



Supervisory Statement | SS1/19

Non-binding PRA materials: The PRA's approach after the UK's withdrawal from the EU

December 2020

(Updating April 2019)





BANK OF ENGLAND
PRUDENTIAL REGULATION
AUTHORITY

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1 Introduction

1.1 This supervisory statement (SS) elaborates on how firms should interpret existing non-binding PRA regulatory and supervisory materials in light of the UK's withdrawal from the EU and the end of the transition period. This includes the PRA's existing approach documents, statements of policy (SoPs), and SSs – these are collectively referred to as the PRA's 'non-binding materials'.

1.2 This SS is relevant to all PRA-regulated firms operating, or intending to operate, in the UK. The PRA may issue further expectations in relation to this topic.

1.3 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 is defined in UK law as 'IP completion day', during which EU law continued to apply to the UK. HM Treasury has used its powers under the European Union (Withdrawal) Act 2018 (the 'Act') to ensure that the UK continues to have a functioning financial services regulatory regime at the end of the transition period. To do this, it has ensured that EU-derived laws and rules that were in place in the UK before the end of the transition period continue to apply in the UK to the extent that they remain operable. Changes have only been made to those laws or rules that would otherwise not operate appropriately. This provides continuity and certainty for firms at the end of the transition period.

1.4 Setting out the PRA's approach to its non-binding materials after the end of the transition period also helps provide certainty to firms. Except for SS18/15 'Depositor and dormant account protection', the PRA has not made line-by-line amendments to its non-binding materials, as a result of the UK's withdrawal from the EU and the end of the transition period.

2 Supervisory expectations for firms on the UK's withdrawal from the EU and the end of the transition period

2.1 Alongside PRA rules, the PRA also issues supervisory approach documents,¹ SoPs,² and SSs.³

- The supervisory approach documents set out information on the PRA's supervisory practices including its approach to the supervision of different types of firms.
- SoPs are the formal documents in which the PRA details its policy on a particular matter. SoPs usually set out the PRA's approach to exercising powers conferred by the Financial Services and Markets Act 2000 ('FSMA'). They do not contain the PRA's expectations, which are set out in supervisory statements.
- Supervisory statements set flexible frameworks for firms, incorporating new and existing expectations. They focus on the PRA's expectations and are aimed at facilitating firm and supervisory judgement in determining whether they meet those expectations. They do not set absolute requirements – these are contained in rules.

¹ Available at: <https://www.bankofengland.co.uk/prudential-regulation/publication/2018/pr-a-approach-documents-2018>.

² Available at: <https://www.bankofengland.co.uk/news/prudential-regulation?NewsTypes=65d34b0d42784c6bb1dd302c1ed63653&Taxonomies=7d299a7477874858849990ea23f885c0&Direction=Latest%27>.

³ Available at: <https://www.bankofengland.co.uk/news/prudential-regulation?NewsTypes=65d34b0d42784c6bb1dd302c1ed63653&Taxonomies=65a33f20fd5241d58bd01d5fb54bded8&Direction=Latest%27>.

2.2 In general, the PRA has not made line-by-line amendments to non-binding materials before the end of the transition period. However, after the end of the transition period, firms should read and interpret these materials in light of the UK's withdrawal from the EU, as well as the amendments that have been made to related legislation under the European Union (Withdrawal) Act 2018 (the 'Act'). This includes changes to the PRA Rulebook and Binding Technical Standards, under the Act. In particular, firms should take into account the key changes to legislation outlined in Chapter 3 of this SS. For example, SSs that set out the PRA expectations for firms in relation to European joint decision processes are no longer relevant. Firms should also interpret these materials in light of the use of any relevant transitional relief, including that provided by the Bank and PRA under the temporary transitional power.

3 Relevant legislative changes

3.1 There are various key changes being made to legislation that firms should consider when interpreting existing PRA non-binding materials. A non-exhaustive list of these changes is set out below.

- Passporting under EU financial services legislation is no longer available in the UK after the end of the transition period.⁴ Therefore, any reference to EEA passporting, or processes associated with EEA passporting, are redundant.
- Functions carried on by EU authorities that exist solely to support the EU single market are redundant and have therefore been deleted. Other roles and responsibilities that were previously carried out by EU authorities have been reallocated to the most appropriate UK authority after the end of the transition period, to the extent that they remain relevant. For example, HM Treasury has transferred to the PRA the European Insurance and Occupational Pensions Authority (EIOPA) function of declaring an 'Exceptional Adverse Situation'. Firms should interpret references to EU functions with reference to the new UK authority taking on that function.
- The treatment of EU firms and assets for the purposes of capital and liquidity requirements has, in most cases, been aligned with the treatment of third countries' firms and assets. Therefore, references to preferential treatment of EU assets are no longer relevant and firms should have reference to the third country treatment of those assets.
- Where capital or liquidity consolidation was only required at the EEA level previously, after the end of the transition period this is required at the UK level. (For insurance groups, firm-specific consolidation waivers remain available.) Therefore, firms should interpret any reference to the EEA consolidated group, to the UK consolidated group.

3.2 The PRA expects firms to read and interpret existing PRA non-binding materials in light of any relevant onshoring changes to the legislation to which they relate. More information on the Bank's and PRA's general approach to amending financial services legislation is available in CP25/18 'The Bank of England's approach to amending financial services legislation under the European Union (Withdrawal) Act 2018'.⁵

⁴ [Passporting rights will continue for firms operating between the UK and Gibraltar](#). The Financial Services (Gibraltar) (Amendment) (EU Exit) Regulations 2019 established transitional arrangements for Gibraltar that will preserve the status quo of deemed-passporting for Gibraltar firms after the end of the transition period. These transitional arrangements have been extended until Friday 31 December 2021 by The Financial Services (Gibraltar) (Amendment) (EU Exit) Regulations 2020. The arrangements can be further extended until such time as the permanent arrangements of the Gibraltar Authorisation Regime are in place.

⁵ October 2019: <https://www.bankofengland.co.uk/paper/2018/the-boes-approach-to-amending-financial-services-legislation-under-the-eu-withdrawal-act-2018>.