

Policy Statement | PS4/17

Responses to CP36/16 and correction to PS2/16 PIN rules

February 2017



BANK OF ENGLAND
PRUDENTIAL REGULATION
AUTHORITY



Prudential Regulation Authority
20 Moorgate
London EC2R 6DA

Prudential Regulation Authority, registered office: 8 Lothbury, London EC2R 7HH.
Registered in England and Wales No: 07854923



BANK OF ENGLAND
PRUDENTIAL REGULATION
AUTHORITY

Policy Statement | PS4/17

Responses to CP36/16 and correction to PS2/16 PIN rules

February 2017

1 Overview

1.1 This Prudential Regulation Authority (PRA) policy statement (PS) provides feedback to responses, and final rules and supervisory statements (SS) to Consultation Paper (CP) 36/16 'Occasional Consultation Paper' (the CP).¹ It also contains corrections to the Pre-Issuance Notification (PIN) rules for an administrative error in the final rules presented in PS2/16 'Amendments to the Pre-Issuance Notification regime'.²

1.2 This PS is relevant to all PRA-authorized firms.

1.3 The appendices to this PS provide links to the final rules and SSs consulted on in the relevant chapters of the CP, outlined in the table below:

CP36/16 chapter / name	Rulebook Part / SS	Appendix
2 Liquidity reporting for UK branches of third-country firms	Regulatory Reporting Part SS1/17 'Supervising international banks: the PRA's approach to branch supervision – liquidity reporting'	1 2
3 Pre-Issuance Notification rules - clarifications and corrections	Own Funds Part Group Supervision Part Insurance Company – Capital Resources Part	3 4 5
4 Internal model approach approvals – clarifications for reporting and analysis	SS13/13 'Market Risk'	6
6 Credit unions – lending and additional investments	Credit Unions Part SS2/16 'The prudential regulation of credit unions'	7 8
7 Corrections to the External Audit Part	External Audit Part	9

1.4 The PIN rule amendments are included as Appendix 10.

1.5 The final rules and supervisory statement for Chapter 5 of the CP (Ring-fencing – consequential and reporting amendments), were published in PS3/17 'The implementation of ring-fencing: reporting and residual matters – responses to CP25/16 and Chapter 5 of CP36/16'.³ The final rules for the administration instrument included in the CP were published in January 2017.⁴

1.6 The PRA is required by the Financial Services and Markets Act 2000 (FSMA) to publish a statement on the impact of rules on mutuals where the final rules differ from the draft of the proposed rule; and a cost benefit analysis of any changes to the consultation proposals which the PRA considers to be significant.⁵ The PRA has made some minor adjustments to the rules and supervisory statements which are set out in Chapter 2 of this PS. The PRA does not consider that these changes are significant or will have a differential impact on mutuals.

1.7 The policy contained in this PS has been designed in the context of the current UK and EU regulatory framework. The PRA will keep the policy under review to assess whether any changes would be required due to changes in the UK regulatory framework, including changes arising once any new arrangements with the European Union take effect.

1 October 2016: www.bankofengland.co.uk/pr/Pages/publications/cp/2016/cp3616.aspx.

2 January 2016: www.bankofengland.co.uk/pr/Pages/publications/ps/2016/ps216.aspx.

3 February 2017: www.bankofengland.co.uk/pr/Pages/publications/ps/2017/ps317.aspx.

4 PRA 2017/1: www.bankofengland.co.uk/pr/Pages/publications/ps/2017/admin117.aspx.

5 FSMA Section 138J(5).

2 Feedback to responses to CP36/16

2.1 The PRA is required by FSMA to have regard to any representations made to the proposals in a consultation, to publish an account, in general terms, of those representations and its response to them, and to publish details of any significant differences in the rules as made.¹

2.2 The PRA received eight responses to the CP. For chapters 2, 4 and 6, respondents made a number of suggestions and requests for clarification which are set out below. No responses were received for chapters 3 and 7, and so the PRA will implement the rules as presented in the CP.

Liquidity reporting for UK branches of third-country firms

2.3 The PRA received four responses to Chapter 2 of the CP. All respondents broadly supported the proposed rule change (Appendix 1) and statements (Appendix 2), although requested clarification in certain areas.

2.4 One respondent questioned whether the net stable funding ratio (NSFR) reporting would be required by the PRA before it is formally required by the Home State Supervisor (HSS). As stated in the supervisory statement, the PRA expects relevant third-country firms to submit liquidity information which is reported to the HSS within the HSS's submission timescales or within 30 calendar days from the end of the reporting period, whichever is longer.

2.5 Some respondents requested clarification on the provision of liquidity information during stress. The PRA reiterates that during stress (see SS1/17, paragraph 2.9), when requesting any additional or more frequent reporting, the PRA will be proportionate and take into account the liquidity data available.

2.6 Most respondents agreed that the proposed 30 calendar days is reasonable for the liquidity coverage ratio (LCR) submission. Some respondents suggested that any other additional reports submitted to the HSS should be allowed an additional two weeks for submission. The PRA recognises that the reporting submission timelines for additional liquidity data reported to HSSs may vary from jurisdiction to jurisdiction. In these instances, the firm should notify and discuss appropriate timelines with the PRA.

2.7 Two respondents sought clarification on the PRA's expectations regarding reporting in a single consolidated currency. The PRA is satisfied that the question is adequately addressed in SS1/17 and confirms that data should be provided in a single consolidated currency. Reports on a significant currency basis will only be expected if this is already provided to the HSS.

2.8 One respondent asked for clarification on the potential future mismatch report to complement the LCR reporting mentioned by the PRA over the course of 2015 and 2016, and specifically, whether there would still be a need for an additional report if a firm were to assume that HSS liquidity reporting has that information. The PRA is satisfied that this question is not within scope of the SS since the PRA statements referred to by the respondent relate to additional liquidity monitoring metrics for subsidiaries and not third country branches.

2.9 One respondent requested clarification on the practical meaning of the words 'based upon' in respect of data which is reported to firms' HSS. The PRA's use of the words 'based upon', in this context, is intended to capture the PRA's expectation that non-EEA branch

1 FSMA Section 138J(4).

liquidity reporting does not go beyond what is already reported to a firm's HSS. The PRA is satisfied that this is adequately addressed in the SS.

2.10 One respondent requested clarification on timing of submissions. The first submission of LCR will be based on the reporting period as at 30 June 2017. Thereafter, data submission will be six monthly as at the reporting dates 30 June and 31 December, unless more frequent reporting is requested as covered in the SS.

2.11 One respondent queried the format of submission. Submission will be accepted in any readable format that is submitted to the HSS.

2.12 One respondent sought clarification on the term 'whole-firm'. The PRA uses the word 'whole-firm' to refer to the legal entity of which the branch forms a part.

2.13 One respondent viewed the expectation for firms to submit any additional liquidity reports submitted to the HSS as an overly broad requirement as a host supervisor. With regards to additional liquidity reports, the PRA will take the Basel principles relating to home state regulatory responsibilities and proportionality into account, and operate in line with our branch approach stated in SS10/14.¹

Internal model approach approvals – clarifications for reporting and analysis

2.14 In the CP the PRA proposed amendments to SS13/13² including the PRA's expectations in relation to the analysis to demonstrate the accuracy of any approximate revaluation approaches (paragraph 10.6).

2.15 One respondent suggested that it is more appropriate for this analysis to be performed as part of a firm's periodic model validation (annual model review) rather than as part of quarterly reporting. The respondent suggested that this would align the requirement with other model monitoring processes that will be changed to periodic model validation requirements as part of the OCP.

2.16 The PRA has considered the respondent's suggestion and agrees that it would be appropriate for this expectation to be included in a separate section in SS13/13 since it relates to model monitoring. However, the PRA is of the opinion that annual monitoring may be insufficient in some cases, and expects that the frequency of the monitoring should be commensurate to the accuracy of the firm's approximate revaluation approach and the materiality of the risks covered.

2.17 The PRA has therefore moved this expectation into a new section in SS13/13 (see paragraph 9.19) and has amended the wording to reflect the PRA's expectations on the frequency of the monitoring.

Credit unions – lending and additional investments

2.18 The PRA received two responses to Chapter 6 of the CP.

2.19 One respondent proposed a change to rule 3.5 in the Credit Unions Part in the interests of clarity. The PRA did not consult on changes to this rule and consequently has not adopted the proposal.

1 PRA Supervisory Statement 10/14 'Supervising international banks: the PRA's approach to branch supervision' September 2014: www.bankofengland.co.uk/pr/Pages/publications/ss/2014/ss1014.aspx.

2 PRA Supervisory Statement 13/13 'Market risk' July 2016: www.bankofengland.co.uk/pr/Pages/publications/ss/2016/ss1313update2.aspx.

2.20 The same respondent also proposed a change to the definition of ‘Net Zero Cost Funds’ to be included as ‘4.5 Table 2’ of SS2/16. The PRA has considered the response, agrees with it, and has changed the definition accordingly.

2.21 Another respondent suggested that classifying a large number of activities as ‘additional’ could be construed as “overregulation”. The PRA did not consult on the classification of activities, implemented by PS4/16,¹ consequently no change has been made to SS2/16.

3 Update to PIN rules

3.1 The PRA consulted on amendments to the PIN regime in CP29/15 ‘Occasional Consultation Paper’.² The final policy decisions were presented in PS2/16, however, due to an administrative error, the policy decisions outlined in paragraphs 3.8 and 3.9 of the PS, which pertain to rule 5.5(3) of the Own Funds Part and rule 6.5(3) of the Group Supervision Part, were not underlined in the final instruments.³ The PRA initially identified this error in a footnote to paragraph 3.9 in PS2/16. The PRA now makes these rules as presented in Appendix 10 and 11.

Summary of the changes

3.2 The policy decisions in paragraphs 3.8 and 3.9 of PS2/16 were made to harmonise the conditions to be met in order to receive advance notification exemption for capital instruments issued on similar terms with those applicable to CRR firms. As set out in PS2/16, the PRA decided to introduce, in relation to insurers, two new conditions applicable to the advance notification exemption for capital instruments similar to previous issuances. These conditions were:

- the previous issuance must have occurred within the twelve months immediately preceding the PRA’s receipt of the current PIN; and
- the previous issuance must have been subject to PIN.

3.3 The PRA also removed the term ‘not materially different’ and clarified that the exemption only applies when the terms and conditions of the current instrument are identical to the previous issuance, other than with regard to the: i) the issue date; ii) the maturity date; iii) the amount of the issuance; iv) the currency of the issuance; and v) the rate of interest payable by the issuer.

Cost benefit analysis and impact on mutuals

3.4 The PRA is required by the Financial Services and Markets Act 2000 (FSMA) to publish a cost benefit analysis of any changes to the consultation proposals which the PRA considers to be significant, and to publish a statement on the impact of rules on mutuals where the final rule differs from the draft of the proposed rule.

Cost benefit analysis

3.5 The PRA does not consider that the changes to the consulted policy will result in increased costs to insurers. Insurers will not be required to provide additional documentation, they will simply, in certain limited circumstances, be required to deliver that documentation earlier.

1 PRA Policy Statement 4/16 ‘Reform of the legacy Credit Unions sourcebook’ February 2016: www.bankofengland.co.uk/pr/Pages/publications/ps/2016/ps416.aspx.

2 August 2015: www.bankofengland.co.uk/pr/Pages/publications/cp/2015/cp2915.aspx.

3 www.bankofengland.co.uk/pr/Documents/publications/ps/2016/ps216app7.pdf.

3.6 The PRA does not expect that requiring insurers to submit PIN applications one month in advance of issuance, in these limited circumstances will significantly reduce the flexibility of insurers to issue instruments when market conditions are favourable.

3.7 In addition, the PRA may be prepared to accept less than one month's notice in exceptional circumstances which make it impracticable for firms to provide the expected period of notice.

3.8 As the PRA's PIN rules have been in place for longer than a year, any previous issuance that would allow an advance notification exemption for capital instruments similar to previous issuances, would have been subject to PIN. This additional requirement will therefore have no additional impact on firms.

3.9 In replacing the term 'not materially different' with specific details of the criteria that may change, the PRA has provided certainty in what would otherwise have been a judgement based decision.

Impact on mutuals

3.10 These rules apply to all firms within the scope of Solvency II and this includes mutuals. In the PRA's view, the impact of the rules as made is not significantly different from the impact of the proposed rules on mutuals, and on mutuals as compared with other firms.

Appendices

-
- 1 **PRA RULEBOOK: CRR FIRMS: LIQUIDITY REGULATORY REPORTING (AMENDMENT) INSTRUMENT 2017**, available at:
www.bankofengland.co.uk/pr/Pages/publications/ps/2017/ps417.aspx

 - 2 **Supervisory Statement 1/17 'Supervising international banks: the PRA's approach to branch supervision – liquidity reporting'**, available at:
www.bankofengland.co.uk/pr/Pages/publications/ss/2017/ss117.aspx

 - 3 **PRA RULEBOOK: SOLVENCY II FIRMS: OWN FUNDS (NOTIFICATION OF ISSUANCE – AMENDMENTS) INSTRUMENT 2017**, available at:
www.bankofengland.co.uk/pr/Pages/publications/ps/2017/ps417.aspx

 - 4 **PRA RULEBOOK: SOLVENCY II FIRMS: GROUP SUPERVISION (NOTIFICATION OF ISSUANCE – AMENDMENTS) INSTRUMENT 2017**, available at:
www.bankofengland.co.uk/pr/Pages/publications/ps/2017/ps417.aspx

 - 5 **PRA RULEBOOK: NON-SOLVENCY II FIRMS: INSURANCE COMPANY – CAPITAL RESOURCES (NOTIFICATION OF ISSUANCE – AMENDMENTS) INSTRUMENT 2017**, available at:
www.bankofengland.co.uk/pr/Pages/publications/ps/2017/ps417.aspx

 - 6 **Supervisory Statement 13/13 'Market Risk'**, available at:
www.bankofengland.co.uk/pr/Pages/publications/ss/2017/ss1313update.aspx

 - 7 **PRA RULEBOOK: NON CRR FIRMS: CREDIT UNIONS AMENDMENTS INSTRUMENT 2017**, available at:
www.bankofengland.co.uk/pr/Pages/publications/ps/2017/ps417.aspx

 - 8 **Supervisory Statement 2/16 'The prudential regulation of credit unions'**, available at:
www.bankofengland.co.uk/pr/Pages/publications/ss/2017/ss216update.aspx

 - 9 **PRA RULEBOOK: SOLVENCY II FIRMS AND NON-AUTHORISED PERSONS: EXTERNAL AUDIT AMENDMENTS INSTRUMENT 2017**, available at:
www.bankofengland.co.uk/pr/Pages/publications/ps/2017/ps417.aspx

 - 10 **PRA RULEBOOK: SOLVENCY II FIRMS: GROUP SUPERVISION (NOTIFICATION OF ISSUANCE – AMENDMENTS) (NO.2) INSTRUMENT 2017**, available at:
www.bankofengland.co.uk/pr/Pages/publications/ps/2017/ps417.aspx

 - 11 **PRA RULEBOOK: SOLVENCY II FIRMS: OWN FUNDS (NOTIFICATION OF ISSUANCE – AMENDMENTS) (NO.2) INSTRUMENT 2017**, available at:
www.bankofengland.co.uk/pr/Pages/publications/ps/2017/ps417.aspx