

**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.

Part	Annex
Glossary	Annex A
Operational Continuity	Annex B

**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

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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.

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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*

means Regulation (EU) No 909/2014 of the European Parliament and of the Council of 23 July 2014 on improving securities settlement in the European Union and on central securities depositories and amending Directives 98/26/EC and 2014/65/EU and Regulation (EU) No 236/2012.

*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*

Commission Implementing Regulation (EU) No 680/2014 as amended by Commission Implementing Regulation (EU) No 2016/313 laying down implementing technical standards with regard to supervisory reporting of institutions according to Regulation (EU) No 575/2013 of the European Parliament and of the Council.

*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*~~

~~Commission Implementing Regulation (EU) No 680/2014 as amended by Commission Implementing Regulation (EU) No 2016/313 laying down implementing technical standards with regard to supervisory reporting of institutions according to Regulation (EU) No 575/2013 of the European Parliament and of the Council.~~

*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

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- 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

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- 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 *these critical services* it receives in the event of the *firm* being restructured or resolved.
- 3.2 Subject to 3.2A, if ~~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~~ If a *firm* receives *critical services* from another party, it 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.

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## 4 GROUP ARRANGEMENTS FOR OPERATIONAL CONTINUITY

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- 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

<b>Term</b>	<b>Definition source</b>
group	Section 421, Financial Services and Markets Act 2000