

Supervisory Statement | SS9/15

Solvency II: Group supervision

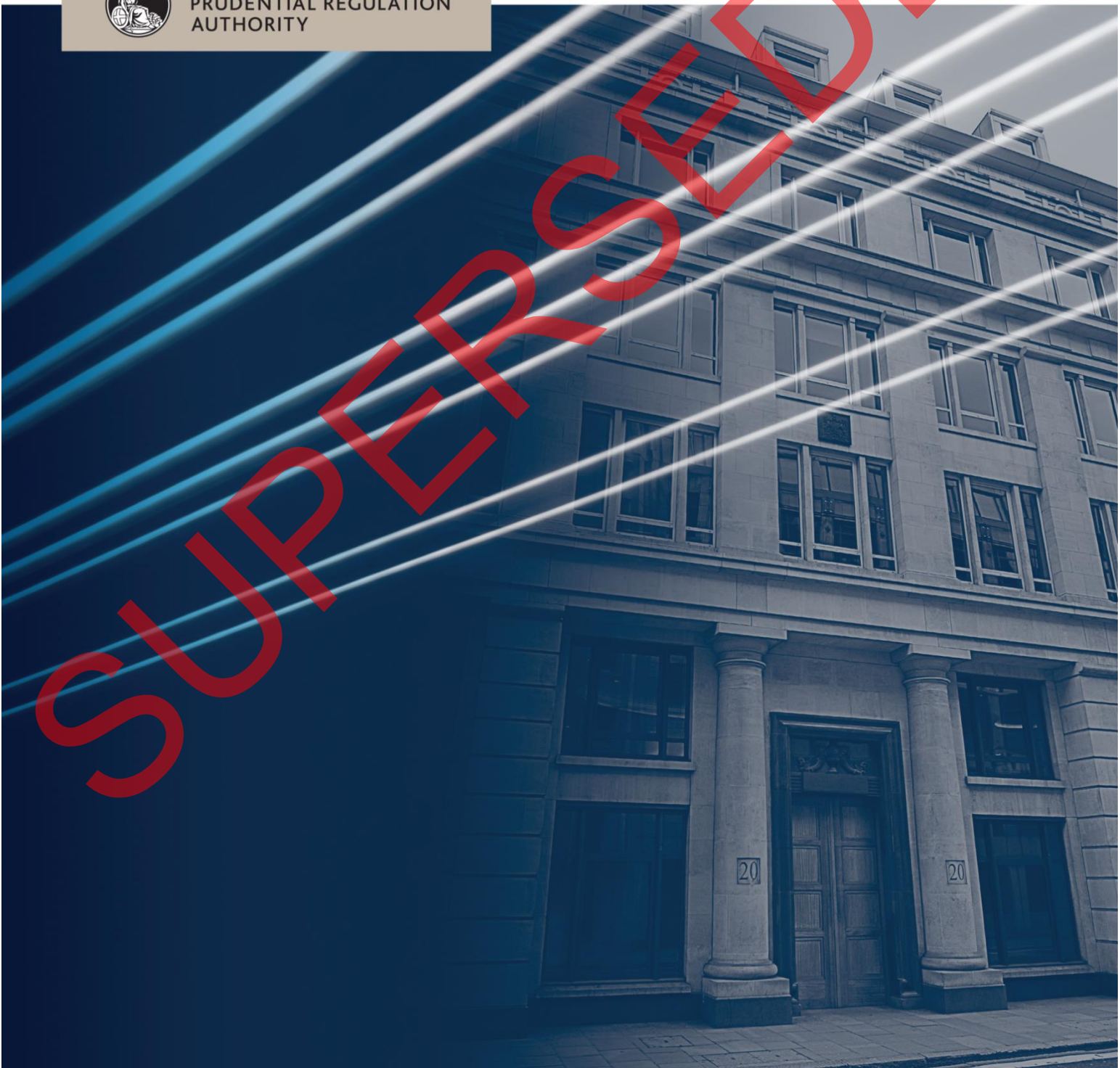
July 2018

(Updating March 2015)



BANK OF ENGLAND
PRUDENTIAL REGULATION
AUTHORITY

SUPERSEDED





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1 Introduction

1.1 This supervisory statement is addressed to all UK Solvency II firms and to the Society of Lloyd's, which the PRA considers to be a mixed activity insurance holding company. It sets out the Prudential Regulation Authority's (PRA's) expectations in respect of the Solvency II groups provisions.

1.2 Firms should note that if the group supervisor is a supervisory authority other than the PRA, the PRA still expects UK insurers to comply with PRA rules relating to group supervision (if they are part of a group). The PRA expects firms to behave in a way that contributes to effective group supervision irrespective of which supervisory authority is acting as group supervisor.

1.3 This supervisory statement should be read in conjunction with the relevant European legislation, the Group Supervision Part of the PRA Rulebook, The Solvency 2 Regulations 2015¹ ('the Regulations') and the PRA's insurance approach document.²

1.4 This supervisory statement expands on the PRA's general approach as set out in its insurance approach document. By clearly and consistently explaining its expectations of firms in relation to the particular areas addressed, the PRA seeks to advance its statutory objectives of ensuring the safety and soundness of the firms it regulates, and contributing to securing an appropriate degree of protection for policyholders. The PRA has considered matters to which it is required to have regard, and it considers that this statement is compatible with the Regulatory Principles and relevant provisions of the Legislative and Regulatory Reform Act 2006. This statement is not expected to have any direct or indirect discriminatory impact under existing UK law.

1.5 [Deleted]

2 Entities excluded from the scope of group supervision

2.1 Where a group, for which the PRA is the group supervisor, wishes to exclude entities from the scope of group supervision, it will be expected to make a formal application to the PRA. Where that application is approved, the exclusion will be given effect by the PRA issuing a direction under section 138A of the Financial Services and Markets Act 2000 (FSMA), taking into account the criteria in Article 214(2) of the Solvency II Directive³ ('the Directive'). The PRA expects such applications to articulate the way in which the firm believes that the conditions set out in Article 214(2) of the Directive are met.

2.2 The PRA will assess applications to exclude entities from the scope of group supervision under Article 214(2) of the Directive on a case-by-case basis and will consult with other concerned supervisory authorities in the circumstances required by Regulation 12 of the Regulations.

1 SI 2015/575 available at www.legislation.gov.uk/uk/si/2015/575/contents/made.

2 Available at www.bankofengland.co.uk/prudential-regulation/supervision.

3 Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) Text with EEA relevance.

3 Choice of calculation method

3.1 Where the PRA is the group supervisor the PRA may decide, after consulting other concerned supervisory authorities where relevant and the group (as required by Regulation 16 of the Regulations), to apply to the group either method 2 (deduction and aggregation method) or a combination of methods 1 and 2, where the exclusive application of method 1 (accounting consolidation-based method) would not be appropriate,¹ having considered the provisions of Article 328(1) of the Commission Delegated Regulation.²

3.2 Where a group for which the PRA is the group supervisor wishes to use method 2 or a combination of methods 1 and 2, the PRA expects it to make a formal application to the PRA for a direction under section 138A of FSMA.

3.3 The PRA expects this application to articulate the way in which the firm believes that the elements in Article 328(1) of the Commission Delegated Regulation should be considered in the context of the firm's application.

4 Group capital add-on

4.1 Where the PRA is the group supervisor, in considering whether the consolidated group solvency capital requirement (SCR) appropriately reflects the risk profile of the group, it may consider a capital add-on for a group if the circumstances referred to in Article 37(1)(a) to (d) of the Directive arise at the group level.

4.2 In particular, the PRA will consider imposing a capital add-on under Article 232 of the Directive where a:

- (a) specific risk at group level is not sufficiently covered by the standard formula or an internal model; or
- (b) capital add-on is imposed on a Solvency II undertaking in the insurance group because its risk profile deviates significantly from the assumptions underlying the group's internal model.

5 Centralised risk management [deleted]

5A Availability of group own funds

5A.1 Group Supervision 9.4 of the PRA Rulebook and Article 330 of the Commission Delegated Regulation places limits on the own funds which can be included in the group solvency calculation, depending on their availability to absorb losses anywhere in the group.

5A.2 Unless the PRA has given a formal determination that it considers that own funds are not available (as set out in Group Supervision 9.4), firms should assume that all group own funds are available except where the treatment of that own fund item is specifically required to be deducted in accordance with Group Supervision 9.1 – 9.8 and Article 330 of the Delegated Regulation. The PRA expects, as set out in Guideline 17 of the European Insurance and

1 Group Supervision 7 in the PRA Rulebook.

2 Commission Delegated Regulation (EU) 2015/35 of 10 October 2014 supplementing Directive 2009/138/EC of the European Parliament and of the Council on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) Text with EEA relevance.

Occupational Pensions Authority (EIOPA) Guidelines on Group Solvency, the firm to set out its assessment in its Regular Supervisory Report (RSR) its assessment of any items which might be deducted from own funds due to any significant restriction affecting the availability, fungibility or transferability of own funds within the undertaking. The group Solvency and Financial Condition Report (SFCR) must also contain qualitative and quantitative information on any significant restriction to the fungibility and transferability of own funds eligible for covering the group SCR.¹ The PRA expects firms to provide the appropriate level of detail in these assessments, either in the SFCR or in the RSR depending on the confidentiality of the information. These assessments would subsequently be updated by the firm if there are material changes in the group or as agreed with the supervisor. Firms are expected to comply with Guideline 13 of the EIOPA Guidelines on Group Solvency when making their own assessment of availability of own funds at group level of related undertakings that are not subsidiaries.

5A.3 At the group level, firms can take a number of potential actions to transfer own funds around the group, for instance through paying dividends, or selling the assets of an undertaking or insurance holding company to recapitalise group companies in difficulty. The PRA will consider these actions when reviewing a group's assessment of transferability. However, the PRA expects groups to provide robust and credible evidence that the apparent availability of own funds at the group level is not compromised or effectively undermined by any legal or regulatory restrictions on transferability, and that the suggested action resulting in the transfer of the own funds does not jeopardise an orderly resolution of the group. In particular, the PRA expects the evidence to cover, as a minimum, the likely scenarios under which the actions could be taken, and the time that would be required to execute the actions. For the own funds considered available at group level, the PRA expects groups to evidence that these own funds can be made available to the group within a maximum of nine months.²

5A.4 Under the Solvency II framework, the PRA may decide to apply to a group the deduction and aggregation method (method 2) for calculation of its solvency requirements, which would allow a firm to use local solvency rules when determining the requirements placed on (equivalent) third-country related undertakings. However, the assessment of the availability at a group level of an own funds item of such a related undertaking needs to be carried out by reference to the Solvency II groups provisions, not only local rules.

5A.5 To illustrate this point further, the assessment of availability should demonstrate that both the solo undertaking third-country rules and the Solvency II group rules have been considered. For example, this might mean that for an own funds item to be considered available at the level of the group, the firm should be able to defer coupon payments both in the event of non-compliance with the solo undertaking's third-country capital requirement and the Solvency II group SCR.

5B Regulatory determination on the availability of group own funds

5B.1 Article 330 in the Delegated Regulation sets out how own fund items of: a related insurance or reinsurance undertaking; insurance holding company; or mixed financial holding company should be assessed when considering their availability at the group level. The Article identifies and describes the treatment of specific own fund items where those own fund items are either:

1 Article 359(e)(2) of the Commission Delegated Regulation (EU) 2015/35.

2 Article 330 of the Commission Delegated Regulation (EU) 2015/35.

- (i) presumed to be unavailable unless the firm can demonstrate to the group supervisor that this assumption is inappropriate; or
- (ii) not considered to be available in any case.

Where own fund items are not specifically identified in Article 330 of the Delegated Regulation, the firm should assume that these own fund items are available to cover the group SCR. The PRA may require the firm to provide an assessment of availability of the own fund items which the PRA will consider to determine whether the PRA agrees with the analysis.

5B.2 The PRA will communicate clearly to the firm the PRA's determination as to whether an own fund item should be considered available or unavailable. This communication may be considered to be a determination in the context of Supervisory Statement 11/16¹ and as set out in the Financial Reporting Council's (FRC) guidance, Practice Note 20.²

5B.3 Where the firm has not appropriately assessed any own fund items as being not available to meet the group SCR, and the PRA has not assessed any items as not available, then the PRA considers that no determination has been made.

5B.4 If the PRA has not provided a determination on the availability of an own fund item where one is required by the Directive and a firm has nevertheless assessed an item as unavailable, the PRA recommends that the firm discusses this with the PRA, in order to obtain a formal determination of the PRA's position.

6 Single own risk and solvency assessment report

6.1 A group, for which the PRA is the group supervisor, may apply to produce a single document covering its own risk and solvency assessments (ORSAs) at the level of the group and at the level of any subsidiary in the group at the same time (Group Supervision 17.2(3)). The PRA will assess applications to produce a single ORSA document in consultation with the college of supervisors.

6.2 In addition to the ORSA conducted at group level, the PRA expects the group ORSA document to include sufficient details on the solo firms included within the scope of the group ORSA such that Conditions Governing Business 3.8 (solo ORSA) is satisfied in respect of each of those firms.

7 Single solvency and financial condition report (SFCR)

7.1 A group, for which the PRA is the group supervisor, may apply to produce a single report on its SFCR at the level of the group, and at the level of any subsidiary in the group which must be individually identifiable (Group Supervision 18.1(2)). The PRA will assess applications to produce a single SFCR in consultation with the college of supervisors.

7.2 The PRA expects the single document produced to cover the same level of detail on the solo subsidiary firms as is required in the solo SFCR.

1 PRA Supervisory Statement 11/16 'Solvency II: external audit of the public disclosure requirement', September 2016: www.bankofengland.co.uk/prudential-regulation/publication/2016/solvency2-external-audit-of-the-public-disclosure-requirement-ss.

2 FRC Practice Note 20 (Revised). The audit of Insurers in the United Kingdom: www.frc.org.uk/news/february-2017/frc-publishes-revised-practice-note-20.

8 Responsibilities of the relevant insurance group undertaking¹

8.1 [Deleted]

8.2 For a group, for which the PRA is the group supervisor, it is sufficient for one relevant insurance group undertaking within an insurance group to undertake the following activities on behalf of the group to:

- (a) submit the relevant data for and the results of the group eligible own funds and the group SCR to the PRA, as referred to in Group Supervision 5.2;
- (b) ensure ongoing compliance with the conditions for the prudent management of subsidiaries, where the PRA has agreed to the use of a single document, the production of the single document covering all relevant ORSAs and the production of the single SFCR, as referred to in Group Supervision 15.4(2);
- (c) inform the PRA in an event of non-compliance with the group SCR within the appropriate timeframes, as referred to in Group Supervision 4.4; and
- (d) submit a realistic recovery plan and take measures to ensure compliance with the group SCR in an event of non-compliance with the group SCR within the appropriate timeframes, as referred to in Group Supervision 4.4.
- (e) [Deleted]
- (f) [Deleted]

9 Supervision in the absence of third-country equivalence

9.1 In the absence of equivalent group supervision, in accordance with Group Supervision 20, the relevant Solvency II requirements will apply to the worldwide group, unless the PRA has specified 'other methods' to achieve the objectives of group supervision. In the absence of a decision by the PRA to specify 'other methods' for the group, then firms in that group are required to apply the relevant Solvency II requirements to the worldwide group.

9.2 Firms will be expected to make a formal application to the PRA, where they wish the PRA to specify 'other methods' for the purposes of Group Supervision 20.1(2). Any such specification will be given effect by the PRA issuing a direction under FSMA section 138A. In its application, the PRA expects a firm to propose other methods for the PRA to consider. Firms wishing to apply for a direction may do so using the usual waiver and modification process. The PRA will assess such applications on a case-by-case basis, taking into account the objectives of group supervision as specified by the Directive.

9.3 If firms wish to submit an application before a relevant equivalence decision is made, they may do so stating the assumptions made with regard to equivalence. Where appropriate, the PRA may refrain from making a decision until an equivalence decision has been finalised.

¹ Group Supervision 1 in the PRA Rulebook.

Annex – SS9/15 updates

This annex details the changes that have been made to this supervisory statement (SS) following its initial publication in March 2015.

July 2018

A number of amendments were made to the SS.

The SS was amended in chapters 2 through to 5A and chapters 6 through 9 following PS17/18 ‘Solvency II: Group supervision’¹ to clarify for firms which aspects of the PRA’s letter ‘Solvency II: An update on implementation’ published on 25 July 2014 on group supervision are intended to have effect as ongoing supervisory expectations. The SS was also revised to address elements of Solvency II legislation after the publication of the letter and to update it with references to the PRA Rulebook. The chapter on centralised risk management has been deleted.

Availability of group own funds

A section has been added to the SS in chapter 5A that sets out the PRA’s expectations of firms when they calculate the own funds available to the group. The SS clarifies that unless a formal assessment is made by the PRA, firms are expected to assume that all group own funds are available except where that own fund item is specifically excluded under Article 222 of the Directive and Article 330 of the Delegated Regulation.

Regulatory determination on the availability of group own funds

This SS was updated to include additional guidance to auditors of the group Solvency and Financial Condition Report (SFCR) in Chapter 5B. The guidance describes the process that the PRA expects auditors to follow when assessing whether a regulatory determination has been made in respect of the availability of group own funds. Specifically it outlines:

- what the auditor is expected to consider a regulatory determination;
- what assumption the auditor is expected to make when there has been no regulatory determination made with respect to the availability of group own funds; and
- the process that the auditor is expected to follow where a firm has assessed an own fund item as unavailable; and
- the PRA’s expectation that the auditor obtain evidence on the firm’s processes for the determination of the availability of own fund items.