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Supervisory Statement | SS2/19

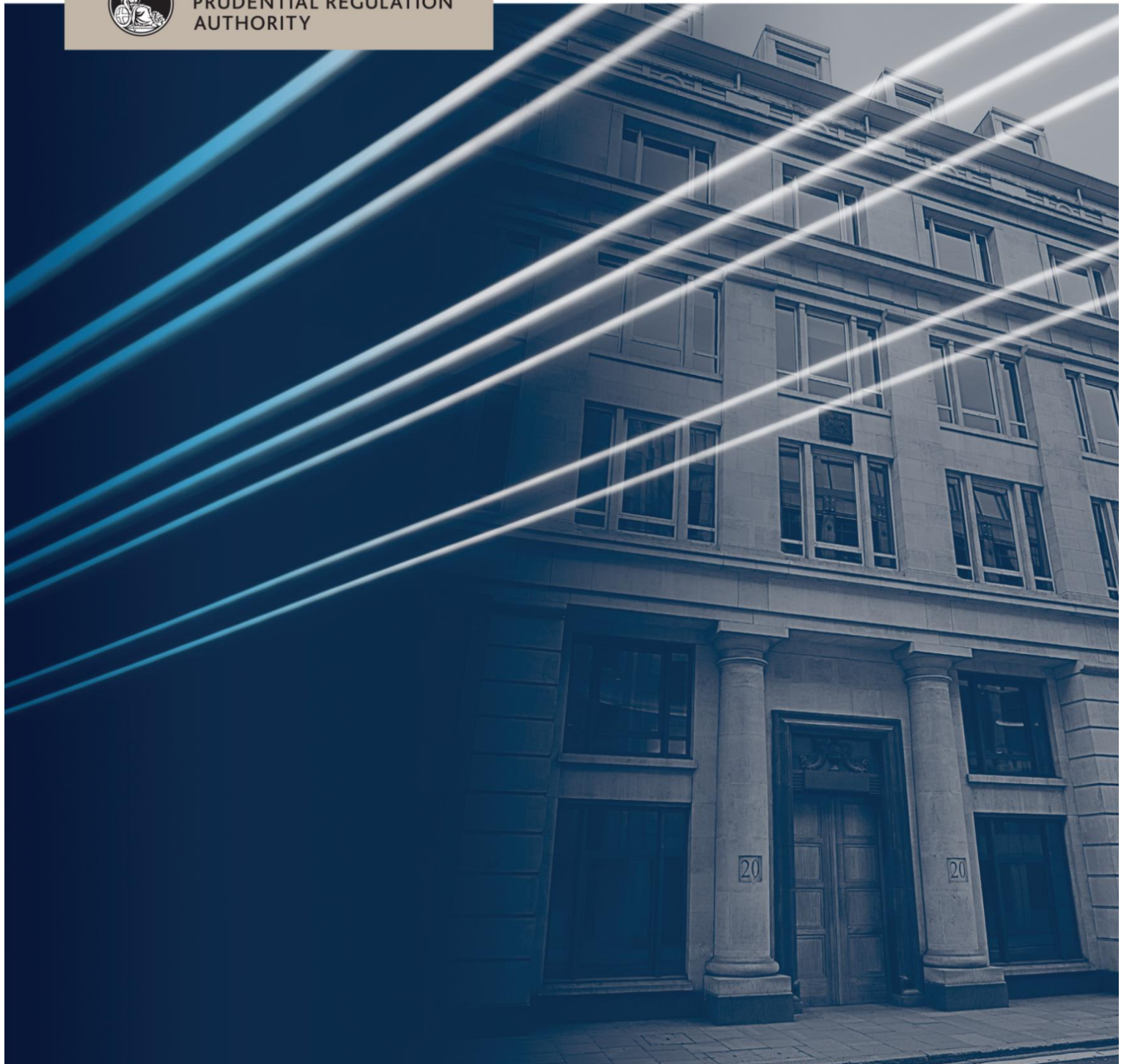
PRA approach to interpreting reporting and disclosure requirements and regulatory transactions forms after the UK's withdrawal from the EU

April 2019

(Finalising February 2019)



BANK OF ENGLAND
PRUDENTIAL REGULATION
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1 Introduction

1.1 This supervisory statement (SS) sets out the approach the Prudential Regulation Authority (PRA) expects firms to take when interpreting EU-based references found in reporting and disclosure requirements and regulatory transactions forms after the UK's withdrawal from the EU. The PRA has not made line-by-line changes to reporting or disclosure requirements, or regulatory transactions forms, as a result of the UK's withdrawal from the EU, as it would not have been proportionate to do so. Instead, the PRA expects firms to interpret EU references in those templates and instructions in accordance with this SS.

1.2 Chapter 2 outlines a general approach on this issue, which is in line with the approach taken more widely when nationalising European requirements. Chapters 3, 4 and 5 detail an expected approach on certain more specific issues. In any instance where the approach set out in Chapters 3, 4 and 5 conflicts with the approach set out in Chapter 2, the approach set out in Chapters 3, 4 and 5 should take priority.

1.3 Chapter 6 sets out how the guidance included in this SS interacts with the general transitional relief.

1.4 Appendix 1 outlines which European Binding Technical Standards (BTS) and which parts of the PRA Rulebook are in scope of this guidance.

2 General approach

2.1 Table A sets out the various different types of EU-based references, and a default approach to how these should be interpreted.

Table A: General approach to interpretation of EU-based references

Type of reference	Default interpretation
Reference to EU regulation	This should be read as a reference to the nationalised version of the regulation.
Reference to EU directive	This should be read as a reference to the UK legislation; PRA or Financial Conduct Authority (FCA) rules; or the UK, PRA or FCA processes that give effect to the directive, as amended on EU withdrawal. In some cases firms may also find it helpful to refer to the text of the EU directive as it stands on the date of UK withdrawal from the EU, to provide additional context.
Reference to EU technical standard	This should be read as a reference to the nationalised version of the technical standard.
Stand-alone reference to the European Union or EU (ie not in relation to legislation); or the European Economic Area or EEA	This should be read as a reference to the UK, except where otherwise noted below.
Reference to Member State, Member States or home Member State	This should be read as a reference to the UK, except where otherwise noted below.
Reference to third country	This should be read as a reference to a non-UK country.

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Type of reference	Default interpretation
Reference to Euros	<p>Where Euro is given as an example of a currency, and the same treatment is applied to other currencies (eg US dollars), no change in interpretation is required.</p> <p>Any reference to a threshold set in Euros will continue to apply.</p> <p>In any other case, further details can be found in Chapters 3, 4 and 5 of this SS of how this should be interpreted.</p>
Reference to definition based on Capital Requirements Regulation (575/2013) (CRR) or Solvency II requirements	<p>In some cases, reporting definitions are written to mirror text in level one legislation (either in addition to, or instead of, including a direct reference to the legislation). Where this happens, institutions should also refer to the relevant nationalised legislation to ensure they are interpreting the reporting requirements properly. Where this differs to the text in the technical standard, the definition in the relevant nationalised legislation should take priority.</p> <p>Example occurrence: The CRR COREP templates on Liquidity Coverage Ratio (Annexes XXIV and XXV of ITS 680/2014) use definitions based on the definitions set out in the Liquidity Commission Delegated Regulation. In most cases, the article reference is provided, but in some cases this is implicit. Firms should ensure their reporting aligns to the nationalised version of the Liquidity Commission Delegated Regulation.</p>
Reference to accounting standards or to a specific accounting standard as endorsed by the EU (eg International Financial Reporting Standards (IFRS) 9)	<p>This should be read as a reference to the implementation of the corresponding accounting standard(s) that is in place in the UK after exit day.</p>
Reference to statistical definitions set out by European bodies outside of legislation (eg by the European Central Bank (ECB), Eurostat or European Commission), or to non-binding materials such as guidelines or Q&As produced by the European Banking Authority (EBA) or the European Insurance and Occupational Pensions Authority (EIOPA).	<p>These should be read as a reference to the definitions or materials as they stand at the date of UK withdrawal from the EU.</p> <p>Example occurrences: References in CRR FINREP templates and instructions to statistical definitions set out in the ECB BSI regulation.¹ References in CRR FINREP templates and instructions to the SME definition set out in the Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises.² References in CRR COREP instructions to the definition of ISO code 3166-1-alpha-2 set out in Eurostat's 'Balance of Payments Vademecum'.³</p>

1 <https://www.ecb.europa.eu/ecb/legal/pdf/02013r1071-20131127-en.pdf>

2 <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32003H0361>

3 <http://ec.europa.eu/eurostat/documents/39118/40189/BOP+Vademecum+-+December+2016/a5e89ad8-254b-485d-a9cd-521885c616e4>

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Type of reference	Default interpretation
References to lists or information produced by European bodies	<p>This should be read as a reference to the equivalent list or information produced by a UK body after EU withdrawal.</p> <p>Example occurrences:</p> <p>The CRR ITS on Disclosure for Own Funds (ITS 1423/2013) refers to the EBA list of capital instruments qualifying as Common Equity Tier (CET)1, as set out in CRR article 26(3). These references should be read as a reference to the corresponding list produced by the PRA.</p> <p>The CRR COREP instructions for C17.01 and C17.02 (Annexes I and II of ITS 680/2014) contain references to supervisory disclosures published on the EBA website, and the gross domestic product at market prices data published by Eurostat. These references should be read as a reference to the corresponding disclosure produced by the PRA,⁴ and the corresponding data published by the Office for National Statistics.</p> <p>The instructions for Solvency II templates S06.02, S08.01, S30.02, S30.04, S31.01 and S31.02 include a list of credit rating agencies as registered or certified by the European Securities and Markets Authority (ESMA). This should be read as a reference to the list of credit rating agencies as registered or certified within the UK.</p>
Reference to 'freedom to provide services'	<p>On the basis that UK firms will no longer write business under the Freedom to Provide Services in the EU after exit:</p> <ul style="list-style-type: none"> • Any data relating to business performed through freedom to provide services will be a nil entry after EU withdrawal. <ul style="list-style-type: none"> ○ Example occurrences: S04.01 and S04.02 Solvency II templates. • Any references to the country where the freedom to provide services notification was made for the purposes of identifying the location where a contract is entered into should be disregarded. <ul style="list-style-type: none"> ○ Example occurrences: S05.02, S12.02 and S17.02 Solvency II templates.

3 Approach to specific cases: Reporting and disclosure requirements based on the CRR

3.1 Table B considers specific cases where CRR reporting and disclosure requirements include EU-based references, and sets out an expected approach in each instance.

Table B: Approach to interpretation of specific EU-based references in reporting and disclosure requirements based on CRR

Reference	Template title	Legislative reference	Interpretation
Geographical splits with different treatment of EU/EEA countries	CRR IP losses (C15)	ITS 680/2014; Annexes VI and VII	The current reporting requirements relating to geographical split continue to apply. In other words, reporting should consist of a total template, one template for each national market in the EU or UK to which the institution is exposed, and one template for aggregated data for all national markets outside the EU/UK.
Row and column labels referring to EU	Leverage ratio disclosures	ITS 2016/200, Annex I	Firms have an option to either retain the reference to the EU or remove this from the row labels.
Euro conversion	GSII indicator	ITS 1030/2014,	Firms should continue to include the Euro

⁴ This can be found on the Regulatory reporting – banking sector page in the prudential regulation section of the Bank of England website: www.bankofengland.co.uk/prudential-regulation/regulatory-reporting/regulatory-reporting-banking-sector.

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Reference	Template title	Legislative reference	Interpretation
rate	reporting	Annex	conversion rate within their disclosures.
Reference to Member State obligations	COREP C12.00, row 150 COREP C13.00, row 420	ITS 680/2014, Annexes I and II	The reference to ‘...Member States shall ensure that the competent authorities impose...’ should be read as ‘...the competent authority shall impose...’
Conservation buffer due to macro-prudential or systemic risk identified at the level of a Member State	COREP C04.00, row 760, C06.02, column 440	ITS 680/2014, Annexes I and II	The reference to ‘...conservation buffer due to macro-prudential or systemic risk identified at the level of a Member State...’ should be read as ‘...conservation buffer due to enhanced prudential measures...’
References to Capital Requirements Directive (2013/36/EU) (CRD) Article 140(4) within counter-cyclical capital buffer disclosure requirements	CCyB disclosures	ITS 2015/1555, Annexes I and II	References in Part II of Annex II to exposures ‘defined in accordance with Article 140(4)(a) of Directive 2013/36/EU’ shall be read as references to ‘all exposure classes (other than those referred to in points (a) to (f) of CRR Article 112) that are subject to the own funds requirements for credit risk under Part Three, Title II of that Regulation’. References in Part II of Annex II to exposures ‘defined in accordance with Article 140(4)(b) of Directive 2013/36/EU’ shall be read, where the exposure is held in the trading book, as references to ‘all exposure classes (other than those referred to in points (a) to (f) of CRR Article 112) that are subject to the own funds requirements for specific risk under Part Three, Title IV, Chapter 2 of that Regulation or incremental default and migration risk under Part Three, Title IV, Chapter 5 of that Regulation’. References in Part II of Annex II to exposures ‘defined in accordance with Article 140(4)(c) of Directive 2013/36/EU’ shall be read, where the exposure is a securitisation as references to ‘all exposure classes (other than those referred to in points (a) to (f) of CRR Article 112) that are subject to the own funds requirements under Part Three, Title II, Chapter 5 of that Regulation’. References to relevant credit exposures defined in accordance to Article 140(4) of Directive 2013/36/EU are to be read in line with the instructions above.
EU references contained within the definitions of benchmarking portfolios and corresponding reporting instructions	Benchmarking templates	2016/2070, all annexes	The definitions of the benchmarking portfolios should remain unchanged. For the avoidance of doubt, this means that any references to codes assigned by the EBA; to Euros; to Central European Time (CET); and to European OTC options should remain as they are.
Reference to joint decisions	Benchmarking template C105.01	2016/2070, Annexes III and IV	Firms should report whether a joint decision, made prior to the date of EU withdrawal, continues to apply in relation to the use of the IRB approach for exposures included in the benchmarking portfolios.

4 Approach to specific cases: Reporting and disclosure requirements based on Solvency II

4.1 Table C considers specific cases where Solvency II reporting and disclosure requirements include EU-based references, and sets out an expected approach in each instance.

Table C: Approach to interpretation of specific EU-based references in reporting and disclosure requirements based on Solvency II

Reference	Template title	Legislative reference	Interpretation
Geographical splits with different treatment of EU/EEA countries	S04.01, S04.02, S12.02, S17.02	ITS 2015/2450, Annexes I and II	The current reporting requirements relating to geographical split continue to apply. References to the EEA should be read as a reference to the EEA plus the UK, and references to non-EEA should be read as a reference to all non-EEA countries excluding the UK.
References to repealed legislation	S22.04, S22.05	ITS 2015/2450, Annexes I and II	Some Solvency II reporting and disclosure templates contain references to repealed legislation (Directive 2002/83/EC and Directive 2005/68/EC). Firms should continue to refer to this as at the date of last application.
References to repealed CRD legislation	S23.01	ITS 2015/2450, Annexes I, II and III ITS 2015/2452, Annexes I, II and III	References to 'credit institutions authorised in accordance with Directive 2006/48/EC' should be read as a reference to PRA-regulated credit institutions.
Method for allocating identifying code	Multiple templates	ITS 2015/2450, Annexes I, II and III	The instructions for assigning identifying codes distinguish between entities in the EEA and those outside the EEA. Firms should continue to use the same identifying codes as they have used previously.
Method for allocating code to be used for Issuer Country	S06.02, S06.03, S11.01	ITS 2015/2450, Annexes I, II and III	Firms should continue to use the code 'EU' for European Union Institutions

5 Approach to specific cases: reporting and disclosure requirements set out in PRA Rulebook requirements

5.1 Table D considers specific cases where templates within the PRA Rulebook reporting and disclosure requirements include EU-based references, and sets out an expected approach in each instance.

5.2 The Appendix lists the PRA parts and subsections in scope of this guidance.

Table D: Approach to interpretation of specific EU-based references in reporting and disclosure requirements set out in PRA rules

Reference	Template title	Rulebook reference	Interpretation
Geographical splits with different treatment of EU/EEA countries	FSA016	CRR Firms; Regulatory Reporting Part	The reporting requirements for this template remain unchanged. Row 2 should report investments relating to UK and EEA countries, and row 3 should report investments related to all countries except the UK and EEA countries.
Row and column labels referring to EU	FSA083	CRR Firms; Reporting Leverage Ratio Part	No changes required to the current template; the references to 'EU' in the row and column labels should remain unchanged.
Reference to EEA branches	Branch Return	Non-CRR Firms; Incoming and Third Country Firms Part; Branch Return	The reporting requirement in row 9 of the Lending section remains unchanged.
Conservation buffer due to macro-prudential or systemic risk identified at the level of a Member State	PRA101, PRA102, PRA103	CRR Firms; Regulatory Reporting Part; Capital +	The reference to '...conservation buffer due to macro-prudential or systemic risk identified at the level of a Member State...' in the templates should be read as '...conservation buffer due to enhanced prudential measures...'

6 Interaction with wider transitional relief

6.1 The PRA has set out in a direction and accompanying guidance⁵ the approach it is taking to transitional relief. The reporting and disclosure expectations in scope of this supervisory statement should be interpreted in light of the direction and guidance.

⁵ The directions and accompanying guidance are available at: <https://www.bankofengland.co.uk/eu-withdrawal/transitioning-to-post-exit-rules-and-standards>.

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Appendix: Scope

The PRA expects firms to apply the approach set out in this SS to the Annexes of the following European Binding Technical Standards (as amended up until the date of UK withdrawal from the EU):

Firms	Title	Reference
CRR Firms	Supervisory reporting of institutions according to Regulation (EU) No 575/2013 of the European Parliament and of the Council	ITS 680/2014
CRR Firms	Disclosure of own funds requirements for institutions according to Regulation (EU) No 575/2013 of the European Parliament and of the Council	ITS 1423/2013
CRR Firms	Disclosure of the leverage ratio for institutions, according to Regulation (EU) No 575/2013 of the European Parliament and of the Council	ITS 2016/200
CRR Firms	Uniform formats and date for the disclosure of the values used to identify global systemically important institutions according to Regulation (EU) No 575/2013 of the European Parliament and of the Council	ITS 1030/2014
CRR Firms	Disclosure of information in relation to the compliance of institutions with the requirement for a countercyclical capital buffer in accordance with Article 440	RTS 2015/1555
CRR Firms	Disclosure of encumbered and unencumbered assets	RTS 2017/2295
CRR Firms	Templates, definitions and IT-solutions to be used by institutions when reporting to the European Banking Authority and to competent authorities in accordance with Article 78(2) of Directive 2013/36/EU of the European Parliament and of the Council	ITS 2016/2070
SII Firms	Templates for the submission of information to the supervisory authorities according to Directive 2009/138/EC of the European Parliament and of the Council	ITS 2015/2450
SII Firms	Procedures, formats and templates of the solvency and financial condition report in accordance with Directive 2009/138/EC of the European Parliament and of the Council	ITS 2015/2452
SII SPVs	Procedures for supervisory approval to establish special purpose vehicles, for the cooperation and exchange of information between supervisory authorities regarding special purpose vehicles as well as to set out formats and templates for information to be reported by special purpose vehicles in accordance with Directive 2009/138/EC of the European Parliament and of the Council	ITS 2015/462

The PRA expects firms to apply the approach set out in this SS to templates contained within the following parts, and sub-sections, of the PRA Rulebook:

Firms	Rulebook part	Sections
CRR Firms	Regulatory Reporting	All
CRR Firms	Reporting Leverage Ratio	All
CRR Firms	Reporting Pillar 2	All
Non-CRR Firms	Credit Unions	19 Regulatory Reporting for Credit Unions
Non-CRR Firms	Incoming Firms and Third Country Firms	3 Branch Return 4 Form
Non-SII Firms	Friendly Society – Reporting	All
Non-SII Firms	Insurance Company – Reporting	All
SII Firms	Reporting	All
SII Firms	Third Country Branches	9 Reporting
Controllers	Change in Control	6 Forms
All firms	Senior Managers Regime – Applications and Notifications	8 Forms
ISPVs	Insurance Special Purpose Vehicles	6 Forms
All firms	Notifications	10 Forms