

PRA RULEBOOK: CRR FIRMS: OPERATIONAL CONTINUITY INSTRUMENT 2016

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);
 - (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 2016

- D. The PRA makes the rules in Annexes A to C of this instrument.

Commencement

- E. This instrument comes into force on 1 January 2019.

Citation

- F. This instrument may be cited as the PRA Rulebook: CRR Firms: Operational Continuity Instrument 2016.

By order of the Board of the Prudential Regulation Authority

4 July 2016

Annex A

In this Annex, the text is all new and is not underlined.

Part

OPERATIONAL CONTINUITY

Chapter content

- 1. APPLICATION AND DEFINITIONS**
- 2. FACILITATION OF EFFECTIVE RECOVERY AND RESOLUTION PLANNING**
- 3. DETAILS OF OPERATIONAL CONTINUITY ARRANGEMENTS**
- 4. GROUP ARRANGEMENTS FOR OPERATIONAL CONTINUITY**

1 APPLICATION AND DEFINITIONS

- 1.1 This Part applies to a *CRR firm* that receives *critical services* 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 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 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 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.
- 1.2 This Part ceases to apply to a *CRR firm* to which it applies under 1.1 if the *firm* does not meet any of the conditions in 1.1 on 1 January in each of two consecutive years.
- 1.3 1.2 does not prevent this Part applying to a *CRR firm* on a subsequent occasion if one of the conditions in 1.1 is met again.
- 1.4 A *firm* must calculate the averages in 1.1 by adding the values it was required to report each time a report was due and dividing the total by the number of times the report was due.
- 1.5 In this Part, the following definitions shall apply:
- 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*.
- safe custody asset*
- has the meaning in the *FCA Handbook* as amended from time to time.
- 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 the *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.

2 FACILITATION OF EFFECTIVE RECOVERY AND RESOLUTION PLANNING

- 2.1 A *firm* must ensure the operational arrangements for the *critical services* it receives facilitate the effective execution of:
- (1) its *recovery plan*; and
 - (2) the *group recovery plan* of its *group*.
- 2.2 A *firm* must ensure the operational arrangements for the *critical services* it receives facilitate the effective planning for and effective taking of actions in the event of:
- (1) circumstances in which all or part of its business is likely to fail; or
 - (2) the failure of all or part of its business.
- 2.3 A *firm's* operational 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

- 3.1 If a *firm* receives *critical services* from one of its business units, it must document:
- (1) the details of the *critical services*; and
 - (2) the transition arrangements for these *critical services* in the event of the *firm* being restructured or resolved.
- 3.2 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.
- 3.3 A *firm* must ensure the charging structure for the *critical services* it receives is predictable, transparent and set on arm's length terms.

- 3.4 A *firm* must ensure access by the *firm*, the service provider and the *PRA* to the operational assets supporting *critical services* is not disrupted in the event of a *group* member being restructured or resolved.

4 GROUP ARRANGEMENTS FOR OPERATIONAL CONTINUITY

- 4.1 This chapter applies to a *firm* that receives *critical services* from a *group provider*.
- 4.2 A *firm* must ensure the *group provider* has a governance and management structure in place that supports the continuity of the provision of *critical services* to the *firm*.
- 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 required under 3.1.

Externally defined glossary terms

Term	Definition source
critical functions	section 3(1) and (2) of the Banking Act 2009
safe custody asset	FCA Handbook

Annex B

In this Annex, deleted text is struck through.

Part

RECOVERY PLANS

...

1.2 In this Part, the following definitions shall apply:

...

group recovery plan

~~means a group recovery plan drawn up by a *BRRD undertaking* in accordance with Chapter 3.~~

...

recovery plan

~~means a recovery plan drawn up by a *firm* in accordance with 2.~~

Annex C

In this Annex, deleted text is struck through and new text is underlined.

Glossary

...

group recovery plan

means a group recovery plan drawn up by a *BRRD undertaking* in accordance with Recovery Plans 3.

...

recovery plan

means:

- (1) (except in the Group Supervision Part of the *PRA* Rulebook, the Recovery Plans Part of the *PRA* Rulebook and the Operational Continuity Part of the *PRA* Rulebook), the recovery plan required to be provided by a firm to the *PRA* under Undertakings in Difficulty 3.1(2); and
- (2) (in the Group Supervision part of the *PRA* Rulebook), the recovery plan required to be provided by a *relevant insurance group undertaking* to the *PRA* under Group Supervision 4.4(2); and
- (3) (in the Recovery Plans Part of the *PRA* Rulebook and the Operational Continuity Part of the *PRA* Rulebook) a recovery plan drawn up by a *firm* in accordance with Recovery Plans 2.