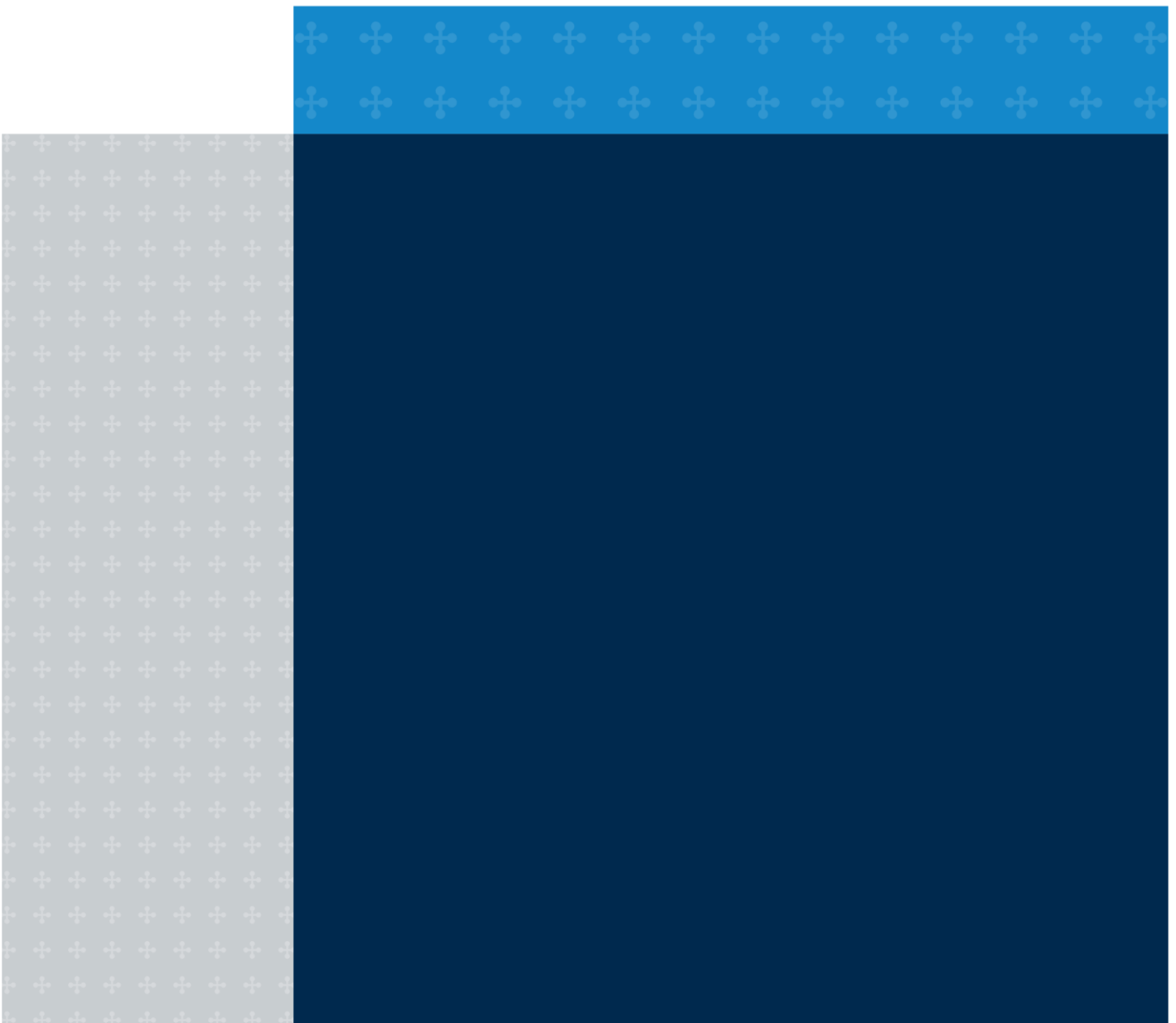




Policy Statement | PS4/21

# Depositor protection: Identity verification

March 2021





BANK OF ENGLAND  
PRUDENTIAL REGULATION  
AUTHORITY

Policy Statement | PS4/21

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## 1 Overview

1.1 This Prudential Regulation Authority (PRA) Policy Statement (PS) provides feedback to responses to Consultation Paper (CP) 3/21 ‘Depositor protection: Identity verification’.<sup>1</sup> It also contains the PRA’s final policy, as follows:

- amendments to the Depositor Protection (DP) Part of the PRA Rulebook (Appendix 1); and
- updates to Supervisory Statement (SS) 18/15 ‘Depositor and dormant account protection’ (Appendix 2).

1.2 This PS is relevant to the Financial Services Compensation Scheme (FSCS), all PRA-authorised deposit takers, and insolvency practitioners (IPs). This PS contains no material of direct relevance to retail financial services consumers or consumer groups upon which they might need to act.

### Background

1.3 In CP3/21, the PRA proposed to:

- amend existing DP rules to allow identity verification to be carried out retrospectively, if a responsible person<sup>2</sup> had not already done so before the compensation date,<sup>3</sup> for the purposes of determining the eligibility of depositors and ultimate beneficiaries for FSCS protection; and
- introduce a new expectation in SS18/15 that IPs should carry out identity verification in the event that a responsible person had not done so by the compensation date.

### Summary of responses

1.4 The PRA received two responses to the CP. The PRA’s feedback to these responses is set out in Chapter 2.

1.5 Both responses were supportive of the proposal to allow identity verification to be carried out after the compensation date for the purposes of determining FSCS protection eligibility. One response requested clarification on how the rule changes would impact existing Single Customer View (SCV) and Exclusions file requirements. The other respondent noted potential operational concerns relating to the costs of carrying out the identity verification and the transferability of the identity verification responsibilities.

### Changes to draft policy

1.6 Following feedback, the PRA has decided to amend the language in paragraph 2.10 of SS18/15. The changes are intended to provide clarity that responsibility for carrying out identity verification is flexible, while setting out that IPs would generally be best placed to facilitate identity verification post-compensation date.

1.7 The PRA considers that the changes to the SS are not significant and will not materially alter the cost benefit analysis presented in CP3/21. The changes have been made to increase clarity and better reflect the PRA’s policy intent.

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1 January 2021: <https://www.bankofengland.co.uk/prudential-regulation/publication/2021/january/depositor-protection-identity-verification>.

2 ‘Responsible person’ refers to a UK deposit taker and a member of the UK FSCS that is required, under the Money Laundering Regulations 2017, to undertake identity verification on its depositors/ultimate beneficiaries at the start of their business relationship.

3 ‘Compensation date’ means the date on which a determination is made by the PRA, the FSCS or a judicial authority that deposits held by a Deposit Guarantee Scheme (DGS) member are unavailable deposits such that the DGS member is in default. The compensation date is not the date at which compensation is paid out to depositors, it is the date at which the compensation process is initiated.

## Implementation

1.8 The changes outlined in this PS will take effect on Monday 29 March 2021.

1.9 The policy set out in this PS has been designed in the context of the UK having left the European Union and the transition period having come to an end. Unless otherwise stated, any references to EU or EU derived legislation refer to the version of that legislation which forms part of retained EU law.<sup>4</sup> The PRA will keep the policy under review to assess whether any changes would be required due to changes in the UK regulatory framework.

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<sup>4</sup> For further information please see <https://www.bankofengland.co.uk/eu-withdrawal/transitioning-to-post-exit-rules-and-standards>.

## 2 Feedback to responses

2.1 Before making any proposed rules, the PRA is required by the Financial Services and Markets Authority (FSMA) to have regard to any representations made to it, and to publish an account, in general terms, of those representations and its feedback to them.<sup>5</sup>

2.2 This chapter sets out the PRA's feedback to those responses and its final decisions. The sections below have been structured in line with the sub-headings in Chapter 2 of the CP.

### Impact on existing requirements

2.3 One respondent requested clarification on how the proposed rule changes and SS amendments impact the requirements for firms to produce SCV or Exclusions file returns.

2.4 The PRA does not expect the existing SCV and Exclusions file requirements to be impacted as a result of the rule changes. The changes are not intended to fix issues around firms' systems and are not intended to make identity verification more efficient post-compensation date.

2.5 The PRA has considered this comment and has not changed the final rules from the version consulted on. Firms continue to be responsible for ensuring that their SCV and Exclusions file systems are up to date, including ensuring there are robust processes in place for carrying out identity verification.

### Responsibilities for carrying out identity verification

2.6 The PRA proposed that any post-compensation date identity verification should be undertaken by an IP in its role as 'officer of the court' and pursuant to its objectives and responsibilities under the Banking Act 2009.<sup>6</sup> The PRA also proposed to set out that it would be for the IP to determine the process for carrying out the identity verification as part of its role as 'officer of the court.'

2.7 One respondent noted potential operational concerns relating to the costs of carrying out post-compensation date identity verification and the transferability of responsibility to carry out identity verification.

2.8 The respondent considered that identity verification should remain the responsibility of the firm, with the IP acting as the firm's agent, rather than identity verification being characterised as the responsibility of the IP. The respondent commented that the IP should be able to rely where possible on the firm's existing controls, processes and key staff. They also noted that the proposed language of SS18/15 did not appear to allow flexibility for the IP to transfer responsibility for carrying out identity verification to a third party, should this be appropriate in the circumstances.

2.9 The PRA acknowledges the comment that identity verification should remain the responsibility of the firm, which will be subject to the control of the IP.

2.10 The PRA notes that it did not limit the responsibility to carry out post-compensation date identity verification to the IP in its proposed rules. This was in order to maintain flexibility in facilitating the identity verification, as outlined by the respondent. Therefore, the PRA has not changed its final rules from the version consulted on.

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<sup>5</sup> Sections 138J(3) and 138J(4) of FSMA.

<sup>6</sup> Section 99 of the Banking Act (2009) sets out that, in the event of firm failure, it is the primary objective of the IP to work with the FSCS to ensure each eligible depositor of the bank will either: (a) have the relevant account transferred to another financial institution; or (b) receive payment from (or on behalf of) the FSCS.

2.11 The PRA agrees the proposed language in SS18/15 was more restrictive than intended, and has amended the language in paragraph 2.10 of SS18/15 to increase clarity and better reflect the PRA's policy intent.

## Appendices

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- 1 PRA RULEBOOK: CRR FIRMS, NON-CRR FIRMS, NON-AUTHORISED PERSONS: DEPOSITOR PROTECTION (IDENTITY VERIFICATION) INSTRUMENT, available at:  
<https://www.bankofengland.co.uk/-/media/boe/files/prudential-regulation/policy-statement/2021/march/ps421app1.pdf>.

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- 2 SS18/15 'Depositor and dormant account protection', available at:  
<https://www.bankofengland.co.uk/prudential-regulation/publication/2015/depositor-and-dormant-account-protection-ss>.

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