PRA RULEBOOK: CRR FIRMS: OPERATIONAL CONTINUITY INSTRUMENT 2021

Powers exercised
A. The Prudential Regulation Authority ("PRA") makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 ("the Act"):
   (1) section 137G (The PRA's general rules); and
   (2) section 137T (General supplementary powers).

B. The rule-making powers referred to above are specified for the purpose of section 138G(2) (Rule-making instruments) of the Act.

Pre-conditions to making
C. In accordance with section 138J of the Act (Consultation by the PRA), the PRA consulted the Financial Conduct Authority. After consulting, the PRA published a draft of proposed rules and had regard to representations made.

PRA Rulebook: CRR Firms: Operational Continuity Instrument 2021
D. The PRA makes the rules in Annexes A and B to this instrument.

<table>
<thead>
<tr>
<th>Part</th>
<th>Annex</th>
</tr>
</thead>
<tbody>
<tr>
<td>Glossary</td>
<td>Annex A</td>
</tr>
<tr>
<td>Operational Continuity</td>
<td>Annex B</td>
</tr>
</tbody>
</table>

Commencement
E. This instrument comes into force on 1 January 2023.

Citation
F. This instrument may be cited as the PRA Rulebook: CRR Firms: Operational Continuity Instrument 2021.

By order of the Prudential Regulation Committee

19 May 2021
Annex A

Amendments to the Glossary

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

critical functions

has the meaning in section 3(1) and (2) of the Banking Act 2009.
Annex B

Amendments to the Operational Continuity Part

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

1 APPLICATION AND DEFINITIONS

1.1 This Part applies to a CRR firm that receives critical services supporting critical functions if it fulfils any of the following conditions on 1 January of any year:

(1) the average of the firm’s total assets it was required to report for in the previous 36 months in accordance with Chapters 7 and 9 of the Regulatory Reporting Part of the PRA Rulebook exceeds £10bn;

(2) the average of the firm’s safe custody assets it was required to report for in the previous 36 months in accordance with SUP 16.14 of the FCA Handbook as amended from time to time exceeds £10bn; or

(3) the average total amount of received sight deposits it was required to report for in the previous 36 months in accordance with the ITS on supervisory reporting, or that it would have had to report if the ITS on supervisory reporting had been in force, exceeds £350m.

...  

1.5 In this Part, the following definitions shall apply:

**core business lines**

means business lines and associated services which represent material sources of revenue, profit or franchise value for a firm or for its group.

**critical functions**

has the meaning in section 3(1) and (2) of the Banking Act 2009.

**critical services**

means activities, functions or services performed for one or more business units of the firm or for the firm and another member of its group, whether by the firm itself, any other group member or a person outside the firm’s group, the failure of which would lead to the collapse of or present a serious impediment to the performance of the firm’s critical functions or core business lines.

**CSD**

has the meaning given in Article 2(1)(1) of CSDR.

**CSDR**


**excluded agreement**
means a contract or other agreement for the provision of critical services to a firm:

(1) which is governed by the laws of any part of the United Kingdom;

(2) the parties to which are incorporated in, or formed under the law of any part of, the United Kingdom; and

(3) the parties to which belong to the same resolution group.

excluded person
means a payment system, CSD, third-country CSD, SSS or central counterparty.

group provider
in relation to a firm, means:

(1) a member of its group that provides critical services to it; or

(2) the firm itself if one of its business units provides critical services to it.

ITS on supervisory reporting


payment system
has the meaning given in section 182 of the Banking Act 2009.

resolution group
has the meaning given in section 3(1) of the Banking Act 2009.

safe custody asset
has the meaning in the FCA Handbook as amended from time to time.

ITS on supervisory reporting


SSS
has the meaning given in Article 2(1)(10A) of CSDR.

third-country CSD
has the meaning given in Article 2(1)(2) of CSDR.
2 FACILITATION OF EFFECTIVE RECOVERY AND RESOLUTION PLANNING

... 

2.3 A firm’s operational and financial arrangements must ensure the continuity of the critical services it receives in the event of:

(1) circumstances in which all or part of the business of any other member of its group is likely to fail; or

(2) the failure of all or part of the business of any other member of its group.

3 DETAILS OF OPERATIONAL CONTINUITY ARRANGEMENTS

3.1 If a firm receives critical services from one of its business units, it must document A firm must:

(1) identify and document the details of the critical services it receives and details of the critical services required to deliver each of its critical functions and core business lines; and

(2) be able to demonstrate it can put in place the transition arrangements for the continuity of the critical services it receives in the event of the firm being restructured or resolved.

3.2 Subject to 3.2A, if a firm receives critical services from another party, it must ensure the agreement governing the provision of these services:

(1) does not permit the other party to terminate, suspend or materially alter the services or facilities or the agreement as a result of the deterioration in the financial circumstances or the resolution of the firm or any of its group members; and

(2) entitles the firm to continue to receive those services during the firm’s resolution or restructuring as long as the firm fulfils its payment obligations under the agreement.

3.2A 3.2 does not apply in respect of an excluded agreement or an agreement entered into by a firm with an excluded person.

3.3 A firm must ensure that the agreement governing the provision of those critical services is charging structure for the critical services it receives is predictable, transparent and set on arm’s length terms.

3.3A A firm must ensure that the charging structure for the critical services it receives is predictable and transparent.

... 

4 GROUP ARRANGEMENTS FOR OPERATIONAL CONTINUITY

... 

4.3 A firm must ensure that in the event of the deterioration in the financial circumstances of another group member the group provider continues to provide the critical services to the firm in accordance with the agreement governing the critical services provision or the documentation and transition required under 3.1.
## EXTERNALLY DEFINED TERMS

<table>
<thead>
<tr>
<th>Term</th>
<th>Definition source</th>
</tr>
</thead>
<tbody>
<tr>
<td>group</td>
<td>Section 421, Financial Services and Markets Act 2000</td>
</tr>
</tbody>
</table>