



Supervisory Statement | SSXX/XX

Ensuring operational continuity in resolution

October 2020 (draft to accompany CP20/20)

Draft for consultation





BANK OF ENGLAND
PRUDENTIAL REGULATION
AUTHORITY

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1 Introduction

1.1 This Prudential Regulation Authority (PRA) supervisory statement (SS) sets out the PRA's expectations on firms to ensure operational continuity of critical and essential services to facilitate recovery actions, resolution and any related restructuring. It supersedes SS9/16 'Ensuring operational continuity in resolution'.

1.2 The SS is relevant to United Kingdom (UK) banks, building societies, and PRA-authorized investment firms (firms) to which the Operational Continuity Part of the PRA Rulebook (Operational Continuity) applies.

1.3 Operational continuity of critical and essential services during recovery, resolution and restructuring is supported by other parts of the micro-prudential regulatory framework. Alongside Operational Continuity, the PRA expects that:

- firms will have regard to the PRA's Fundamental Rules (in particular Rules 2-6 and 8) and the General Organisational Requirements Part of the PRA Rulebook (in particular Rule 2.5) when implementing arrangements to comply with Operational Continuity and this SS;
- as set out in the Outsourcing Part of the PRA Rulebook¹ and other regulatory requirements and expectations on outsourcing and third-party risk management, firms remain responsible when functions are outsourced to a third party. In addition, as set out in SSXX/XX 'Outsourcing and third party risk management',² firms should have appropriate governance and internal controls to identify, manage and report risks resulting from all arrangements with third parties;
- the operational resilience of critical or essential service provision should not be undermined by restructuring related to recovery or resolution. The PRA Fundamental Rules³ remain relevant to decision making during operational disruptions. In addition, the PRA expects that, under the Operational Resilience Part of the PRA Rulebook and SSXX/XX 'Operational resilience: Impact tolerances for important business services',⁴ firms should ensure they maintain operational resilience before, during and after resolution. This expectation applies where critical or essential services are also important business services under the PRA's operational resiliency policy; and
- ring-fenced bodies (RFBs)⁵ should have regard to the Ring-fenced Bodies Part of the PRA Rulebook (Ring-fenced Bodies) when implementing arrangements to comply with Operational Continuity and this SS.

1.4 The PRA expects that when implementing the expectations in this supervisory statement, firms will have regard to the Bank of England's (the Bank) policies on resolvability. In particular, these include:

¹ <http://www.prarulebook.co.uk/rulebook/Content/Part/214147>.

² December 2019: <https://www.bankofengland.co.uk/prudential-regulation/publication/2019/outsourcing-and-third-party-risk-management>. At the time of publication of this draft SS for consultation, the draft supervisory statement 'Outsourcing and third party risk management' had not been finalised. Subject to the final form of that SS, the final version of this SS may be updated accordingly.

³ Fundamental Rules 2-6 and 8 are particularly relevant for this example.

⁴ December 2019: <https://www.bankofengland.co.uk/prudential-regulation/publication/2018/building-the-uk-financial-sectors-operational-resilience-discussion-paper>. At the time of publication of this draft SS for consultation, the draft Operational Resilience Part of the PRA Rulebook and draft supervisory statement 'Operational resilience: Impact tolerances for important business services' had not been finalised. Subject to the final form of the rules and that SS, the final version of this SS may be updated accordingly.

⁵ As defined in Section 142A of the Financial Services and Markets Act 2000.

- Statement of Policy: The Bank of England’s Approach to Assessing Resolvability;
- The Bank of England’s Statement of Policy on Continuity of Access to Financial Market Infrastructure (FMIs);
- The Bank of England’s Statement of Policy on Funding in Resolution;
- The Bank of England’s Statement of Policy on Management, Governance and Communication; and
- The Bank of England’s Statement of Policy on Restructuring Planning.⁶

2 Scope and definitions

Scope of application

2.1 Operational Continuity applies to firms that meet the conditions set out in Operational Continuity 1.1. The PRA will take into account the specific circumstances of firms when considering how they meet these requirements.

2.2 The PRA considers that the manner in which a UK incorporated firm should meet the requirements in Operational Continuity may vary according to whether the Bank is the firm’s home or host resolution authority (‘home firm’ and ‘hosted firm’ respectively). This is because the PRA considers that this may affect how firms should prepare for resolution under PRA Fundamental Rule 8.

2.3 Unless otherwise stated, all the expectations in the subsequent chapters of this supervisory statement apply to home firms. The PRA’s expectations of how hosted firms should meet the requirements in the rules are described in paragraph 2.6.

2.4 Where it advances the PRA’s general objective to promote the safety and soundness of the firms it regulates, the PRA may use its power under section 55M of the Financial Services and Markets Act 2000 (FSMA) to require firms to meet Operational Continuity and the expectations in this SS. For example, if a firm has been authorised for less than 36 months but exceeds one of the quantitative thresholds in Operational Continuity 1.1 with less than 36 months of data, the PRA will assess on a case-by-case basis whether the firm is in scope and therefore should comply with Operational Continuity and this SS. The PRA will consult with affected firms before reaching a decision.

2.5 For third country firms operating in the UK through a branch, the PRA intends to follow the same supervisory approach as that set out in SS1/18 ‘International banks: the Prudential Regulation Authority’s approach to branch authorisation and supervision’.⁷ The PRA will consider the operational continuity regime of the home authority when determining the risk appetite around the critical functions the UK branch of the third country firm intends to perform or is performing in the UK.

Expectations for hosted firms

2.6 The PRA expects hosted firms to implement and maintain arrangements that meet the requirements in Operational Continuity and the expectations in this SS. The PRA considers that for

⁶ All of these statements of policy are available at <https://www.bankofengland.co.uk/paper/2019/the-boes-approach-to-assessing-resolvability>.

⁷ March 2018: <https://www.bankofengland.co.uk/prudential-regulation/publication/2018/international-banks-pras-approach-to-branch-authorisation-and-supervision-ss>.

some expectations, as set out below, hosted firms may be able to rely on group-wide capabilities that achieve broadly comparable outcomes. The PRA considers this approach to be consistent with the Bank's approach to assessing the resolvability of hosted firms with reference to the capabilities of the resolution group.⁸ Those expectations are as follows:

- paragraphs 5.4 and 5.5 – information and arrangements that should be maintained to support the design and implementation of transitional service agreements (TSAs), at the exception of the reference to Chapter 9 on predictable and transparent charging structures;
- paragraphs 8.1 to 8.3 – objective service level agreements;
- paragraphs 11.2 to 11.11 – financial arrangements; and
- paragraphs 12.2 to 12.3 – management and governance arrangements.

Critical and essential services

2.7 Critical and essential services are defined in the PRA Rulebook. In particular:

- critical services are those services that need to be available to one or more business units of a firm or entity of a group in order to provide functions critical to the economy;⁹
- essential services are those services that need to be available to one or more business units of a firm or entity of a group in order to support core business lines;¹⁰ and
- services can be identified as both critical and essential.

2.8 The PRA's expectations on the identification of essential services vary between home and hosted firms. For home firms, the PRA expects services performed for the firm to be identified as essential with respect to the core business lines of the firm and its group. For hosted firms, the PRA expects services performed for the firm to be identified as essential with respect to the core business lines of the firm's group only.

2.9 Firms can organise the critical and essential services they receive in a number of ways:

- services received from an entity that is not part of their group (non-group provider);¹¹
- services received from another entity within their group (intra-group);
- services provided by a business unit within the firm itself to one or more of its other business units (intra-entity); or
- a combination of the above.

3 Demonstrating effective operational arrangements to facilitate recovery and resolution

3.1 Chapter 2 of Operational Continuity requires firms to ensure their operational structure facilitates effective planning for, and taking action during, recovery, resolution and any related

⁸ See Chapter 2 of Statement of Policy: The Bank of England's Approach to Assessing Resolvability.

⁹ See Glossary Part of the PRA Rulebook.

¹⁰ See Operational Continuity 1.5.

¹¹ This may include providers that are regulated by the PRA.

restructuring. The PRA expects firms, irrespective of their service provision model, should be able to demonstrate how their operational arrangements supporting critical and essential services facilitate recovery and resolution. Firms should also have appropriate policies, processes and procedures in place to be able to demonstrate how operational arrangements supporting critical and essential services meet all other relevant expectations in this supervisory statement and the requirements in Operational Continuity (see also paragraph 4.4 of this SS).

3.2 In the Statement of Policy ‘The Bank of England’s Approach to Assessing Resolvability’, the Bank has provided a stylised timeline of how it anticipates a resolution may be conducted.¹² Where relevant, the PRA expects firms to refer to this timeline when considering how their operational arrangements facilitate recovery and resolution.

3.3 If a firm cannot demonstrate how its operational arrangements facilitate recovery and resolution, the PRA expects the firm to make changes to achieve this outcome. Supervisory judgement will be required to assess this but, as a minimum, the PRA expects firms to be able to describe what would happen to critical and essential services if recovery options were executed or if the Bank were to apply one of its stabilisation powers. This includes the examples listed below, where relevant:

- in cases where a firm has identified the disposal of business units or legal entities as part of its recovery strategy, how its operational arrangements support the execution of recovery options within a reasonable time;
- how their operational arrangements support operational continuity during a resolution. If the Bank (as resolution authority) has set a preferred resolution strategy of bail-in, operational arrangements should support operational continuity throughout resolution as described in the stylised timeline referred to in paragraph 3.2 above;
- how their operational arrangements facilitate related restructuring, within a reasonable time. For example, firms should be able to evidence how the arrangements facilitate separability and restructuring of group entities while ensuring continuity of critical and essential services; and
- how their operational arrangements facilitate separability of a RFB and its sub-group from the other entities in the wider group.

4 Identifying and documenting critical and essential services

4.1 This chapter sets out the PRA’s expectations on the identification and documentation of firms’ critical and essential services, required under Operational Continuity 3.1(1).

4.2 The PRA expects firms, irrespective of their service provision model, to undertake identification and documentation of their operational arrangements for critical and essential services. This is referred to as mapping and should include:

- **identification of services.** This should involve identifying legal entities, business lines or divisions that perform critical functions or are core business lines. Firms should determine an

¹² See ‘Annex 1: A Stylised Resolution Timeline’ in Policy Statement ‘The Bank of England’s Approach to Assessing Resolvability’, available at <https://www.bankofengland.co.uk/paper/2019/the-boes-approach-to-assessing-resolvability>.

appropriate scope of critical and essential services that support these, as well as the underlying cost structures, operational assets and any interdependencies; and

- **documentation of operational arrangements.** Firms should maintain comprehensive documentation of service arrangements. This should be updated at least annually or in a timely manner following material changes to firms' service provision. Documentation could take the form of a service catalogue and should include, at a minimum:
 - identified critical or essential services and the critical functions or core business lines they support;
 - the service provision model used;
 - information about each party, including jurisdiction;
 - service level agreements;
 - contractual arrangements;
 - pricing;
 - operational assets used, including ownership information;
 - relevant policies, processes, and procedures; and
 - interdependencies.

4.3 The PRA expects firms to ensure that information relating to their operational arrangements for critical and essential services is available when and where needed. Firms should be able to access, search, extract and leverage the information in planning for and executing recovery actions, resolution, or both. This should also include providing information, where requested, to the PRA, Bank (as resolution authority), a bail-in administrator appointed by the Bank, or (for hosted firms) the home resolution authority.

4.4 The PRA expects firms should be able to use the identification and documentation of their critical and essential services to demonstrate to the PRA that they have comprehensively identified all critical and essential services.

4.5 The PRA expects firms to consider how they may be able to use the identification and documentation of their critical and essential services to support implementation of other PRA policies, or leverage other record-keeping requirements to support their OCIR identification and documentation. Other relevant requirements include the draft expectations on maintaining an Outsourcing Register contained in SSXX/XX 'Outsourcing and third party risk management',¹³ and Rule 4.1 'Mapping' of the Operational Resilience Part of the PRA Rulebook.¹⁴ Chapter 1 of this SS sets out further links to other, non-OCIR requirements and expectations.

¹³ December 2019: <https://www.bankofengland.co.uk/prudential-regulation/publication/2019/outsourcing-and-third-party-risk-management>. At the time of publication of this draft SS for consultation, the draft supervisory statement 'Outsourcing and third party risk management' had not been finalised. Subject to the final form of that SS, the final version of this SS may be updated accordingly.

¹⁴ December 2019: <https://www.bankofengland.co.uk/prudential-regulation/publication/2018/building-the-uk-financial-sectors-operational-resilience-discussion-paper>. At the time of publication of this draft SS for consultation, the draft Operational Resilience Part of the PRA Rulebook had not been finalised. Subject to the final form of the rules, the final version of this SS may be updated accordingly.

5 Ensuring continuity during changes to service provision

5.1 In implementing Operational Continuity 3.1(2), firms should have the capability to ensure continuity of critical and essential services during possible changes to service provision resulting from restructuring related to recovery or resolution. Firms should have the capability to ensure continuity irrespective of the scenarios that they may encounter during such a restructuring and should take different scenarios into account in planning for continuity.¹⁵

5.2 The PRA expects firms to consider how their capabilities would be effective in practice. The ways firms could meet this expectation include, but are not limited to, maintaining a playbook or documented and practised procedures.

5.3 At a minimum, the PRA expects firms to be able to develop and implement TSAs, in a timely and prudent manner, during recovery, resolution, and related restructuring. TSAs support the continuity of a particular critical function or core business line by facilitating, without interruption, the transfer of the provision of relevant critical or essential services to another provider, or the separation of a firm's activities that are supported by critical or essential services.

5.4 The exact design of a TSA cannot be determined in advance of resolution, as it will depend on the circumstances of the firm in resolution. Firms should have appropriate operational arrangements, and availability of relevant information, to support them in designing and implementing the TSAs as they become necessary in resolution. In order to do so, the PRA expects that, at a minimum, firms should maintain:

- information about interdependencies among firms and service providers (Chapter 4 of this SS);
- objective service level agreements (Chapter 8 of this SS);
- predictable and transparent charging structures (Chapter 9 of this SS); and
- management and governance arrangements (Chapter 12 of this SS).

5.5 The list in paragraph 5.4 is a minimum expectation. The PRA expects firms to consider whether further arrangements, in addition to the expectations listed in paragraph 5.4, may be necessary to maintain their ability to design and implement TSAs. The PRA expects that if a firm identifies any further arrangements necessary to meet the expectation in paragraph 5.4, it will put them in place in a timely manner.

5.6 Where one or more of a firm's critical or essential services involves services provided via a direct relationship with an FMI and is in scope of the Bank's Statement of Policy on 'Continuity of Access to Financial Market Infrastructures (FMIs)', the PRA considers that firms may be able to leverage their contingency planning under that SoP to meet the expectations in this chapter with regard to those services.

¹⁵ Firms may be able to draw on their implementation of the Bank of England Statement of Policy 'Restructuring Planning', available at <https://www.bankofengland.co.uk/paper/2019/the-boes-approach-to-assessing-resolvability>.

6 Resolution-resilient contracts

6.1 Operational Continuity 3.2 sets requirements relating to agreements governing the provision of critical and essential services. Where there are agreements or contracts between two entities, it is expected that the steps to achieve this could include, but are not necessarily limited to:

- clauses in agreements or contracts for critical or essential services provided by intra-group or non-group providers that allow for continued provision and use of services in stress and resolution. Contracts or agreements should remain valid and enforceable before and after the firm or a group member has entered stress or resolution, provided there is no default on payment obligations (this does not apply if the contract ends due to an upcoming maturity date); and
- clauses in agreements or contracts that allow for the continued use of such products or receipt of such services by entities for a reasonable period of time following their disposal by a group, in order to support restructuring. These clauses should support a firm in designing and implementing TSAs (see Chapter 5).

6.2 The steps outlined in paragraph 6.1 are not exhaustive. The PRA expects firms to consider what additional steps they may need to take to comply with Operational Continuity 3.2.

6.3 The PRA does not expect firms to apply the expectations set out in paragraphs 6.1 and 6.2 to excluded agreements or agreements with an excluded person, as defined in Operational Continuity 1.5.

7 Prevention of preferential treatment

7.1 In implementing Operational Continuity 4.3, the PRA expects firms to be able to demonstrate that in the event of a deterioration in the financial circumstances of another group member, a group provider continues to treat the firm in accordance with:

- the existing agreement governing the provision of critical or essential services if the firm receives the services from an intra-group service provider; or
- the relevant documentation if the firm receives critical or essential services from an intra-entity service provider.

8 Objective service level agreements

8.1 For all service provision models, objective documentation of service provision helps to identify operational interdependencies, may guide restructuring efforts, and provides a basis for TSAs.

8.2 In implementing Operational Continuity 3.1, the PRA expects firms to ensure that the arrangements for the provision of critical and essential services are objective and well documented, and include the following as a minimum:

- clear parameters against which service provision can be measured, including quantifiable and qualitative metrics and performance indicators;
- the provider and recipient(s) of the service;¹⁶
- the nature of the service and its charging structure;
- any onward provision to other entities or sub-contracting to non-group providers; and
- for intra-group and non-group critical or essential services, provisions that terms and pricing should not change as result of a party to the contract entering stress or resolution (see Chapter 6).

8.3 The PRA expects that, consistent with Chapter 4 of this SS, objective SLAs are comprehensive, up to date and accessible. This includes being able to provide relevant information to the PRA within a reasonable timeframe, if requested.

9 Predictable and transparent charging structures

9.1 This chapter sets out the PRA's expectations regarding charging structures, as required under Operational Continuity 3.3 and 3.3A. Appropriate charging structures for critical and essential services can help to ensure that service provision can more easily be transferred, if needed, to another service provider during resolution or restructuring. This may include the development and implementation of a TSA and should support the capabilities described in Chapter 5 of this SS.

9.2 Charging structures should be on terms that allow the service provider to be readily substituted with another service provider, such that critical or essential services could be provided on an uninterrupted basis. The PRA's expectations on charging structures vary according to firms' service provision models:

- For all types of service provision model, charging structures for critical or essential services must be predictable and transparent. The PRA expects that a charging structure should enable any future charges for critical and essential services to be either known or calculable. The charging structure should be clear and easily understood, enabling firms to understand at a sufficiently granular level the charges for each critical or essential service. This does not mean that the PRA expects payments for services to pass between business units of the same firm in the case of intra-entity critical or essential service provision.
- For intra-group and non-group providers, charging structures for critical or essential services must also be set on arm's-length terms.

10 Access to operational assets

10.1 In implementing Operational Continuity 3.4, the PRA expects firms to be able to demonstrate how access to operational assets supporting critical or essential services will be maintained at the point of stress, resolution or related restructuring of the firm, another group entity or the service provider itself. This applies irrespective of the firm's service provision model.

¹⁶ For intra-entity critical or essential services, this may be the business unit providing or receiving the service.

10.2 Types of operational assets the PRA considers should meet this expectation include, but are not limited to, technology, data, intellectual property, premises, licences, and leases.

10.3 This expectation is particularly important for subsidiaries where a subsidiary's parent company (or another subsidiary on behalf of the group) negotiates contractual arrangements at a group level.

10.4 If firms cannot adequately demonstrate that they will have continued access to operational assets of any group entity in resolution, the PRA may expect operational assets necessary for performing critical or essential services to be owned or leased by the same firm that receives the critical or essential services.

11 Financial arrangements

11.1 In implementing Operational Continuity 2.3, the PRA expects firms to have arrangements in place to ensure, on a forward-looking basis, that they:

- (a) can meet payment obligations for critical or essential services, including through recovery, resolution, and related restructuring; and
- (b) ensure that intra-group critical or essential service providers would remain financially resilient during recovery, resolution, and related restructuring. Generally, financial resilience is achieved by providers of critical or essential services being able to absorb losses and having adequate liquidity. Firms should also manage the risks associated with the liabilities of critical or essential service providers.

11.2 The PRA expects firms to identify risks to fulfilling the requirement under Operational Continuity 2.3, including the expectations under paragraph 11.1 of this SS, and, wherever possible, take remedial action. The PRA expects that the identification of risks includes the risk of internal frictions that may arise in resolution, whereby financial resources that are available within the firm's group cannot be accessed by a critical or essential service provider in a sufficiently timely manner.

11.3 The PRA expects firms' risk identification to be supported by scenario analysis that enables the firm to understand the risks to continuity of critical or essential service provision from severe, but plausible, scenarios that the firm may face during recovery and resolution. The PRA expects firms to consider multiple scenarios that are relevant to their business models and are sufficiently severe to test the operational continuity of critical and essential service providers. Firms should be able to use their scenario analysis to demonstrate to the PRA, on request, that they have fulfilled the requirement under Operational Continuity 2.3, including the expectations under paragraph 11.1 of this SS. Scenarios could include, but are not limited to:

- the impact of a firm entering resolution on the firm's ability to pay for critical or essential services on time;
- the impact on continuity of service provision of an intra-group critical or essential services provider experiencing delayed receipt of a payment due for services provided to the firm; and
- any other risks to operational continuity identified by the firm.

11.4 The PRA expects firms to monitor and maintain early warning indicators of risks to being able to meet, in recovery, resolution, and related restructuring, the requirement under Operational Continuity 2.3, and the expectations described under paragraph 11.1 of this SS. The PRA expects that

firms may leverage existing management information for this purpose. This could include, but is not limited to, information available due to firms' capabilities to fulfil the Bank's expectations in Statement of Policy 'Funding in Resolution'.¹⁷

Financial arrangements for intra-group critical or essential services

11.5 The PRA expects firms to ensure that intra-group critical or essential service providers maintain, at a minimum, own financial resources equivalent to 1/6th of annual fixed overheads of the critical and essential services they provide to the firm (OCIR financial resources).

11.6 Where the minimum amount of financial resources is insufficient to mitigate risks identified by firms under paragraph 11.5, firms should ensure that intra-group service providers maintain additional resources to cover these risks. The PRA expects firms to be able to demonstrate to the PRA, upon request, that this minimum amount of financial resources is sufficient to mitigate risks identified by the firm under paragraph 11.2 with respect to intra-group service providers in resolution. Firms may use the scenario analysis described under paragraph 11.3 if appropriate.

11.7 The PRA expects the intra-group critical or essential service provider to calculate its annual fixed overheads for critical or essential service provision to a firm in accordance with Commission Delegated Regulation EU 2015/488, using figures resulting from the applicable accounting framework. Commission Delegated Regulation EU 2015/488 includes items that may be excluded from the calculation of fixed overheads.

11.8 The PRA expects that OCIR financial resources should be maintained at all times. These resources should only be used to support operational continuity of intra-group critical or essential services during resolution. Firms should maintain appropriate governance arrangements, policies, processes and controls to meet this expectation.

11.9 The PRA expects that OCIR financial resources should be immediately accessible if and as needed in resolution by the intra-group critical or essential service provider. Firms should ensure that a critical or essential service provider determines the most appropriate location for OCIR financial resources in order to meet this expectation. This may include holding the resources with a third party. The PRA expects firms to be able to explain how and where such assets are held, as well as the arrangements for access in resolution.

11.10 OCIR financial resources should be the same types of assets that qualify as high-quality liquid assets (HQLA). The PRA expects that OCIR financial resources and HQLA held for the purpose of Liquidity Coverage Ratio (LCR) and Net Stable Funding Ratio (NSFR) standards, at either firm- or group-level, are not double-counted.

11.11 An RFB must comply with the PRA's ring-fencing rules and with ring-fencing legislation when meeting the expectation that its intra-group critical or essential service providers maintain their own financial resources. The ring-fencing regime aims to protect RFBs from the failure of group entities outside of the ring-fence. Accordingly, to meet both ring-fencing requirements and the PRA's expectations regarding OCIR financial resources, the resources maintained by an intra-group critical or essential service provider which is part of a group containing an RFB, and where such services are provided to an RFB, may either be held by the service provider itself, with an entity within the RFB sub-group, or on behalf of the service provider with a third party outside of the group. OCIR financial resources held on behalf of the service provider, or deposits made by the service provider, with any other entity within the non-ring-fenced part of a group would be at unacceptable risk.

¹⁷ Available at <https://www.bankofengland.co.uk/paper/2019/the-boes-approach-to-assessing-resolvability>.

12 Management and governance arrangements

Intra-entity and intra-group critical and essential services

12.1 Operational Continuity 4.2 sets requirements relating to the management and governance structures of intra-entity and intra-group critical and essential service providers. The PRA expects that all intra-entity and intra-group critical or essential service providers are supported by effective management and governance arrangements. Effective management and governance supports operational continuity by ensuring clarity of management responsibilities in resolution, sufficient seniority of service provision management, and continued availability of staff critical to ensuring the continuity of service provision.

12.2 In ensuring that effective management and governance arrangements are in place, the PRA expects firms to take into account other relevant PRA requirements and expectations, including those described in Chapter 1 of this SS. In addition, the PRA expects that the arrangements supporting an intra-entity or intra-group critical or essential service provider's management and governance structure should include, but are not limited to:

- being able to demonstrate that the critical or essential service provider has management of sufficient seniority in place who are responsible for the day-to-day running of services, and who could ensure the critical or essential services would continue to be performed in a resolution scenario;
- ensuring that critical or essential service providers do not rely on senior staff that perform significant duties for other entities in the group. In cases where a member of senior staff has multiple roles within the group, the PRA expects firms to ensure the responsibilities for critical or essential services are not deprioritised in resolution;
- ensuring that critical or essential services providers do not rely excessively on senior staff remunerated by other entities in the group. Firms should anticipate that staff responsible for the running of the service provider will still need to be remunerated in a resolution scenario. As such, the main part of their remuneration should be paid by the service provider and they should be employed by the service provider, where the critical or essential services provider is a separate group entity;
- ensuring the availability of key staff for supporting the continuity of critical or essential services. In meeting this expectation the PRA expects firms may be able to leverage arrangements that they have in place to meet the capabilities described in Chapter 4 of the Bank's Statement of Policy 'Management, Governance and Communication';¹⁸ and
- having change capabilities, including sufficient staff and expertise, to support service continuity during changes that arise during resolution and restructuring.

12.3 The PRA expects firms to be able to articulate to the PRA the management and governance arrangements a critical or essential services provider has in place.

Responsibility for implementing OCIR requirements and expectations

12.4 Responsibility for operational continuity in resolution should be clear and explicit. Where it exists, the Chief Operations role Senior Management Function (SMF) 24 may hold overall responsibility for implementing OCIR policy. As set out in paragraph 2.11H of SS28/15 'Strengthening

¹⁸ Available at <https://www.bankofengland.co.uk/paper/2019/the-boes-approach-to-assessing-resolvability>.

individual accountability in banking',¹⁹ the PRA recognises that the responsibilities likely to be allocated to the SMF24 may overlap with other Prescribed Responsibilities. For instance, responsibility for operational continuity may be subsumed under the Prescribed Responsibility in Allocation of Responsibilities 4.1(10) ('responsibility for developing and maintaining the firm's recovery plan and resolution pack and, where relevant, resolution assessment, and for overseeing the internal processes regarding their governance'). As long as accountability for all relevant responsibilities is clear and explicit, firms may allocate them in whichever way best reflects the way they organise themselves in practice. Further information on the SMF24 function is contained in SS28/15.

13 Waiver or modification of requirement

13.1 The PRA has a discretionary power to waive or modify rules under section 138A of FSMA where the application of rules would be unduly burdensome or would not achieve the purposes for which the rules were made, and so long as the waiver or modification would not adversely affect the advancement of the PRA's objectives.

13.2 The PRA expects firms, as part of their forward planning, to anticipate when they may come into scope of different PRA and Bank resolution-related policies, including OCIR. Firms should plan for this well in advance and consider how they will transition to meet these policies. For new and growing banks, a similar expectation is set out in SSXX/XX 'Non-systemic UK banks: The Prudential Regulation Authority's approach to new and growing banks'.²⁰

13.3 Depending on the circumstances of firms, and whether they could anticipate coming into scope of Operational Continuity, the PRA may consider the granting of a waiver or modification of the relevant requirement or requirements to postpone the implementation of OCIR policy to allow for an appropriate implementation period. Examples for which the PRA may consider granting a waiver could include certain cases of mergers or acquisitions, or cases in which a firm performs a critical function when it previously did not perform any critical functions but met one of the conditions in Operational Continuity 1.1.

¹⁹ February 2020: <https://www.bankofengland.co.uk/prudential-regulation/publication/2015/strengthening-individual-accountability-in-banking-ss>.

²⁰ July 2020: <https://www.bankofengland.co.uk/prudential-regulation/publication/2020/new-and-growing-banks>. At the time of publication of this draft SS for consultation, the draft supervisory statement 'Non-systemic UK banks: The Prudential Regulation Authority's approach to new and growing banks' had not been finalised. Subject to the final form of that SS, the final version of this SS may be updated accordingly.