life distribution of underwriting risks by sum insured (section 7);~~
- reporting of annuities stemming from non-life obligations by currency (section 8); and
- development of the distribution of reported but not settled (RBNS) claims - reporting of numbers of claims (section 9).

Table 1 reporting templates

Reporting group	Quarterly reporting Quarters 1 and 3	Quarterly reporting Quarters 2 and 4	Annual reporting
Full reporting group 1	All QRTs as set out in the EIOPA Branch Guidelines	All QRTs as set out in the EIOPA Branch Guidelines	All QRTs as set out in the EIOPA Branch Guidelines
Limited reporting group 2		S.01.01.08 S.01.02.07 S.02.01.08 S.23.01.07	S.01.01.07 S.01.02.07 S.01.03.01 S.02.01.07 S.02.02.01 S.02.03.07 S.03.01.01 S.03.02.01 S.03.03.01 S.05.01.01 S.06.02.07 S.09.01.01 S.12.01.01 S.14.01.01 S.16.01.01 S.17.01.01 S.22.01.01 S.22.05.01 S.22.06.01 S.23.01.07 S.23.03.07 S.25.01.01 S.25.02.01 S.25.03.01 S.28.01.01 S.28.02.01 S.31.01.01 SR.01.01.07 SR.12.01.01 SR.17.01.01 SR.25.01.01

Reporting group	Quarterly reporting Quarters 1 and 3	Quarterly reporting Quarters 2 and 4	Annual reporting
Limited reporting group 3			S.01.01.07 S.01.02.07 S.01.03.01 S.02.01.07 S.02.02.01 S.02.03.07 S.03.01.01 S.03.02.01 S.03.03.01 S.05.01.01 S.06.02.07 S.09.01.01 S.12.01.01 S.14.01.01 S.17.01.01 S.22.01.01 S.22.05.01 S.22.06.01 S.23.01.07 S.23.03.07 S.25.01.01 S.25.02.01 S.25.03.01 S.28.01.01 S.28.02.01 S.31.01.01 SR.01.01.07 SR.12.01.01 SR.17.01.01 SR.25.01.01

6.10 [Deleted]. Where the EIOPA Branch Guidelines (as at the end of the transition period) refer to templates that the PRA has deleted or amended after the end of the transition period, firms should treat these specific guidelines as no longer relevant, and should base the reporting requirements in relation to these specific templates in light of the subsequent amendments implemented by the PRA.

...

Appendix 1 - Remaining relevant Branch Guidelines

<u>Guideline</u>	<u>Paragraph number</u>
<u>Guideline 2 – Scheme of operations</u>	<u>1.18</u>
<u>Guideline 3 – Distribution of branch assets</u>	<u>1.19</u>
<u>Guideline 4 – Analysis concerning the distribution of branch assets</u>	<u>1.22</u>
	<u>1.23</u>
<u>Guideline 8 – Assessment of the branch financial position</u>	<u>1.29</u>
<u>Guideline 17 – Branch accounting</u>	<u>1.41</u>
	<u>1.42</u>
<u>Guideline 19 – Quality requirements for the security deposit</u>	<u>1.44</u>
	<u>1.45</u>
<u>Guideline 20 – Assessment of the quality of a security deposit</u>	<u>1.46</u>
<u>Guideline 26 – Assessment of available branch assets</u>	<u>1.52a</u>
	<u>1.52d</u>
	<u>1.52e</u>
	<u>1.52f</u>
	<u>1.52g</u>
	<u>1.52h</u>
	<u>1.52i</u>
	<u>1.52j</u>
	<u>1.52k</u>
	<u>Guideline 34 – Material risks to be included in the ORSA</u>
<u>Guideline 35 – Assessment of branch assets in the ORSA</u>	<u>1.61a</u>
<u>Guideline 38 – ORSA Supervisory Report</u>	<u>1.66a</u>
	<u>1.66b</u>
	<u>1.67</u>